From:	City of Cupertino Planning Dept.
To:	▮▮▮▮▮▮
Subject:	FW: (In)adequacy of Vallco EIR noticing.
Date:	Tuesday, June 05, 2018 5:02:22 PM
Attachments:	output.pdf

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From: Randy Shingai [▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮▮]
Sent: Tuesday, June 05, 2018 12:03 PM
To: City Council <CityCouncil@cupertino.org>; City of Cupertino Planning Dept. <planning@cupertino.org>; City Attorney's Office <CityAttorney@cupertino.org>; City Clerk <CityClerk@cupertino.org>
Subject: (In)adequacy of Vallco EIR noticing.

Dear Council,

The adequacy of the noticing for the Vallco Specific Plan EIR was brought up multiple times during last night's meeting. Since a majority of Council Members expressed concern about this issue, I thought I would address that concern.

Here's a link to the Vallco Specific Plan NOP.

http://www.cupertino.org/home/showdocument?id=20866

I went through the responses and picked out the first pages of several comments. These were mostly responses from governmental agencies. All these letters reiterate their understanding of the project. You will see that all these agencies had the same understanding of the project too. It must be standard practice to include a project understanding in responses so that it's clear and provable what the responding agency's understanding of the project was.

Now, here is a link to the Draft EIR prepared for that NOP.

http://www.cupertino.org/home/showdocument?id=20887

If you go to page xiii of the document you will see a table. The first row has a project description that is mostly the same as the description in the NOP, except that "Civic Spaces" or "Green Roof" were never mentioned in the NOP. The really troubling thing is that there were also 3 "Project Alternatives" in the Draft EIR that have dwelling unit counts that are not described in the NOP.

When the City puts out a NOP that says 800 dwelling units and the draft EIR covers 2,640 and 4,000 dwelling units, I think it's fair to say that the Vallco Notice of Preparation is for all intents and purposes what computer programmers refer to as a "nop" (https://en.wikipedia.org/wiki/NOP). A "nop" is a null operation. Agencies and individuals responding to the NOP were not allowed an opportunity to respond to the real project covered by the draft EIR.

The City has not followed the law. Here is that law.

Government Code 15082. Notice of Preparation and Determination of Scope of EIR

(a) Notice of Preparation. Immediately after deciding that an environmental impact

report is required for a project, the lead agency shall send to the Office of Planning and

Research and each responsible and trustee agency a notice of preparation stating that

an environmental impact report will be prepared. This notice shall also be sent to

every federal agency involved in approving or funding the project.

(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. 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.

Just for reference the City of San Jose felt it necessary to issue a revised NOP for its "Fortbay Project" at 3400 Stevens
Creek Blvd. The differences were relatively modest. Do they know something that Cupertino doesn't?

San Jose Fortbay Project	original NOP	revised NOP
residential units	500	582
retail sq. ft.	11,500	22,000
office sq. ft.	233,000	300,000

Fortbay Feb. 16, 2017 NOP

http://www.sanjoseca.gov/DocumentCenter/View/66230

Fortbay January 11, 2017 revised NOP.

http://www.sanjoseca.gov/DocumentCenter/View/74426

Thank you.
Randy Shingai