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(949) 556-8714
www.better-neighborhoods.com/

December 2, 2019

Mr. Gian Martire
Associate Planner
City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014
Email: GianM@cupertino.org

Re: De Anza Hotel Project - Cupertino

Dear Mr. Martire,

Thank-you for the opportunity to provide questions and comments regarding the above-referenced Project.

Better Neighborhoods is an organization established to help people have a voice in local development decisions as prominent as that of planners and developers. Our aim is to encourage smart growth consistent with the needs of the community while protecting the natural environment and places of historic and aesthetic significance, supporting California's need for affordable housing and balancing the desire for growth with the need for features that make cities livable.

The proposed Project, a seven-story, 156-room hotel with rooftop bar and lounge, would require two extraordinary permissions to overcome height and setback restrictions while offering little in return in the way of goods and services to those in the local residential area, as relevant planning goals require. It's actually about a block from another hotel, one with an attractive fountain and a heated swimming pool. Despite its plum location in the De Anza Gateway, the Project falls short of the special gateway standards calling for high-quality architecture and/or unique features, such as arches, fountains, banners, signage, special lighting, landscaping and public art. The Project design is basic, box-like, functional - rather pedestrian, really - with no distinguishing features.

It would require demolishing the Goodyear Auto Center at the site, potentially releasing assorted toxins, including at least one known 200-gallon waste oil Underground Storage Tank (UST)

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undiscovered during an incomplete geotechnical survey but whose removal is undocumented with authorities.

The Project would also increase traffic and noise in the area, compromise air quality during a prolonged construction period not contemplated by the General Plan EIR, burden water supply and possibly exceed wastewater capacity if proposed experimental wastewater collection planters fail to perform as intended.

It's not clear what criteria the City would use to determine whether to grant the special permissions needed to support the size of the Project.

Several of the measures intended to mitigate environmental impacts appear somewhat impractical if not fanciful.

More investigation and analysis of the risks is needed particularly regarding the UST's, air quality, wastewater, noise and traffic, preferably with relevant examples, before a proper assessment of this Project could obtain.

Zoning

The Project site, a 1.29-acre parcel at 10931 North De Anza Boulevard, is currently developed with a one-story Goodyear Auto Service Center. The proposal calls for demolishing the existing building before constructing the hotel, which would include four levels of below-grade parking and some modest landscaping. The site is designated under the General Plan as Commercial/Residential, the Zoning District, General Commercial (CG) with special development regulations (rg), referred to as CG-rg. Special permissions have been sought to increase building height and reduce setback.

While the hotel is a permitted use and its construction might not exceed the hotel room maximum contemplated by the General Plan EIR, the CG zoning district is intended to provide a means of guiding development to establish retail, office and services "that ensure the maximum compatibility **with surrounding residential areas.**"(emphasis added). Development in this district is also intended to provide goods and services "while minimizing adverse traffic impacts resulting from commercial development."

How compatible would another hotel so close to its competitor be to surrounding residential areas especially as it would increase traffic in the area? Would the proposed hotel shuttle from the airport even if offered to residents at a discounted rate, as the proposal provides, actually mitigate the anticipated traffic increase and air quality impact? Has such a service ever done so?

What criteria would the City use to determine whether to grant the two special permissions needed to support the size of the Project, which would exceed zoning height and setback restrictions? How are such matters decided? It's not clear from the Report.

Construction

Demolition and construction would take place over a two-year period - August 2020 to 2022 – and it would adversely impact air quality. How much is very difficult to ascertain from Air Quality and Health Risk Assessments in Appendices A and B, which fail to interpret the data provided in a meaningful way. The only clear statement provided is that cancer risk for the maximum exposed off-site resident just from Project construction activities would be 33.4 in a million, greatly exceeding the 10 in a million significance threshold. This alone, some might argue, should preclude the development altogether. Does the City typically approve projects that pose a health risk of this size?

Mitigation Measure AQ-2 provides some assurance that construction equipment would be managed more carefully than it usually is, a concept as surprising as it is troubling. Wouldn't the test for construction impact on cancer and human health presume the equipment is being managed at the same level as the mitigation measure describes? If not, why not? If so, what would be the value of the mitigation measure? More information regarding the calculation and construction equipment management is required.

