
COMMENTS FOR VALLCO SHOPPING DISTRICT SPECIFIC PLAN DEIR

Draft Environmental Impact Report SCH# 2018022021

Deliver to:

City of Cupertino, Community Development Department

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Complaints against the City of Cupertino planning process and Draft Environmental Impact Reports for Vallco Special Area Specific Plan:

1. Studying EIR Alternatives which are Inconsistent with the General Plan and do not lessen the impacts of Proposed Project.
2. Moving Target Project: Project Not adequately described in NOP period.
3. Insufficient and Conflicting Information presented in NOP EIR Scoping Meeting, with Infeasible “Proposed Project” due to Inconsistency with General Plan & Initiative Vote Results.
4. Announcing in a Study Session 6/4/2018 for the Vallco Specific Plan that the project alternatives would require a General Plan Amendment, months after the EIR NOP.
5. Studying further inconsistent alternatives in the ongoing Specific Plan Process which are not in the DEIR requires the recirculation of the DEIR. The Specific Plan Process is considering **only** plans which were not studied in the DEIR. No DEIR alternatives showed 3,200 residential units and 750,000-1,500,000 Square Feet of office space. The General Plan does not allow retail to be reduced below 600,000 SF which the Specific Plan process is considering.
6. Alternatives to Project (General Plan with Maximum Residential Buildout Alternative and Retail and Residential Alternative) ignore the Consistency Requirement with the General Plan and The California Environmental Quality Act (CEQA), Section 15126.6, feasible alternatives:

The Specific Plan must be consistent with the General Plan by law.

[Ca GC 65450-65457:](#)

(b) The specific plan shall include a statement of the relationship of the specific plan to the general plan.

http://www.opr.ca.gov/docs/specific_plans.pdf

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65451.&lawCode=GOV

A project that is inconsistent with an applicable General Plan or subsidiary land use plan may not be approved without an amendment to the Plan or a variance. See Gov't Code § 65860. Where a project conflicts with even a single general plan policy, its approval may be reversed. San Bernardino County Audubon Society, Inc. v. County of San Bernardino (1984) 155 Cal.App.3d 738, 753; Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors of El Dorado County (1998) 62 Cal.App.4th 1334, 1341. Consistency demands that a project both "further the objectives and policies of the general plan and not obstruct their attainment." Families, 62 Cal.App.4th at 1336; see Napa Citizens for Honest Government v. Napa County Board of Supervisors (2001) 91 Cal.App.4th 342, 378. Accordingly, where a project opponent alleges that a project conflicts with plan policies, a court need not find an "outright conflict." Napa Citizens at 379. "The proper question is whether development of the [project] is compatib]e with and will not frustrate the General Plan's goals and policies ... without definite affirmative commitments to mitigate the adverse effect or effects." Id.

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.

Potential to Cease EIR Mid-Stream:

The EIR scoping meeting provided inadequate and conflicting information with an infeasible "Proposed Project" and infeasible alternatives.

According to ["CEQA Does Not Apply to Project Disapproval, Even if the EIR is Underway."](#) by [Abbott & Kindermann](#) Leslie Z. Walker, on September 22, 2009, the EIR process may be stopped mid-stream:

According to Las Lomas Land Co., LLC v. City of Los Angeles (Sept. 17, 2009, B213637) ___ Cal.App.4th ___, the long standing rule that CEQA does not apply to projects rejected or disapproved

by a public agency, allows a public agency to reject a project before completing or considering the EIR. In Las Lomas, the Court of Appeals for the Second Appellate District made clear that a city may stop environmental review mid-stream and reject a project without awaiting the completion of a final EIR. While this holding may avoid wasting time and money on an EIR for a dead-on-arrival project, it will also make it harder for projects to stay in play until the entire environmental document is complete.

The article continues:

One of the City's council members opposed the project and asked the City to cease its work on it. The City attorney advised the council members that the City was required to continue processing and completing the EIR. Nonetheless, the objecting council member introduced a motion to suspend the environmental review process until the city council made "a policy decision" to resume the process. The city council ultimately approved a modified motion which also called for the City to cease work on the proposed project.

Should the City Council find reason to cease the EIR, such as project alternatives being inconsistent with the General Plan, plan NOP period did not show legal project alternatives, and the Specific Plan process failed to inform the public of the process failings immediately when known and is studying projects which were not studied in the DEIR (explained on the following pages), or that in light of its' similarity to failed Cupertino ballot Measure D: The Vallco Initiative November 8, 2016, there is precedent as demonstrated above, to do so.

Alternatives to Project:

"The California Environmental Quality Act (CEQA), Section 15126.6, requires an Environmental Impact Report (EIR) to describe a reasonable range of alternatives to a Project or to the location of a Project which could feasibly attain its basic objectives but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives."

Similarity of "Proposed Project" to Failed Ballot Initiative Measure D, Nov. 8, 2016 Should Disqualify It:

The Vallco Measure D Initiative is described in the following: [CITY ATTORNEY'S BALLOT TITLE AND SUMMARY FOR PROPOSED INITIATIVE SUBMITTED ON MARCH 3, 2016](#) and would consist of:

- 2,000,000 SF office
- 640,000 SF retail
- 191 additional hotel rooms, bringing the site total to 339 hotel rooms
- 389 residential units with a Conditional Use Permit bringing the total to 800 residential units

The [November 8, 2016 Election results for Measure D](#) were 55% No. Advertising for the initiative obscured the office and focused on the retail portions. The actual square footage percentages for the Measure D Initiative were:

- 56% office
- 22% residential
- 16% retail
- 6% hotel

Notice these above percentages result in 84% non-retail uses and would be a majority office park. The “Proposed Project” for the EIR has less retail (600,000 SF) and other uses the same as Measure D.

The EIR process is not intended to be a disregard of the city’s General Plan to “try out” alternative concepts which have no consistency with the General Plan. This creates a great deal of confusion and distrust.

General Plan Directive to Create a Vallco Shopping District Specific Plan:

This section amasses the multiple sections of the General Plan which reference the Vallco Shopping District and describe what it is planned to become.

Refer to: [Cupertino General Plan Vision 2040](#):

In Chapter 2 of the Cupertino General Plan Vision 2040: Planning Areas: Vallco Shopping District is described as: “...Cupertino’s most significant commercial center...” and that “...Reinvestment is needed...so that this **commercial center** is more competitive and better serves the community.” It is referred to as a “shopping district”, not an office park, or a residential community.

“This new Vallco Shopping District will become a destination for shopping, dining and entertainment in the Santa Clara Valley.”

- Cupertino General Plan Community Vision 2015-2040

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INTRODUCTION

In order to ease review of these comments, they are ordered in parallel with the DEIR document. Comments will follow the headings from the DEIR in order, and any missing informational sections will be discussed at the end. Quotations from the DEIR and appendices are shown in *blue*.

COMMENTS ON DEIR SUMMARY P XII: PROPOSED PROJECT IS A MOVING TARGET

The DEIR Summary, p xii, states: “*The proposed project is the adoption of the community-developed Vallco Special Area Specific Plan and associated General Plan and Zoning Code amendments.*” and continues:

*“Consistent with the adopted General Plan, the **proposed Specific Plan** would facilitate development of a minimum of 600,000 square feet of commercial uses, up to 2.0 million square feet of office uses, up to 339 hotel rooms, **and up to 800 residential** dwelling units on-site. The proposed Specific Plan development reflects the buildout assumptions (including the adopted residential allocation available) for the site in the City ’ s adopted General Plan. In addition, the project includes up to 65,000 square feet of civic spaces in the form of governmental office space, meeting rooms and community rooms and a Science Technology Engineering and Mathematics (STEM) lab, as well as a 30-acre green roof.”*

Source: Vallco Specific Plan DEIR, p. xii, <http://www.cupertino.org/home/showdocument?id=20887>

The DEIR studied the following projects and alternatives:

Figure 1: DEIR Proposed Project and Alternatives Summary

Summary of Project and Project Alternative Development						
	Land Uses					
	Commercial (square footage)	Office (square footage)	Hotel (rooms)	Residential (dwelling units)	Civic Space (square feet)	Green Roof (acres)
Proposed Specific Plan	600,000	2,000,000	339	800	65,000	30
Project Alternatives						
General Plan Buildout with Maximum Residential Alternative	600,000	1,000,000	339	2,640	65,000	30
Retail and Residential Alternative	600,000	0	339	4,000	0	0
Occupied/Re-Tenanted Mall Alternative	1,207,774	0	148	0	0	0

1. Proposed Project has incorrect number of residential units. Residential units would be 389. Referring to the General Plan, Vallco "...specific plan would permit 389 units..." not 800 residential units. The Specific Plan process to date shows a 3,200, 2,640 and 3,250 residential unit options. While the housing units may be moved between housing element sites, the [General Plan Technical Report](#) for Scenarios A and B do not come close to having this many housing units. None of the options are consistent with the General Plan. When the number of units is over 2,640 in the DEIR, there is no office shown. The Charrette 2 housing units are shown to be 3,200 at the Charrette #2 closing presentation for any options. This was not studied in the DEIR. Low Housing/Low Retail option shared is inconsistent with the General Plan minimum retail of 600,000 SF.

