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May 10, 2017

Via Email and U.S. Mail

Planning Commission
c/o Krinjal Mathur
City of San Jose
Department of Planning, Building, and Code Enforcement
200 East Santa Clara St., 3rd Floor
San Jose, CA 95113
Email: krinjal.mathur@sanjoseca.gov

Re: Greyhound Residential Project (File Nos. SP16-021 and T16-017)

Dear Honorable Planning Commissioners:

We write on behalf of **San Jose Residents for Responsible Development** regarding the Planning Commission's consideration of the Supplemental Environmental Impact Report ("SEIR"), Special Use Permit, Site Development Permit and Tentative Map for the Greyhound Residential Project ("Project"). The Project would be located on a 1.74-acre site on five parcels located on the block defined by S. Almaden Avenue, W. San Fernando Street, S. San Pedro Street and Post Street in the downtown core of San Jose. The Project includes demolition of the historic Greyhound Bus Station building and construction of two residential towers with 781 residential units and 20,000 square feet of ground floor commercial space.

The City concluded in the SEIR that the Project's demolition of the historic Greyhound Bus Station building would be a significant and unavoidable environmental impact. Therefore, to approve the Project, the California Environmental Quality Act¹ ("CEQA") requires the City to adopt a statement providing that because of the Project's overriding benefits, it is approving the Project despite its environmental harm.² An agency's determination that a project's

¹ Pub. Resources Code § 21000 et seq.

² 14 Cal. Code Regs. § 15043.

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benefits outweigh its significant, unavoidable impacts “lies at the core of the lead agency’s discretionary responsibility under CEQA.”³

The City must set forth the reasons for its action, pointing to supporting substantial evidence in the administrative record.⁴ This requirement reflects the policy that public agencies must weigh a project’s benefits against its unavoidable environmental impacts, and may find the adverse impacts acceptable only if the benefits outweigh the impacts.⁵ Importantly, a statement of overriding considerations is legally inadequate if it fails to accurately characterize the relative harms and benefits of a project.⁶

In this case, the City must find that the Project’s significant, unavoidable impact to the historic Greyhound Bus Station building is outweighed by the Project’s benefits to the community. CEQA specifically references employment opportunities for highly trained workers as a factor to be considered in making the determination of overriding benefits.⁷ There is not substantial evidence in the record showing that the Project’s significant, unavoidable impact to the historic building is outweighed by benefits to the community, including employment opportunities for highly trained workers. The Applicant has not made any commitments to employ graduates of state approved apprenticeship programs or taken other steps to ensure employment of highly trained and skilled craft workers on Project construction. Therefore, the City would not fulfill its obligations under CEQA if it adopted a statement of overriding considerations and approved the Project.

Thank you for your attention to this important matter.

Sincerely,


Rachael Koss

REK:acp

³ *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 392.

⁴ Pub. Resources Code § 21081(b); 14 Cal. Code Regs. §§ 15093(a) and (b); *Cherry Valley Pass Acres & Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316, 357.

⁵ Pub. Resources Code § 21081(b); 14 Cal. Code Regs. § 15093(a) and (b)

⁶ *Woodward Park Homeowners Association v. City of Fresno* (2007) 150 Cal.App.4th 683, 717.

⁷ Pub. Resources Code §§ 21081(a)(3) and (b).