Project Operations

The Report asserts that Project operations would not be a major air pollutant emissions source. Examples of projects that do generate substantial TAC emissions are distribution centers with more than 100 trucks per day or 40 trucks with transport refrigeration units (TRUs) per day. (Report, p. 4-16). What about all the trucks delivering food and other hotel supplies to the Project throughout the day and night? According to the Report, such deliveries would be less than CARB's recommended advisory criteria for distribution centers (100 trucks per day). How so? Are the calculations and interpretive analysis available for closer review?

The analysis regarding hotspots at page 4-17 of the Report also appears somewhat questionable. Is there an example of a delivery drop-off of a size similar to the Project's? Also, how would congestion management away from the hotel work as a practical matter? More explanation is needed.

Greenhouse Gas Emissions (GHG)

We know that the Project would generate GHG emissions directly and indirectly that could have a significant impact on the environment. Sifting through the obfuscation, Table 4-6 shows emissions that exceed BAAQMD. Because BAAQMD does not have thresholds of significance for construction-related GHG emissions, BAAQMD advises that the lead agency should quantify and disclose GHG emissions that would occur during construction and make a determination on the

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significance of these construction-generated GHG emissions. Has the City made such a determination for the Project?

There is inevitably confusion regarding the somewhat esoteric calculations regarding this particular metric, but could the City please explain the purpose of amortizing over a 30-year project lifetime the estimated construction emissions? Is this simply a way to describe the impact as less harmful than it would be? How else could emissions during construction ever be found as they are here to be less than significant? How does such a calculation support the purpose of the California Environmental Quality Act (CEQA), which is to provide full and frank disclosure of potential environmental impacts a particular project poses?

How would the purchase of carbon offsets change GHG emissions? Does the City track CAP and, if so, what conclusions may be drawn? Do such offsets actually benefit the community? We know that a busy urban hotel would be a huge, new source of GHG emissions but virtuously worded undertakings without oversight are just not meaningful.

Hazards and Hazardous Materials

According to the Report at page 4-44, a geophysical survey was performed only “**within accessible areas of the site**”. (emphasis added). What about inaccessible areas? How does the survey comport with requirements under the Department of Toxic Substances Control (DTSC)?

The Report notes the possibility that the geophysical survey missed the one known UST, which EDR records indicate was installed at the site in 1973 though there is no record of its removal. What is the likelihood of uncovering still more undocumented USTs? Have there been many such surprises in the Project area? Why would removal of a UST be undocumented given the highly regulated requirements for such removal under the California Environmental Reporting System?

The obvious concern is that without a better understanding of the whether there are, in fact, no more remaining 200-gallon waste oil UST’s underground, any disturbance of the site – including construction of 4 levels of underground parking for the Project -- might set off an environmental disaster of contaminants entering groundwater, ocean and air.

The incomplete geophysical survey also revealed very low detectable concentrations of diesel, motor oil, Volatile Organic Compounds (VOCs), and PCB contaminants were reported in the seven soil borings. These soil concentrations were determined to be below the San Francisco Regional Quality Control Board (RWQCB) Tier 1 Environmental Screening Levels (ESLs). The soil vapor samplings indicated relatively low levels of VOCs also below the San Francisco Bay RWQCB Tier 1 ESLs for soil gas. What would be the risk of disturbing the site during construction considering the site is within about a mile of quite a few schools (sensitive receptors)?

Hydrology and Water Quality

New requirements by the SWRCB require Applicant to prepare a construction SWPPP that includes post-construction treatment measures aimed at minimizing storm water runoff. The Report asserts that with implementation of special mitigation measures as provided, water quality impacts during construction would be less than significant. In the absence of a Project SWPPP, such a conclusion is at best premature. Are the planters described in the Report widely in use? If so, how effective are they?

Land Use and Planning

This Project would definitely conflict with land use plans in that it would require two extraordinary permissions for size not contemplated in the General Plan EIR, which makes it an unplanned development. Contrary to area zoning guidelines, the Project would cater not to the needs of actual residents but to visiting strangers. It would also burden the area with additional traffic, air pollution and noise.

Noise

As the Report reveals, the Project during operations would likely generate a substantial permanent increase in ambient noise levels in the area in excess of current standards. Mitigation measures include design and selection of less noisy equipment to meet the City noise thresholds. Does such equipment actually exist? Are there any examples? Mitigation could also include dampening techniques, such as walls, but no specifics are given. Or noisy equipment might be located in less noise-sensitive areas, 'where feasible'. What areas might those be? More information, including practical examples, is needed.