DEIR, p. 15 PDF p 51, states in 2.4.2:

"The General Plan, however, controls residential development through an allocation system. This alternative [General Plan Buildout with Maximum Residential Alternative] assumes that there are no residential allocation controls in place and development can occur at the maximum density allowed by the General Plan".

Source: Vallco Specific Plan DEIR, p 51, <http://www.cupertino.org/home/showdocument?id=20887>

[General Plan Housing Element p H-21:](#)

"Priority Housing Sites: As part of the Housing Element update, the City has identified five priority sites under Scenario A (see Table HE-5) for residential development over the next eight years. The General Plan and zoning designations allow the densities shown in Table HE-5 for all sites except the Vallco Shopping District site (Site A2). The redevelopment of Vallco Shopping District will involve significant planning and community input. A specific plan will be required to implement a comprehensive strategy for a retail/office/residential mixed use development. The project applicant would be required to work closely with the community and the City to bring forth a specific plan that meets the community's needs, with the anticipated adoption and rezoning to occur within three years of the adoption of the 2014-2022 Housing Element (by May 31, 2018). The specific plan would permit 389 units by right at a minimum density of 20 units per acre. If the specific plan and rezoning are not adopted within three years of Housing Element adoption (by May 31, 2018), the City will schedule hearings consistent with Government Code Section 65863 to consider removing Vallco as a priority housing site under Scenario A, to be replaced by sites identified in Scenario B (see detailed discussion and sites listing of "Scenario B" in Appendix B - Housing Element Technical Appendix). As part of the adoption of Scenario B, the City intends to add two additional sites to the inventory: Glenbrook Apartments and Homestead Lanes, along with increased number of permitted units on The Hamptons and The Oaks sites. Applicable zoning is in place for Glenbrook Apartments; however the Homestead Lanes site would need to be rezoned at that time to permit residential uses. Any rezoning required will allow residential uses by right at a minimum density of 20 units per acre."

2. **Clarifications needed for p xii Summary, what is the proposed project?** As of the release date of the DEIR, May 24, 2018, there is no approved Specific Plan for Vallco. Two options shared the week of Charrette #2 **have no relationship to the General Plan, or the DEIR**, and included:

Low Office/High Retail
 Residential: 3,250 units
 Office: 750,000 SF
 Retail/Entertainment: 600,000 SF
 Hotel: 139,000 SF
 Civic Space: 65,000 SF
 5 acres public park(s)

Low Housing/Low Retail
 Residential: 2,640 units
 Office: 1,500,000 SF
 Retail/Entertainment: 400,000 SF
 Hotel: 139,000 SF
 Civic Space: 65,000 SF
 5 acres public park(s)

Here is the Opticos slide presented the week of Charrette #2, May 23, 2018, informing us of what the project could be:

Figure 2: Opticos Specific Plan Process Options

Land Use	Low Office/ High Retail	Low Housing/ Low Retail
RESIDENTIAL		
Units	3,250	2,640
Sq.Ft.	4.06 M	3.30 M
COMMERCIAL		
Office	750 K	1.50 M
Retail/ Entertainment	600 K	400 K
Hotel	139 K	139 K
TOTAL (SQ. FT.)	5.62 M	5.41 M

Each program also includes:

- 5 acres of public park(s)
- 65,000 square feet of civic space
- ~85% subterranean parking

Notice the number of residential units are not consistent with the General Plan or DEIR in any way. The park space is inconsistent with the DEIR.

And supporting slide from Opticos Charrette #2 closing presentation has further alterations to proposed project:

Figure 3: Opticos Specific Plan Options

Generally program ranges studied AFTER charrette 1

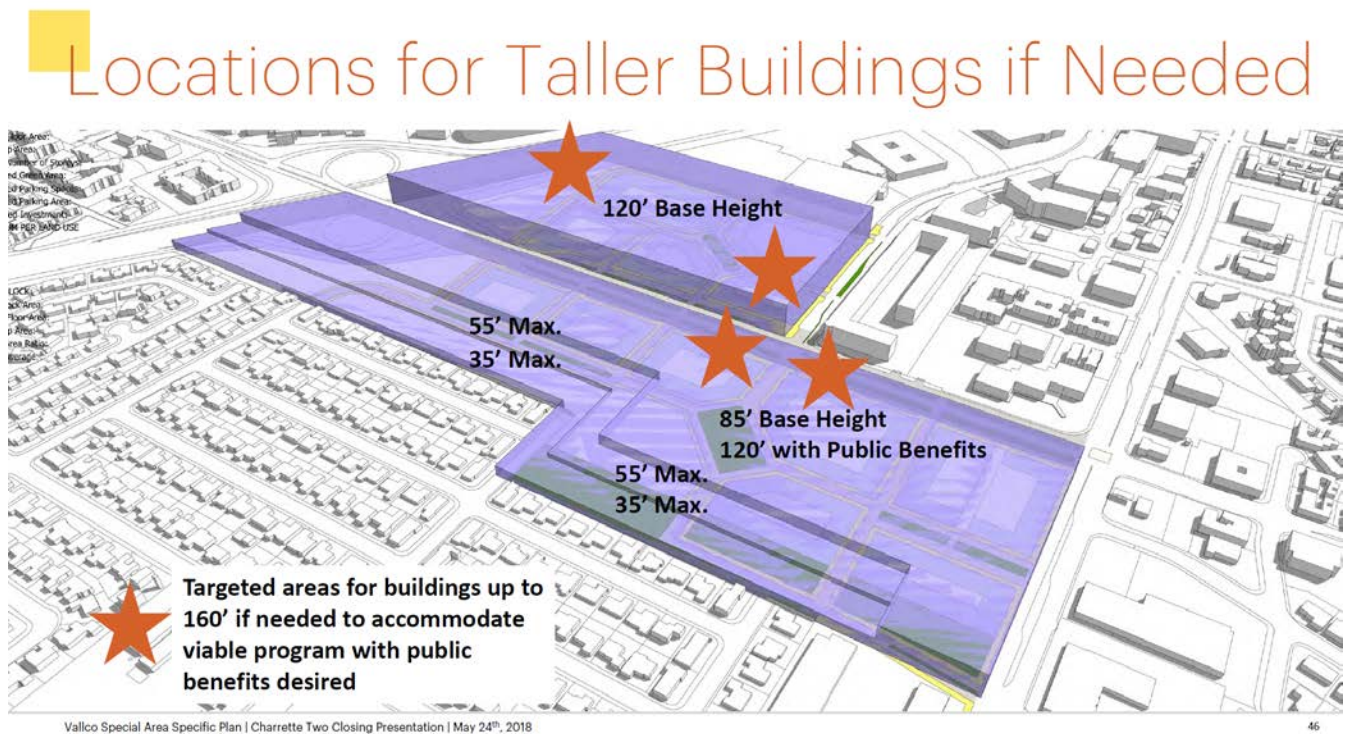
Use	Program Range Studies
Retail/Ent.	400-600,000 sf
Office	750,000-1.5 million sf
Housing Units	3,200
Civic	45-65,000 sf

These have not changed since the beginning of charrette 2

5

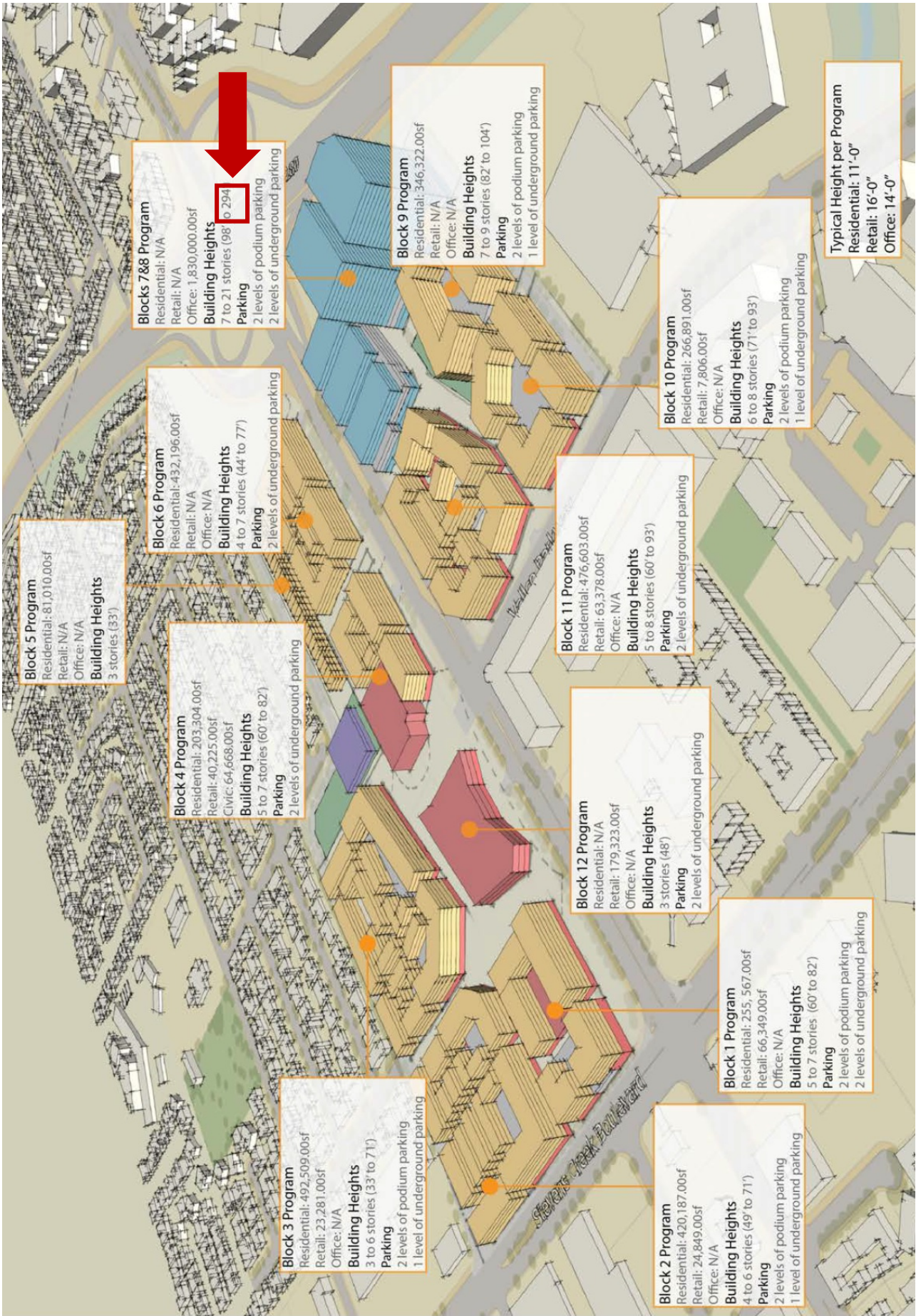
3. 65,000 SF of civic space, STEM lab, and 30 acre green roof were not discussed in the NOP period for Vallco. In the DEIR civic space and STEM lab are combined into the 65,000 SF. Additionally, the civic/STEM spaces are considered public benefits which would result in higher building heights if the developer includes them. This was mentioned at the Opticos Charrette #2 closing presentation, May 24, 2018:

Figure 4: DEIR Heights



4. To add to the confusion as to what the project may end up being, the maximum height was also shown to be 294'. These height differences will cause different shadow and intrusion issues, such as privacy intrusion into Apple Campus HQ which may be a security risk at the corporate headquarters, guest discomfort at the outdoor swimming pool at Hyatt House, and the lack of privacy for the area homes and back yards. In Section 4.2.1 of the DEIR, heights are shown up to 165'.

The following graphic was presented by Opticos for Vallco Specific Plan:



5. Has the height at Vallco reverted to 85' and 3 stories due to the passing of May 31, 2018 with no Specific Plan adopted for Vallco? P. 162 of DEIR:

Cupertino Municipal Code

The Vallco Special Area is zoned P(Regional Shopping) – Planned Development Regional Shopping north of Vallco Parkway, and P(CG) – Planned Development General Commercial south of Vallco Parkway (west of North Wolfe Road). The Planned Development Zoning District is specifically intended to encourage variety in the development pattern of the community. The Planned Development Regional Shopping zoning designation allows all permitted uses in the Regional Shopping District, which include up to 1,645,700 square feet of commercial uses, a 2,500 seat theater complex, and buildings of up to three stories and 85 feet tall.⁸¹

The Planned Development General Commercial designation allows retail businesses, full service restaurants (without separate bar facilities), specialty food stores, eating establishments, offices, laundry facilities, private clubs, lodges, personal service establishments.

⁸¹ Council Actions 31-U-86 and 9-U-90. The maximum building height identified was in conformance with the 1993 General Plan and were identified in the Development Agreement (Ordinance 1540 File no. 1-DA-90) at that time

6. The performing arts theater, public benefit was mentioned in the Opticos Charrette #2 closing presentation May 24, 2018, but **not included in the DEIR** calculations:

Figure 5: Opticos Specific Plan Process: Performing Arts Theater

Performing Arts Theater: Public Benefit

Mountain View CPA:

- 41,000 square feet excluding circulation.
- 5,300 square foot lobby
- 600 seat main stage
- 250 seat second stage
- Rehearsal room
- Good synergy with City Hall



Vallco Special Area Specific Plan | Charrette Two Closing Presentation | May 24th, 2018 13

- 7.

8. **The lack of a stable project makes writing comments nearly impossible.** In *Washoe Meadows Community v. Department of Parks and Recreation* (2017) 17 Cal.App.5th 277

<https://www.thomaslaw.com/blog/washoe-meadows-community-v-department-parks-recreation-2017-17-cal-app-5th-277/>

“...the court held that the **DEIR’s failure to provide the public with an “accurate, stable and finite” project description** prejudicially impaired the public’s right to participate in the CEQA process, citing *COUNTY OF INYO V. CITY OF LOS ANGELES* (1977) 71 Cal.App.3d 185. Noting that a broad range of possible projects presents the public with a moving target and requires a commenter to offer input on a wide range of alternatives, the court found that the presentation of five very different alternative projects in the DEIR without a stable project was an obstacle to informed public participation”

9. Proposed project is inconsistent with the General Plan: housing is exceeded, park land fails to meet requirements for the park starved east side of Cupertino (Municipal Code requires park land acreage rather than a substitute roof park at a rate of 3 acres per 1,000 residents), height bonus tied to community benefits is not in the General Plan, the housing allocation assumes the General Plan allocation system has been removed, and community benefits in the General Plan for Vallco came at no ‘cost’ to the project such as increased heights. Project alternatives are too varied from the Proposed Specific Plan project, and there is no “Proposed Specific Plan” as of May 24, 2018.

Figure 6: DEIR Summary of Project and Alternatives

Summary of Project and Project Alternative Development						
	Land Uses					
	Commercial (square footage)	Office (square footage)	Hotel (rooms)	Residential (dwelling units)	Civic Space (square feet)	Green Roof (acres)
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Occupied/Re-Tenanted Mall Alternative	1,207,774	0	148	0	0	0

10. The Specific Plan must be consistent with the General Plan by law. We have no identified Specific Plan and the last alternatives presented at the final Charrette #2 do not match any alternatives studied in the DEIR (3,200 residential units along with 750,000-1,000,000 SF office space plus 65,000 SF civic space) and are not consistent with the General Plan.

[Ca GC 65450-65457:](#)

(b) The specific plan shall include a statement of the relationship of the specific plan to the general plan.

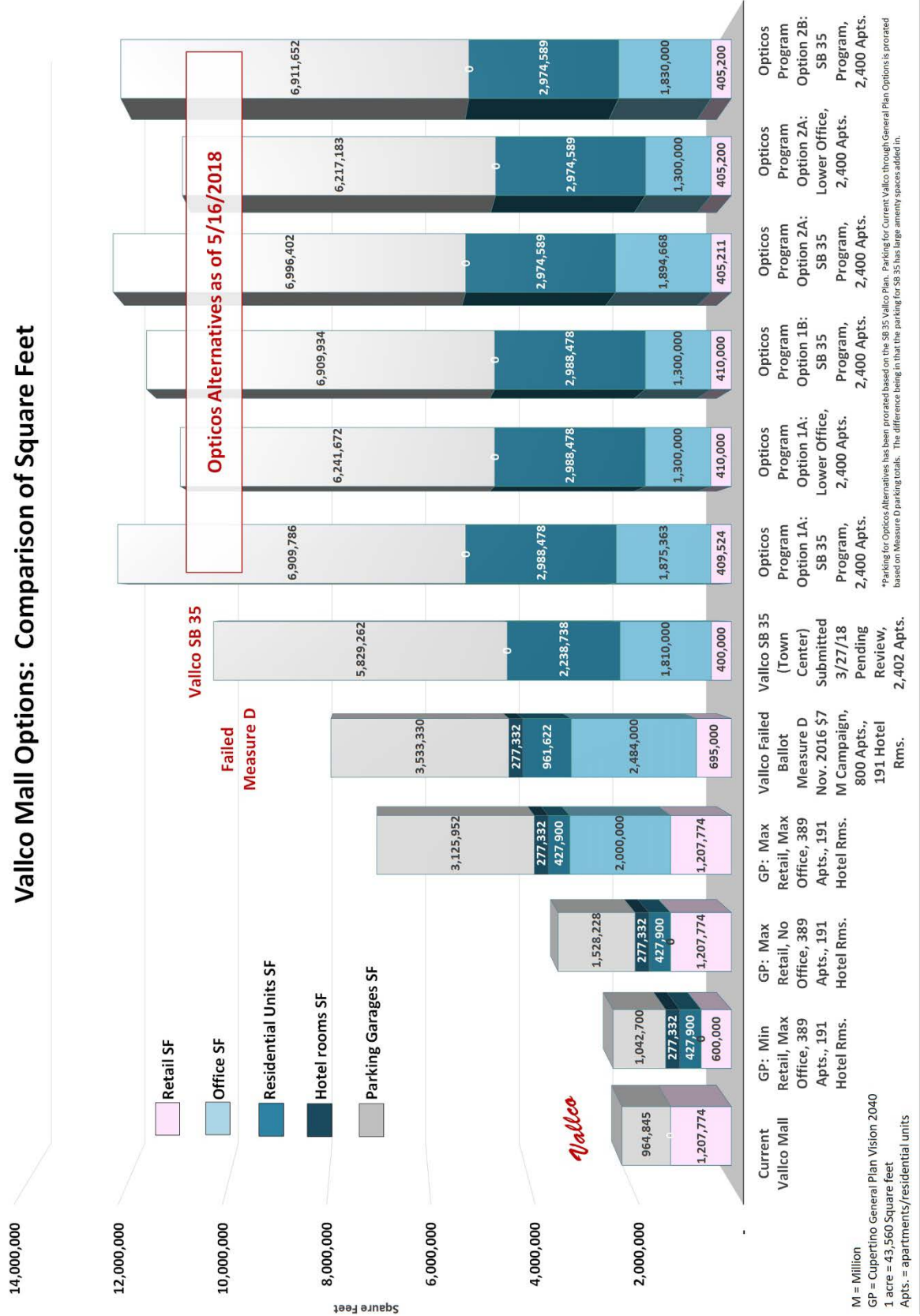
http://www.opr.ca.gov/docs/specific_plans.pdf