The stationary noise assessment at page 4-62 cannot be accurate. Everybody knows that an urban hotel is necessarily a busy, noisy place with people coming and going and calling to one another throughout the day and night. How much noise does a rooftop bar typically generate? Are there examples within the City that we might study for comparison purposes? How many noise complaints does a rooftop bar typically generate? What about rooftop mechanical equipment? There must be ample acoustical statistics and relevant case studies to draw on.

We know that operations "would potentially exceed the CMC daytime noise limit of 65 dBA" and "potentially exceed the CMC nighttime noise limit of 50 dBA for residential receptors." Clearly, this is not acceptable.

Light, Glare and Shadow

In addition to a mediocre, basic, functional architectural design, the Project at seven stories (88 feet) would be a significant new source of light and possibly glare. This is not adequately addressed in

the Report. Similarly, how much shadow might such an imposing structure cast on surrounding uses?

Public Services

How many calls to fire and police does a hotel of this size typically generate? This, in our view, is a more relevant measure of the burden the Project would create. How many sirens in the night could nearby residents and hotel guests anticipate?

Transportation

The Project would generate an estimated 1,562 net new daily vehicle trips, with 73 net new trips occurring during the AM (morning) peak hour and 87 net new trips occurring during the PM (evening) peak hour. (Report, page 4-72). CMP analysis may not be required, as the Report indicates, but that is nevertheless a significant traffic increase. What is the estimated percentage traffic increase created by the Project?

Truck activities (e.g., deliveries and garbage collection) for the project are not expected to occur within the garage due to height and access limitations. The majority of loading and unloading is expected to occur within the proposed freight loading zone at the northwest corner of the hotel building adjacent to the north elevator, an area 40 feet long by 9 feet wide. The noise generated by truck activities in most cities typically continues throughout the day and night. In some cities, trucks of a certain size entering and exiting a narrow alley are required to signal with blaring horns much to the consternation of residents. Are there any bylaws in Cupertino to restrict noise at a loading zone?

Mandatory Findings of Significance

Yes, there are environmental impacts posed by this Project that are individually limited, but cumulatively considerable. As a practical matter, a new hotel about a block from a competitor, one that boasts a swimming pool and an attractive fountain, cannot really be said to support the needs of residents, as zoning guidelines require. While the Project may not exceed the hotel room maximum contemplated by the General Plan EIR, the hotel would be significantly larger than contemplated hence the requirement for two extraordinary permissions, which could induce similar requests and unplanned growth. The Report does not properly describe or address the impact of increased traffic or noise the Project would impose on the area. While the Project site is located in a special gateway area, there is nothing special about the hotel's architecture, which is neither unique nor especially attractive. Nor are there any distinguishing features, such as public art statuary or extraordinary plantings.

The Project would be bigger than contemplated in relevant planning documents which would mean more noise and more traffic. A two-year construction period that might disturb dangerous and still

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undiscovered toxins not that far from a residential complex as well as and quite a few schools (sensitive receptors) could pose a significant adverse impact on human health.

More information particularly more practical analysis of the risks would be needed to properly assess the potential impacts of this Project.

Sincerely,

A handwritten signature in black ink that reads "J. Michael Goolsby". The signature is written in a cursive, flowing style.

J. Michael Goolsby
President and CEO
Better Neighborhoods, Inc.

From: [Ron Meulman](#)
To: [Gian Martire](#)
Subject: De Anza Hotel Development Proposal
Date: Sunday, November 24, 2019 3:23:23 PM

Mr. Martire,

As a resident of Cupertino for 32+ years, I have witnessed the decline of our quality of life due to over-development. What we don't need is to amend allocation, height and setbacks for a 155 room hotel in the middle of near gridlock roadways.

More money for the City's coffers? Please, for those of us who live here, don't allow this to pass. The traffic is a nightmare already and so are the compromises the City planners have made to allow excessive growth in my town.