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65451.&lawCode=GOV

A project that is inconsistent with an applicable General Plan or subsidiary land use plan may not be approved without an amendment to the Plan or a variance. See Gov't Code § 65860. Where a project conflicts with even a single general plan policy, its approval may be reversed. San Bernardino County Audubon Society, Inc. v. County of San Bernardino (1984) 155 Cal.App.3d 738, 753; Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors of El Dorado County (1998) 62 Cal.App.4th 1334, 1341. Consistency demands that a project both "further the objectives and policies of the general plan and not obstruct their attainment." Families, 62 Cal.App.4th at 1336; see Napa Citizens for Honest Government v. Napa County Board of Supervisors (2001) 91 Cal.App.4th 342, 378. Accordingly, where a project opponent alleges that a project conflicts with plan policies, a court need not find an "outright conflict." Napa Citizens at 379. "The proper question is whether development of the [project] is compatible with and will not frustrate the General Plan's goals and policies ... without definite affirmative commitments to mitigate the adverse effect or effects." Id.

Figure 7: Vallco Project Alternatives after Charrette #1 (self)

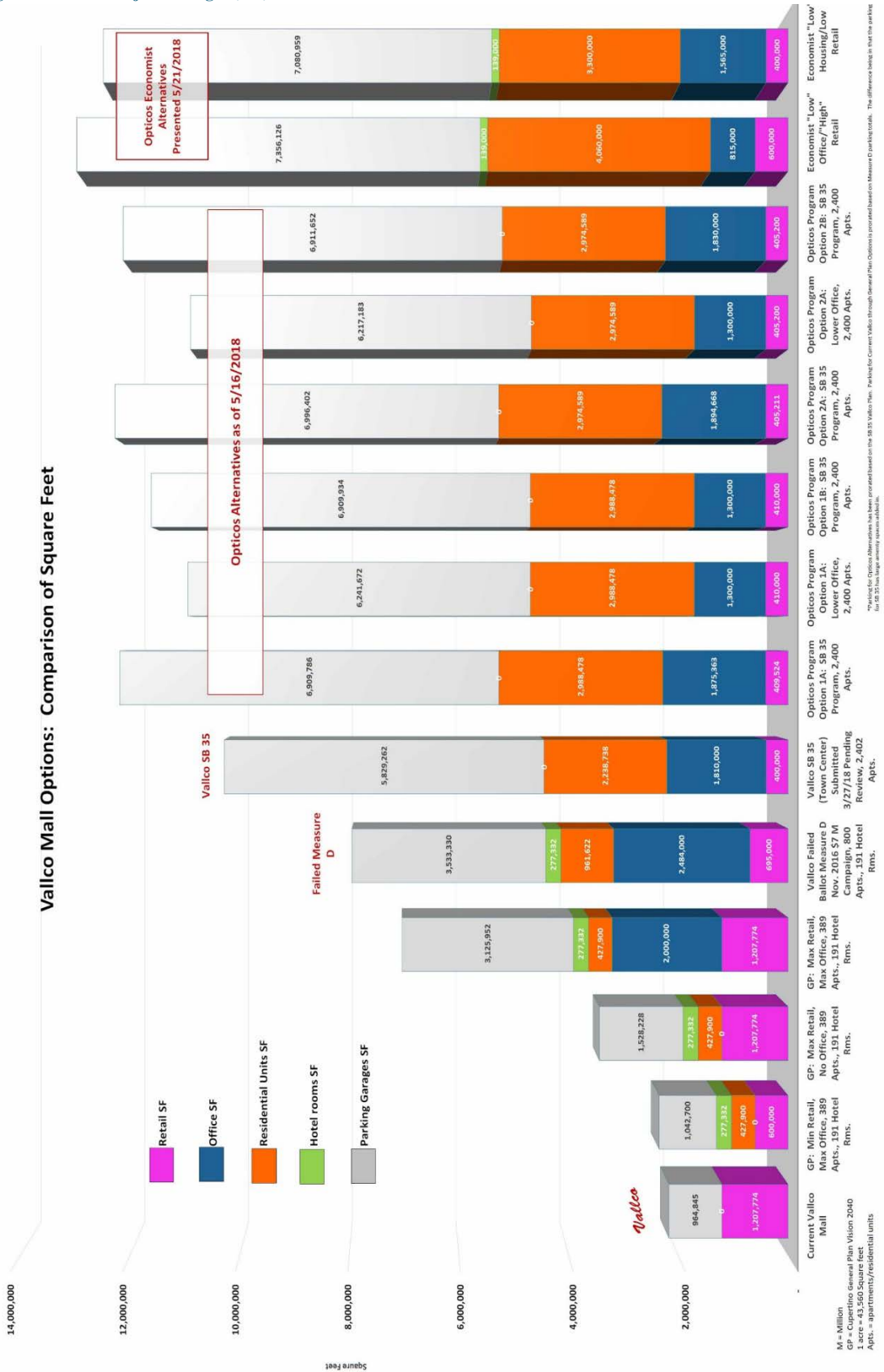
Vallco Mall Options: Comparison of Square Feet



M = Million
 GP = Cupertino General Plan Vision 2040
 1 acre = 43,560 Square feet
 Apts. = apartments/residential units

*Parking for Opticos Alternatives has been prorated based on the SB 35 Vallco Plan. Parking for Current Vallco through General Plan Options is prorated based on Measure D parking totals. The difference being in that the parking for SB 35 has large amenity spaces added in.

Figure 8: Vallco Project Changes (self)



CULTURAL RESOURCES

The findings and mitigations are adequate.

2.2 EXISTING GENERAL PLAN AND ZONING DESIGNATIONS

This section fails to state the current zoning designations per the General Plan, no Specific Plan has been adopted:

Figure 9: Cupertino General Plan

The site is designated Regional Shopping/Office/Residential in the General Plan and zoned Planned Development with Regional Shopping and Commercial (P[Regional Shopping and P[CG]). Strategy HE-1.3.1 provides that the City will adopt a Specific Plan for the Vallco site by May 31, 2018 that would permit 389 units by right at a minimum density of 20 units per acre. The zoning for the site would be modified as part of the Specific Plan process to allow residential uses as part of a mixed-use development at a maximum density of 35 units per acre. If the Specific Plan is not adopted, the City will schedule hearings consistent with Government Code Section 65863 to consider removing Vallco Shopping District as a Priority Housing Site and replacing it with the sites shown in Scenario B.

NO EXPLANATION FROM WHERE IN THE GENERAL PLAN THE EXCESS RESIDENTIAL UNITS CAME FROM

“As shown in General Plan Table LU-1, the General Plan development allocation for the Vallco Special Area is as follows: up to a maximum of 1,207,774 square feet of commercial uses (i.e., retention of the existing mall) or redevelopment of the site with a minimum of 600,000 square feet of retail uses of which a maximum of 30 percent may be entertainment uses (pursuant to General Plan Strategy LU-19.1.4); up to 2.0 million square feet of office uses; up to 339 hotel rooms; and up to 389 residential dwelling units.⁵ Pursuant to General Plan Strategy LU-1.2.1, development allocations may be transferred among Planning Areas, provided no significant environmental impacts are identified beyond those already studied in the Cupertino General Plan Community Vision 2015-2040 Final EIR (SCH#2014032007) (General Plan EIR).⁶ Therefore, additional available, residential or other, development allocations may be transferred to the project site.”

CUPERTINO GENERAL PLAN 2040 STUDIED A PIECEMEAL PLAN OF VALLCO?

“6 The General Plan EIR analyzed the demolition of the existing 1,207,774 square foot mall and redevelopment of the site with up to 600,000 square feet of commercial uses, 2.0 million square feet of office uses, 339 hotel rooms, and 800 residential dwelling units within the Vallco Special Area. Because the Vallco Shopping Mall existed on the site when Community Vision 2015-2040 was adopted, and it was unclear when a project would be developed on the site, General Plan Table LU-2 indicates the square footage of the existing mall in the commercial development allocation to ensure that the mall did not become a non-conforming use at the site. Residential allocations that are available in other Planning Areas may be transferred to the Vallco Shopping District without the need to amend the General Plan.”

Page 223 of this DEIR conflicts with the above assertion:

*“However, the General Plan update process in 2014 **analyzed** and allocated 600,000 square feet of commercial uses, 2.0 million square feet of office uses, 339 hotel rooms, and 389 residential units for a redeveloped project on the site.”*

What was studied in the General Plan EIR for Vallco?

2.3 BACKGROUND INFORMATION

This section attempts to obscure Vallco Shopping District’s “shopping, dining, and entertainment” objectives stated in the General Plan.

The General Plan refers to Vallco Shopping District as: "... a vibrant mixed-use “town center” that is a focal point for regional visitors and the community. This new Vallco Shopping District will become a destination for shopping, dining and entertainment in the Santa Clara Valley."

2.4.1 PROPOSED PROJECT

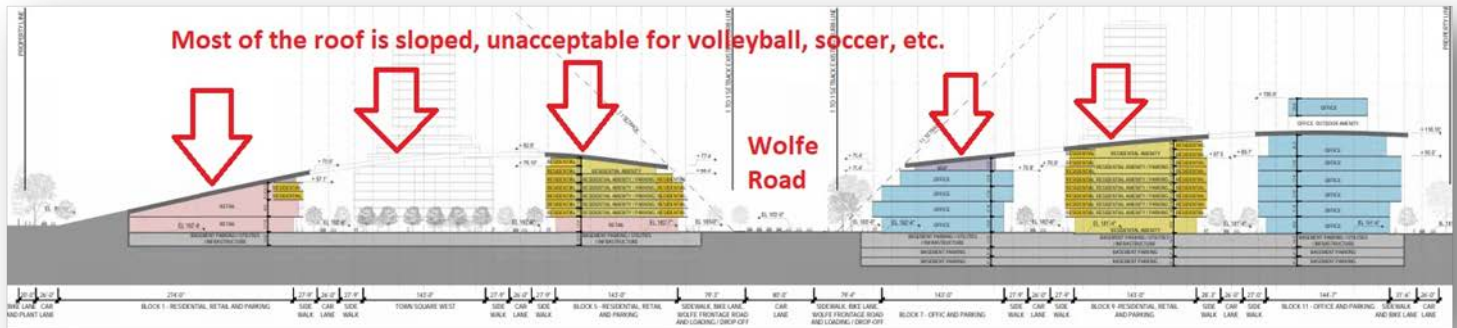
See Comments on DEIR Summary p 3 of this document.

2.4.4.1 COMMON OPEN SPACE AND LANDSCAPING

Park land acreage per Cupertino Municipal Code 13.08.050 states the park land acreage requirement to be 3 acres per 1,000 residents. In areas which are park deficient, such as the east side of Cupertino, the city average residents per dwelling units is 2.83. For Proposed Project, 800 residential units, 2,264 residents: 6.8 acres of park land acreage would be required. For 2,640 residential units, 7,471 residents: 22.4 acres of park land would be required. For 4,000 residential units, 11,320 residents: 34.0 acres of park land would be required.

The 30 acre green roof is not park land acreage per the Municipal Code. While it may be considered a recreational area, the uses of such space are limited. Here is a cross section of the SB 35 plan roof:

Figure 10: Section from SB 35 Vallco Application



Cupertino adopted the Community Vision 2040, Ch. 9 outlines the “Recreation, Parks, and Services Element.” Their Policy RPC-7.1 Sustainable design, is to minimize impacts, RPC-7.2 Flexibility Design, is to design for changing community needs, and RPC-7.3 Maintenance design, is to reduce maintenance.

The Vallco green roof violates the three City of Cupertino Parks policies listed: it is not sustainable, it is not flexible (a baseball field cannot be created), and it is extremely high maintenance. Parkland acquisition is supposed to be based on “Retaining and restoring creeks and other natural open space areas” and to “design parks to utilize natural features and the topography of the site in order to...keep maintenance costs low.” And unfortunately for us, the city states: “If public parkland is not dedicated, require park fees based on a formula that considers the extent to which the publicly-accessible facilities meet community need.”

2.4.4.2 SITE ACCESS, CIRCULATION, AND PARKING

“Based on a conservative estimate of parking demand, it is estimated that two to three levels of below-ground parking across most of the site (51 acres) would be required.”

Should a third level of subterranean parking be required, that will increase excavation haul, and GHG calculations. This would result in about 500,000 CY of additional soil removal and should be calculated.

Parking will be inadequate due to park and ride demand from the Transit Center and TDM.

2.4.4.3 TRANSIT CENTER AND TRANSPORTATION DEMAND MANAGEMENT PROGRAM

The extent of the transit system with Google, Genentech, and Facebook continuing to use the site along with what will likely be Apple, and VTA will result in much higher bus trips than expected. Even at the 808 average daily trips in the GHG and Fehr + Peers studies, that is 404 vehicles in and out of the site daily. This sounds

much larger than Apple Park’s transit system. There would need to be a tremendous amount of park and ride spaces available for the tech company buses which is not in the project.

2.4.4.4 UTILITY CONNECTIONS AND RECYCLED WATER INFRASTRUCTURE EXTENSION

The SB 35 application discussed the \$9.1 million cost to extend the recycled water line across I-280. There is an insufficient amount of recycled water produced at the Donald M. Somers plant and there is anticipated upstream demand. When there is not enough recycled water, potable water is added to the recycled water to make up the difference. It may be decades before there is adequate output of recycled water for the green roof.

Apple Park pays the potable water cost. The previous water study for Measure D showed the following water use:

Figure 11: WSA from Hills at Vallco Measure D

Table 3: LAS District Plus Four Development Projects								
Actual and Projected Water Demand (AF)								
	2005	2010	2015	2020	2025	2030	2035	2040
Cal Water Projection	14,758	11,648	14,440	14,706	14,983	15,273	15,577	15,894
Hamptons Project	0	0	0	28.1	28.1	28.1	28.1	28.1
Vallco SP&P	0	0	0	370.9	370.9	370.9	370.9	370.9
Apple Campus 2	0	0	0	121.6	121.6	121.6	121.6	121.6
Main Street Project	0	0	0	30.1	30.1	30.1	30.1	30.1
Total	14,758	11,648	14,440	15,257	15,534	15,824	16,128	16,445

Tertiary treated water from the Donald Somers plant is currently insufficient. Impacts related to the need to expand the plant will include air quality impacts as well. There is not enough capacity at the Donald Somers plant to supply the Vallco “Hills” project. Should the same green roof be added to the project, there would need to be a dual water system on the roof. This is due to the need to flush the recycled water out to keep certain plants healthy. The water use from the dual roof system needs to be addressed in coordination with the arborist report for the green roof irrigation system. The roof irrigation system may need an auxiliary pump system to irrigate gardens 95’+ in the air.

2.4.4.5 CONSTRUCTION

Vallco spokesperson Reed Moulds stated construction would take 6-8 years. Depending on the order of construction, for instance if office is built first, the project will worsen the deficit in housing. The length of time of construction is important because it is used in calculating the lbs/day of GHG produced. If one side is to be torn down and rebuilt (eg. the east property) first, then the GHG calculations may significantly alter to really be two separate job sites on separate schedules.

2.4.4.6 SPECIFIC PLAN ASSUMPTIONS

Items listed as “shall” do not state that all would be according to the requirements stated. For instance: *“Future buildings shall install solar photovoltaic power, where feasible.”* Requires none actually be installed. For the requirements to have any definite effect, they need to be rewritten for that outcome.

Residences and sensitive receptors need to be 200’ from truck loading areas.

3.1.1.2 SCENIC VIEWS AND VISTAS

DEIR ignores many pleasant views in the Wolfe Road corridor and took photos in harsh lighting when many of the residents enjoy the space on commutes and going to the gym onsite:

Southbound on Wolfe Road with the many mature ash trees:

Figure 12: SB Wolfe Rd.



Southbound on Wolfe Rd. looking west, notice the wide expanse and no buildings:

Figure 13: SB Wolfe Rd. Looking West at Vallco Open Space



Southbound on Wolfe Road, views of Santa Cruz Mountains. There are few areas in the east part of Cupertino where the Santa Cruz mountains are visible due to structures.

Figure 14: SB Wolfe Rd. Santa Cruz Mountains, Vallco Open Space, Trees



East bound on Stevens Creek Blvd. Views of east hills and multiple Apple transit buses.

Figure 15: EB Stevens Creek Blvd. Apple Shuttles



View of Bay Club (large seating area and tv room next to Starbucks) at Vallco.

Figure 16: The Bay Club and Starbucks at Vallco



3.1.2 AESTHETIC IMPACTS

“Aesthetic components of a scenic vista include scenic quality, sensitivity level, and view access. Scenic vistas are generally interpreted as long-range views of a specific scenic features (e.g., open space lands, mountain ridges, bay, or ocean views).”

Findings of AES-1 and AES-2 are incorrect.

The length of a scenic vista is relative to the location. In the east part of Cupertino, there are few long (10 mile) vistas, such that 400' is a relatively long vista. Glimpses of the Santa Cruz mountains and east bay hills are few and thus more precious. Homes are clustered with 5' side yards and 25' setbacks such that neighborhoods have little in the way of long vistas. Creekside Park, Cupertino High School, and Vallco Mall have the largest locally long vistas.

Proposed project will have a huge negative aesthetic impact, it will block all views of the Santa Cruz mountains and eliminate the wide vista across the Bay Club parking lot. Most of the homes in the east part of Cupertino have no long site view and no view of the Santa Cruz mountains. The Bay Club and Starbucks (in the Sears Building) has a huge setback and the parking lot has many fairly young trees. This open vista has been there historically. Visitors to the rebuilt site will be relegated to underground parking caves in a crowded environment with thousands of employees and residents. While Apple Park architects did their best to berm and plant a massive 176 acre area, while keeping the maximum elevation to 75', the Vallco project is the aesthetic antithesis.