Thank you,

Ron Meulman
10170 Danube Dr.
Cupertino, CA 95014
(408) 966-0423

Sent from my iPhone

From: [Beth Ebben](#)
To: [Gian Martire](#)
Subject: FW: [OPNA] Fwd: City of Cupertino, CA: De Anza Hotel - Public Hearings [1 Attachment]
Date: Friday, November 8, 2019 11:19:10 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image017.png](#)
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[image020.png](#)
[image021.png](#)
[image022.png](#)
[image023.png](#)
[image024.png](#)

For you



Beth Ebben

Deputy Board Clerk
Planning Division
BethE@cupertino.org
(408) 777-3308



From: Lauren Sapudar <LaurenS@cupertino.org>
Sent: Friday, November 08, 2019 11:06 AM
To: Beth Ebben <BethE@cupertino.org>
Cc: Benjamin Fu <BenjaminF@cupertino.org>
Subject: FW: [OPNA] Fwd: City of Cupertino, CA: De Anza Hotel - Public Hearings [1 Attachment]



Lauren Sapudar

Executive Assistant to City Manager & City Council
City Manager's Office
LaurenS@cupertino.org
(408) 777-1312



From: Holly Lofgren <halof@sbcglobal.net>
Sent: Thursday, November 7, 2019 6:22 PM
To: R Wang <RWang@cupertino.org>; City Council <CityCouncil@cupertino.org>
Subject: Fw: [OPNA] Fwd: City of Cupertino, CA: De Anza Hotel - Public Hearings [1 Attachment]

Dear Honorable Mayor Scharf, the Cupertino City Council and the Chair of the Planning Commission,

In regards to the proposed hotel by De Anza Properties on the corner of Sunnyvale-Saratoga Roads and Homestead Road, I would like to make a comment. I would prefer if you would not make a general plan amendment for this project and would not approve this type of project in this location in general.

I am concerned about the loss of retail space, the traffic on that corner and the establishment of density right on the Sunnyvale border. And it looks like it is six stories which is way out of place with the surroundings.

If hotel space is needed, another location that can withstand the traffic would be a better choice.

Holly Lofgren
Sunnyvale (about 1 mile from this site)



De Anza Hotel - Public Hearings

Date: 11/06/2019 4:30 pm

Good evening,

The proposed De Anza Hotel, a new full-service boutique hotel with 155 rooms, will be heard on the following dates:

Planning Commission

Tuesday, December 10, 2019 at
6:45 p.m.
Cupertino Community Hall
10350 Torre Avenue

City Council

Tuesday, January 21, 2020 at
6:45 p.m.
Cupertino Community Hall
10350 Torre Avenue

The applicant, Sherly Kwok, representing De Anza Properties, is seeking approval for General Plan Amendment, Development Permit, Architectural and Site Approval, and Conditional Use Permit applications and Development Agreement for the demolition of an existing 8,323 sq.ft. commercial building (Goodyear Tires) to develop a new seven story full-service 24-hour boutique hotel with 155 rooms, restaurant with detached bar, and a rooftop lounge, which would require General Plan amendments to hotel allocation, height, and setbacks. Plan sets and project information are available in the link below:



From: [Lauren Sapudar](#)
To: [Benjamin Fu](#); [Beth Ebben](#); [Gian Martire](#)
Cc: [Deborah L. Feng](#)
Subject: FW: De Anza Hotel and Westport Cupertino GPAs
Date: Tuesday, November 26, 2019 6:17:38 AM
Attachments: [image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)



Lauren Sapudar

Executive Assistant to City Manager & City Council
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From: Kent Vincent <deanza_travel@yahoo.com>
Sent: Monday, November 25, 2019 8:36 PM
To: Darcy Paul <DPaul@cupertino.org>; Jon Robert Willey <JWilley@cupertino.org>; Rod Sinks <RSinks@cupertino.org>; Steven Scharf <SScharf@cupertino.org>; Liang Chao <LiangChao@cupertino.org>
Subject: De Anza Hotel and Westport Cupertino GPAs

Dear Council member,

Cupertino residents recently received notices for hearings on two development proposals each requiring General Plan Amendments: the De Anza Hotel and Westport Cupertino. I want to encourage the Council to enforce the City's General Plan when ruling on these and all future development proposals. As you know, General Plans are not intended to be project specific but the blueprint for future development throughout the city. Unfortunately, developers have become accustomed to project-specific GPAs in Cupertino via the actions of prior Councils. Cupertino residents elected a Council majority to end this practice and actively enforce the General Plan. While I know you know this, I just want to give you respectful encouragement noting enforcement has the support of your constituents. .