Ideally, Main Street would have been purchased for park land but that did not happen. While the proposed project suggests to hide park land within the project, there should be a large corner park to maintain the historic open corner space at the northeast corner of Wolfe Rd. and Stevens Creek Blvd.

The following historical photographs indicate how the corner has never had the view blocked by any solid structure:

Figure 17: Valco 1939



Figure 18: Valco 1965

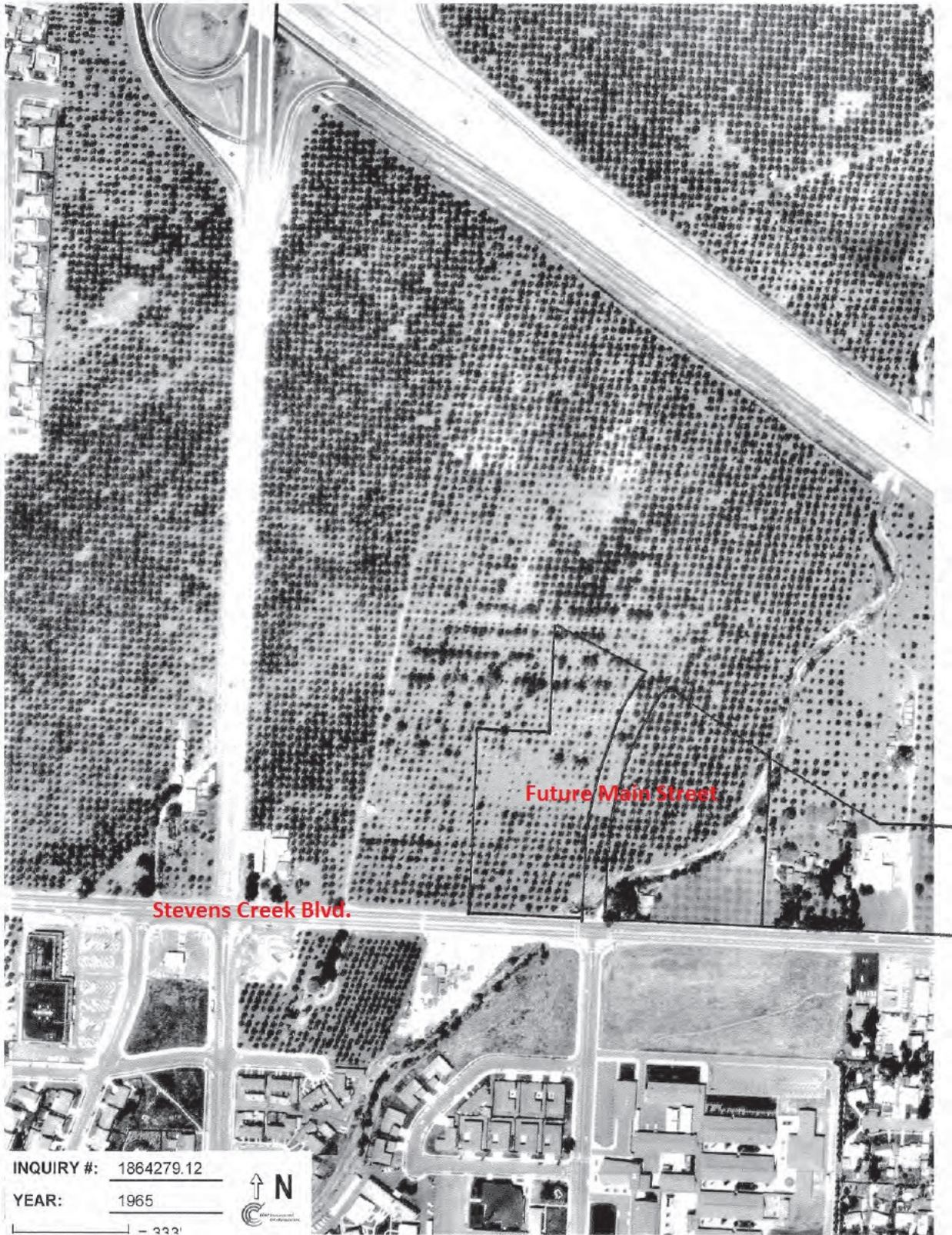


Figure 19: Valco 1974



LIGHT AND GLARE

The development of the proposed project and alternatives (other than retenanted mall) would include nighttime and security lighting, and may include building material that is reflective. The project and alternatives (other than re-tenanted mall) could result in light and glare impacts.

Structures facing the residential areas could have the windows and heights limited with green walls installed to mitigate light and glare effects.

3.2 AGRICULTURAL AND FORESTRY RESOURCES

The site historically was an orchard until the late 1970s. With proper planning, a limited portion of the site could be returned to orchard space, on the ground, and possibly on the Stevens Creek Blvd. and Wolfe Rd. corner.

3.3 AIR QUALITY

Data input has some errors to traffic volumes, wind direction (selected “variable” when it is N, NE), project traffic volumes, and input to the program used to model GHG such as: acreage of the lot, apartment total SF, city park acreage is on the roof and will have recycled water which results in an additional GHG, the addition of a 10,000 SF racquet club is inconsistent with the proposed project studied by others, the Government Civic Center is shown smaller than Proposed Project:

Figure 20: From DEIR: GHG Land Usage

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
General Office Building	2,000.00	1000sqft	58.00	2,000,000.00	0
Enclosed Parking with Elevator	11,391.00	Space	0.00	4,556,400.00	0
User Defined Parking	1.00	User Defined Unit	0.00	0.00	0
Hotel	339.00	Room	0.00	492,228.00	0
Apartments Mid Rise	800.00	Dwelling Unit	0.00	800,000.00	2288
Regional Shopping Center	600.00	1000sqft	0.00	600,000.00	0
City Park	30.00	Acre	0.00	1,306,800.00	0
Government (Civic Center)	45.00	1000sqft	0.00	45,000.00	0
Racquet Club	10.00	1000sqft	0.00	10,000.00	0
Junior College (2Yr)	10.00	1000sqft	0.00	10,000.00	0

GHG Trips generated do not match the Fehr + Peers Traffic Study for the DEIR and have nearly 10,000 less ADT. Additionally, the Fehr + Peers average daily trip rate was erroneously low. The trips generated by the Proposed Project calculated by Fehr + Peers are incorrect and artificially low due to selecting lower trip generation rates. For instance, no break out of retail trips was made to account for a movie theater, restaurants which generate 4-10 times as much traffic as retail, ice rink, bowling alley, hotel conference room, or the performing arts center. The Civic rate is undercalculated, the SF should be 65,000 to match the charrette

discussions and the ITE Government Building 710 trip generation rate should be used. A high turnover restaurant which we would see in a business area would result in a trip generation rate of nearly 90. By using generalities for the “Shopping Center” when the Vallco Shopping District is supposed to be a regional destination with shopping, dining, and entertainment uses, the Daily trips generated are undercalculated by about 50%. The SB 35 Vallco application has 120,000 SF entertainment, 133,000 SF retail stores, and 147,000 SF restaurants. The restaurants would likely be high turnover due the high number of office employees in the area.

Figure 21: From DEIR: GHG Trip Generation

4.2 Trip Summary Information

Land Use	Average Daily Trip Rate			Unmitigated	Mitigated
	Weekday	Saturday	Sunday	Annual VMT	Annual VMT
Apartments Mid Rise	3,616.00	3,480.00	3184.00	8,164,132	8,164,132
Enclosed Parking with Elevator	0.00	0.00	0.00		
General Office Building	20,500.00	4,580.00	1960.00	37,225,521	37,225,521
Hotel	2,352.66	2,359.44	1715.34	4,298,751	4,298,751
Regional Shopping Center	16,878.00	19,788.00	9996.00	28,597,404	28,597,404
User Defined Parking	808.00	808.00	808.00	1,470,560	1,470,560
City Park	471.00	471.00	471.00	1,005,516	1,005,516
Government (Civic Center)	844.20	0.00	0.00	1,152,717	1,152,717
Junior College (2Yr)	116.00	47.20	5.10	229,393	229,393
Racquet Club	239.00	239.00	239.00	406,530	406,530
Total	45,824.86	31,772.64	18,378.44	82,550,523	82,550,523

Fehr + Peers ADT chart:

Figure 22: From DEIR: Fehr + Peers Trip Generation does not match

Table 3.17-7: Project and Project Alternative Trip Generation Estimates

Land Use	Project				General Plan Buildout with Maximum Residential Alternative			
	Quantity	Daily Trips	AM Peak Hour	PM Peak hour	Quantity	Daily Trips	AM Peak Hour	PM Peak hour
Office	2,000 ksf	24,700	2,580	2,400	1,000 ksf	12,350	1,290	1,200
Shopping Center	600 ksf	20,331	452	2,046	600 ksf	20,331	452	2,046
Hotel	339 rooms	2,834	159	204	339 rooms	2,834	159	204
Multifamily Housing	800 units	4,352	288	352	2,640 units	14,362	950	1,162
Green Roof	30 acres	567	135	105	30 acres	567	135	105
Civic Uses	55 ksf	1,305	168	100	55 ksf	1,305	168	100
STEM Lab	10 ksf	140	34	22	10 ksf	140	34	22
<i>Subtotal (A)</i>		54,229	3,816	5,229		51,889	3,188	4,840
Transit and/or Mixed Use Reduction %		-17%	-23%	-24%		-20%	-25%	-30%
Mixed Use Reduction (B)		-9,218	-876	-1,255		-10,377	-797	-1,452
Transit Hub (C)		808	175	193		808	175	193
<i>Total Project or Project Alternative Trips (D = A-B+C)</i>		45,819	3,113	4,167		42,320	2,566	3,581
Existing Trips (E)		-8,813	-485	-949		-8,813	-485	-949
Net Project or Project Alternative Trips (F = D-E)		37,006	2,628	3,218		33,507	2,082	2,632

Notes: ksf = 1,000 square feet. Refer to Appendix H for detailed breakdown of the trip generation estimates.

IMPACT AQ-1

Impact AQ-1 PM 10, is missing from the DEIR but mitigations to AQ-1 are included in the GHG appendix and are repeated for Impact AQ-2.

IMPACT AQ-2

The following is quoted from DEIR AQ-2:

“Impact AQ-2: The construction of the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would violate air quality standard or contribute substantially to an existing or projected air quality violation.

Significant and Unavoidable Impact with Mitigation Incorporated

MM AQ-2.1: 3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.”

14. Avoid tracking of visible soil material on to public roadways by employing the following measures if necessary: (1) Site accesses to a distance of 100 feet from public paved roads shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel and (2) washing truck tires and construction equipment of prior to leaving the site.”

These impacts may be better mitigated following Apple Park’s method of power washing on each exit from the site and installing steel grates the trucks drive over. The soil haul on I-280, if this occurs, will need coordination with CalTrans for street sweeping on the freeway. This may take months and severely block traffic due to closing a lane for sweepers. The route for soil haul needs to be made public. Apple Park balanced cut and fill onsite, thus eliminating months of truck haul a considerable distance. The Environmental Assessment for Vallco Town Center Initiative, “Measure D” indicated many months of hauling required, trips from 7-12 miles, and that project is approximately 2 Million SF smaller than Proposed Project and alternatives. Additionally, the inclusion of having 85% of parking be subterranean in the Charrette alternatives could result in an extra level of subterranean parking needed. This will mean another 500,000 cubic yards of soil haul off. This was not anticipated in the DEIR and will impact air quality. It is expected that there will be hazardous materials needing special accepting landfills which are not near the site.

The following is quoted from DEIR AQ-2:

“Impact AQ-2:

MM AQ-2.1:

6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

16. Minimizing the idling time of diesel powered construction equipment to two minutes.”

#6 and #16 impact mitigations are conflicting, is it two minutes or five minutes allowable idling time? How will this be enforced?

The highest engine tier available is Tier 4b, the mitigations suggested include Tier 3, which should be deleted and require ALL construction equipment meet Tier 4b emissions standards because the site is adjacent to residences and within a quarter of a mile to a high school and day care. Additionally, the year of construction actually beginning is unknown.

How will the City enforce that mitigations such as alternative fuel options (e.g., CNG, bio-diesel) are provided for each construction equipment type? It is the responsibility of the lead agency to ensure the equipment operated by the project actually uses alternative fuel. City must present their enforcement process.

Because we have seen developers not pull permits until many years after approval, requiring that equipment be no older than eight years is better than the DEIR requirement of model year 2010 or newer.

- *All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet EPA Tier 4 emission standards for NOx and PM, where feasible.*
- *All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet EPA emission standards for **Tier 3 engines***

Consider adding the following mitigations text and explain how it will be enforced:

Figure 23: Mitigations for trucks

- new clean diesel trucks,
- lower-tier diesel engine trucks with added PM filters,
- hybrid trucks, alternative energy trucks, or
- another method that achieves the same emission standards as the highest engine tier available.

Figure 24: Mitigations for Construction Vehicles

- All off-road equipment and on-road equipment used for construction projects within the Plan area shall be no older than eight years at the time the building permit is issued. This requirement will ensure that these projects use the newest and cleanest equipment available.
- Portable diesel engines shall be prohibited at construction sites within the Plan area. Where access to grid power is available, grid power electricity should be used. If grid power is not available, propane and natural gas generators may be used.

Source, BAAQMD: <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak049141.pdf>

IMPACT AQ-3:

The operation of the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would violate air quality standard or contribute substantially to an existing or projected air quality violation.

Significant and Unavoidable Impact with Mitigation Incorporated

MM AQ-3.1: Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall use low-VOC paint (i.e., 50 g/L or less) on operational architectural coatings and no hearths or fireplaces (including natural gas-powered) shall be installed in the residential units.

Incomplete analysis and only one mitigation was suggested for operation of the project which is for architectural coatings specifically paint when ROG's are widely used throughout construction, however the proposed project will likely have multiple sources of ROG air pollution such as air pollution caused by:

1. additional recycled water production: likely unavoidable
2. any electrostatic ozone producing equipment: consider limiting ozone producing equipment or seek alternatives
3. cooling towers: require high efficiency cooling towers
4. operation of the transit hub: require zero emission transit vehicles, especially since there will likely be sensitive receptors living on site.
5. additional electricity generation to operate the project: require solar onsite to provide a minimum 50% of required electricity, including the electricity needed to treat the water and recycled water. Any exposed roofing to be white roof.
6. day to day additional vehicular traffic: require a high percent of EV charging stations, zero emission vehicles, and site loading areas 200' from residents, medical offices, daycares, parks, and playgrounds. Refer to Comment 2C in the following:
<http://www2.oaklandnet.com/oakcal/groups/ceda/documents/report/oak049141.pdf>
7. VOC emission from outgassing of carpets, plastics, roofing materials, curing of concrete, treatment of pool and cooling tower water, materials in the artificial roof infrastructure: require low VOC materials throughout the project to reduce
8. restaurants which may be vented to the roof exposing people to cooking fume exhaust. Main Street Cupertino gases from restaurants are visible and detectable across the street on Stevens Creek Boulevard. The standards for roof venting for a green roof must be higher than typical because people may end up near the vents.
9. Additional traffic backing up on I-280, site is downwind of the freeway: place residential areas, medical facility offices, daycares, school uses, playgrounds, and parks a minimum of 1000' from the I-280 right of way including the off ramps and particularly the on ramp due to vehicular acceleration resulting in increased air pollution emissions.
10. VOCs are not mitigated with HEPA filtration. This makes siting residences, medical facilities, school facilities, and daycares more than 1000' from the freeway imperative. Require a Merv 13 filter or better in the 1000' area and require the replacement of the filters with some city determined verification that the filters are changed. <http://www.latimes.com/local/lanow/la-me-ln-freeway-pollution-filters-20170709-story.html>
11. Employees working in the parking garages in the TDM program (valets underground) will need to have air quality monitored for safety. Usually they would have a separate room which is well ventilated and preferably an automated payment system for metered parking. However, if workers are needed to pack

cars tightly, then the whole underground parking area would have to be rendered safe for workers exposed to the air pollution found in parking garages for a full work day.

Impact AQ-4:

The proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would result in a cumulatively considerable net increase of criteria pollutants (ROG, NO_x, PM₁₀, and/or PM_{2.5}) for which the project region is non-attainment under an applicable federal or state ambient air quality standard.

Significant and Unavoidable Impact with Mitigation Incorporated

Mitigation Measure: MM AQ-4.1: Implement MM AQ-3.1.

This is an incomplete analysis with incomplete mitigation measures. Refer to additional air pollution sources and mitigations listed in Impact AQ-3 above. No study of TDM workers in the underground garages has been done.

Impact AQ-6:

The proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would expose sensitive receptors to substantial construction dust and diesel exhaust emissions concentrations.

Significant and Unavoidable Impact with Mitigation Incorporated

Mitigation Measures: MM AQ-6.1: Implement MM AQ-2.1 and -2.2.

- 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.*
- 2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.*

This impact is not specific enough. Because there is an error in the calculations, explained in the Air Quality and Greenhouse Gas Emissions Assessment section fully, the mitigations must be made more strict. It should be mentioned, that the exposure has critical peaks of hazardous levels of GHGs.

HAZARDOUS MATERIALS DEMOLITION:

Some of the site interiors appear to have had demolition occur already. Was this done to code? How is that known?