I think it is also worth mentioning that freely given project specific GPAs and rezoning encourages property value inflation. Land cost is directly a function of utility and what is, or what is likely to be allowed for development on any given parcel. A Council that holds its ground against GPAs in theory should stabilize land prices so high rise, high density is less of a requirement for development profitability.

Respectfully,

Kent Vincent
Cupertino

From: [Barbara Everman](#)
To: [Gian Martire](#)
Subject: De Anza Hotel Deveopment Proposal
Date: Tuesday, December 10, 2019 2:02:29 PM

Hi Gian Paolo,

I strongly do not support development of the De Anza Hotel where the Goodyear Tires store is located. I shop at the shopping center with the big Cupertino Safeway. I am always able to park. I am certain that the Hotel will impact parking at the shopping center and have a detrimental effect on the availability of parking for Safeway and the other businesses. Despite the Hotel having parking spaces available, there will be hotel patrons and guests who will park at the shopping center. Please oppose this proposal. Thank you.

Barbara Everman (Cupertino resident for 26 years)

From: [joan meehan](#)
To: [Gian Martire](#)
Subject: De Anza Hotel Input
Date: Wednesday, December 11, 2019 9:21:57 PM

hi, Gian - it was very nice to meet you last night.

My request is please improve management of that intersection.

It's poorly managed, in my experience, since Apple spaceship landed.

Thanks!

From: [City of Cupertino Planning Dept.](#)
To: [Gian Martire](#)
Subject: FW: De Anza Hotel
Date: Monday, December 9, 2019 8:33:40 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

From the general mailbox:



Beth Ebben

Deputy Board Clerk
Planning Division
BethE@cupertino.org
(408) 777-3308



From: David Rolnick <daverol@sbcglobal.net>
Sent: Friday, December 06, 2019 4:17 PM
To: City of Cupertino Planning Commission <PlanningCommission@cupertino.org>
Subject: De Anza Hotel

Planning Commissioners,

I support the De Anza Hotel application. It will bring in significant TOT revenue to the city and also help support local restaurants. And it also provide additional property tax revenue to our schools without burdening them with more students.

Including some high quality art or landscaping to help beautify De Anza Blvd would be a plus.

Regards,

David Rolnick

From: [Beth Ebben](#)
To: [Gian Martire](#)
Subject: FW: I support the GPA and construction plans for the DeAnza Hotel at DeAnza Blvd & Homestead
Date: Wednesday, December 11, 2019 8:39:13 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

From the general mailbox:



Beth Ebben

Deputy Board Clerk
Planning Division
BethE@cupertino.org
(408) 777-3308



From: Maxcinco <maxcinco@comcast.net>
Sent: Tuesday, December 10, 2019 8:45 PM
To: City of Cupertino Planning Commission <PlanningCommission@cupertino.org>; City of Cupertino Planning Dept. <planning@cupertino.org>; City Council <CityCouncil@cupertino.org>; Cupertino City Manager's Office <manager@cupertino.org>
Subject: I support the GPA and construction plans for the DeAnza Hotel at DeAnza Blvd & Homestead

Dear Planning Commission, Planning Dept., City Manager, and City Council,

I support the plan for this hotel.

Its proximity to 280 and 85 will minimize its contribution to traffic on local streets. Its projected \$1M annual revenue to Cupertino, residents use of its daily shuttle to/from the airport, donated meeting room usage, public rooftop bar amenity, and full service hotel services, plus a pledged \$500k upfront contribution to City coffers are all welcomed by residents.

Its height and setbacks are acceptable for this commercial corner of DeAnza and Homestead. I will miss the Goodyear Tire store, but this hotel is a welcome addition to our community.

Jim Moore
Resident since 1976

PS: Here is some pertinent info on the Better Neighborhoods, Inc. entity that sent a lengthy letter opposing the GPA for this hotel:

<https://www.sanjoseinside.com/2018/07/11/ceqa-racket-extracts-11th-hour-payoffs-amidst-housing-crisis/>

Records show that Better Neighborhoods Inc. was incorporated in December 2017 by J. Michael Goolsby, an Irvine resident [barred from practicing law](#) in California after being accused of fleecing clients trying to save their homes from foreclosure in the wake of the Great Recession. His penchant for get-rich-quick schemes suggests he's more of an opportunist than a tree-hugger. His ownership of all 1,000 shares of Better Neighborhoods, according to organization documents on file with the California Secretary of State, confirms that BNI's "responsible development" push is little more than a one-man show, not a non-profit association.