“Potential sources of on-site contamination – The Vallco site was historically used for agricultural purposes, and has been developed and operating as a shopping mall since at least 1979. The site is listed on regulatory agency databases as having leaking underground storage tanks (LUSTs), removing and disposing of asbestos containing materials (ACMs), and a small quantity generator of hazardous materials waste. Surface soils may contain

elevated levels of residual pesticides and other chemicals of concern related to past and present use and operations at the site.”- JD Powers VTCSP 9212 report

Include the following, modified from VTCSP 9212 report, JD Powers:

Soil Management Plan: *A Soil Management Plan for all redevelopment activities shall be prepared by applicant(s) for future development to ensure that excavated soils are sampled and properly handled/disposed, and that imported fill materials are screened/analyzed before their use on the property.*

Renovation or Demolition of Existing Structures: *Before conducting renovation or demolition activities that might disturb potential asbestos, light fixtures, or painted surfaces, the Town Center/Community Park applicant shall ensure that it complies with the Operations and Maintenance Plan for management and abatement of asbestos-containing materials, proper handling and disposal of fluorescent and mercury vapor light fixtures, and with all applicable requirements regarding lead-based paint.*

Proposed use of hazardous materials – *Development of the VTC and alternatives could include uses that generate, store, use, distribute, or dispose of hazardous materials such as petroleum products, oils, solvents, paint, household chemicals, and pesticides. The VTC shall include the following EDF to reduce adverse effects from on-site use of hazardous materials:*

Hazardous Materials Business Plan: *In accordance with State Code, facilities that store, handle or use regulated substances as defined in the California Health and Safety Code Section 25534(b) in excess of threshold quantities shall prepare and implement, as necessary, Hazardous Materials Business Plans (HMBP) for determination of risks to the community. The HMBP will be reviewed and approved by the Santa Clara County Department of Environmental Health Hazardous Materials Compliance Division through the Certified Unified Program Agencies (CUPA) process*

Refer to Subchapter 4. Construction Safety Orders, **Article 4. Dusts, Fumes, Mists, Vapors, and Gases:**

<https://www.dir.ca.gov/title8/1529.html>

Impact AQ-7:

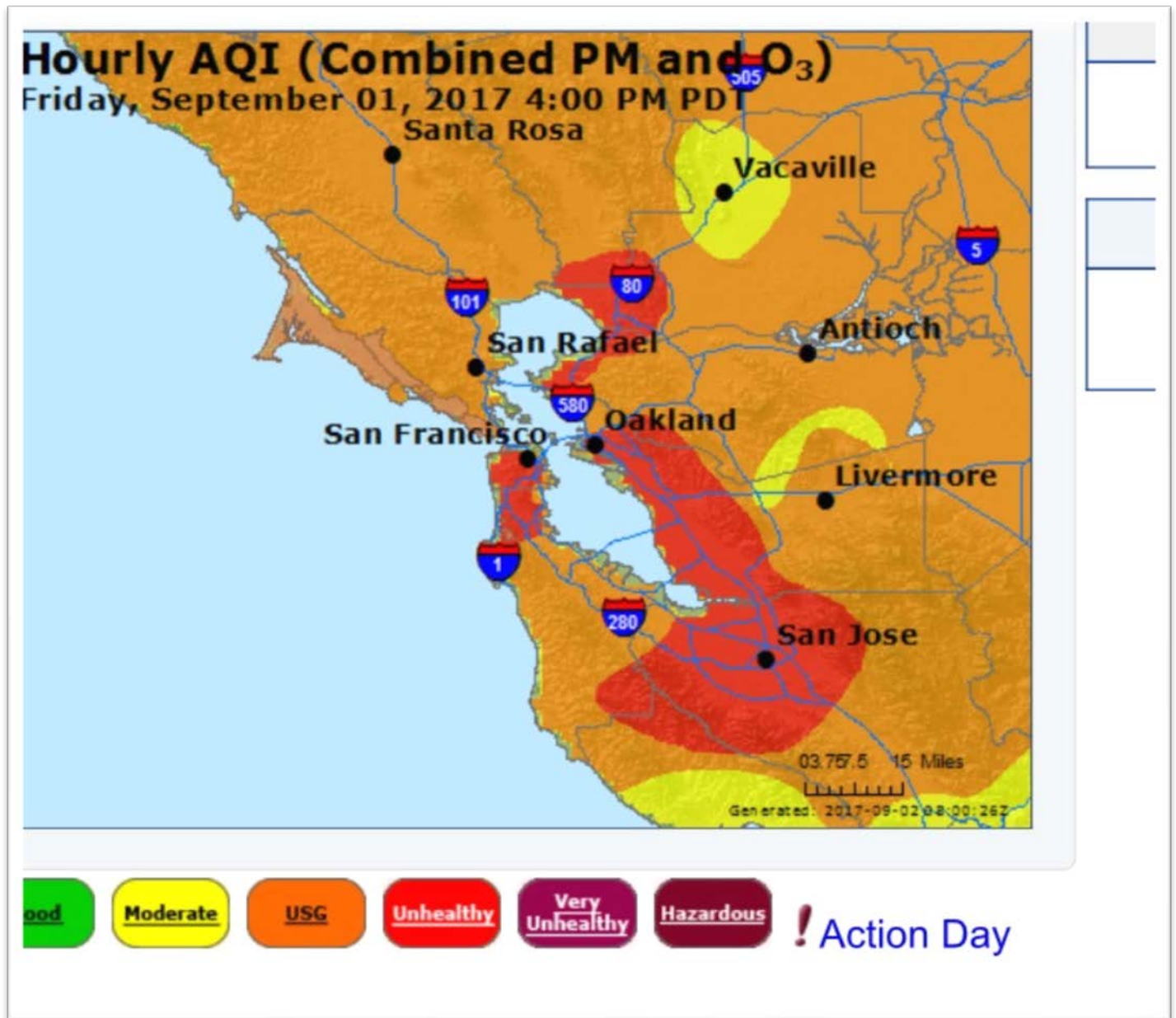
The proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would expose sensitive receptors to substantial TAC pollutant concentrations.

Less than Significant Impact with Mitigation Incorporated

MM AQ-7.1: Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) shall implement mitigation measure MM AQ-2.1 to reduce on-site diesel exhaust emissions, which would thereby reduce the maximum cancer risk due to construction of the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative).

The cancer risk assessment is based on erroneous traffic studies and the air quality monitoring stations had old data from 2013 and/or were too far away to use data. The cancer risk needs to be recalculated. The amount of exposure time should reflect seniors not leaving the project area. The baseline air quality monitoring must be taken over an extended period with particular attention paid to the summer months when Ozone levels increase. Here is an example day when children would be playing outdoors, Ozone was the primary pollutant. Note these are regional amounts, and the increases along the freeways are not shown:

Figure 25: AQI from BAAQMD



The I-280 freeway produces substantial TAC pollutant concentrations and the south bay is subjected to the entire bay area's pollutants which are converted to Ozone in the warm summer months. The DEIR failed to monitor air pollution for the site for any time period, and only modeled pollutants onsite. Fires are expected to be the new normal, bringing potential further impacts to the region's air quality.

The heights of the structures planned, and layout, and planned green roof, will likely concentrate freeway pollutants into the project area and combine and intensify them with onsite traffic. Having 85% of the parking garages underground and with fresh air intake being difficult to locate may result in significantly unhealthy air quality and the need for expensive mechanical filtration which does not filter VOCs. Adding what may be approximately 147,000 SF of restaurant and up to 4,000 residential units producing cooking and restroom exhaust with a challenging ventilation system may further degrade the air quality on site. The roof park may enclose the site to the point of having hazardous air quality. The roof park covering was not studied in the cancer risk assessment model. Reducing the amount of underground parking and having above grade parking with open walls in above ground structures is a mitigation. Alternatively, Merv 13 or better filtration and air quality monitors in the subterranean garages may improve the air quality, but it is not clear which would be better. The project alternative with 4,000 residential units will most likely result in residents within 1,000' of the freeway, re-tenanted mall results in the least construction and operational pollution, least cancer risk, and least long term GHG exposure since no residential units would be onsite.

Project is "down wind" of the freeway. The freeway has over 160,000 vehicles per day and is increasing in congestion. Planned projects in San Jose will likely balance the directional flow of the I-280 and worsen traffic. Freeway pollution has been found to travel up to 1.5 miles resulting in readings above baseline.

The project will significantly slow traffic, and therefore it will increase air pollution levels. Pollutants increase dramatically when going 13 mph vs 45 mph for example, see [Zhang, Kai, and Stuart Batterman. "Air Pollution and Health Risks due to Vehicle Traffic." *The Science of the total environment* 0 \(2013\): 307–316. PMC. Web. 30 May 2018..](#) The cumulative effects of the existing air quality next to the freeway, trapping air pollution from the geometry of the buildings proposed and potential roof, must be studied. Project may result in a [tunnel effect](#). see [Zhou R, Wang S, Shi C, Wang W, Zhao H, Liu R, et al. \(2014\) Study on the Traffic Air Pollution inside and outside a Road Tunnel in Shanghai, China. PLoS ONE 9\(11\): e112195. <https://doi.org/10.1371/journal.pone.0112195>](#)

CANCER RISK ASSESSMENT, CONSTRUCTION PHASE, CONTRADICTS PREVIOUS STUDY

The construction phase cancer risk assessment is lower than that prepared for the Measure D Vallco Town Center Environmental assessment, which, without EDFs is copied here, this disparity does not make sense:

Figure 26: VTC Hills at Vallco Cancer Risk Assessment - High

Table AQ-13
Project-Related Construction Health Risk Impacts at Sensitive Receptors, Without EDFs
Town Center/Community Park
Cupertino, California

Emission Source	Cancer Risk Impact ¹ (in one million)	Chronic Non-Cancer Hazard Index ¹	Acute Non-Cancer Hazard Index ¹	Annual PM _{2.5} Concentration ¹ (ug/m ³)
Project Construction, Without EDFs	83	0.065	0.21	0.296
BAAQMD Significance Threshold	10	1	1	0.3

Notes:
1. The existing residential locations experiencing maximum project impacts with no EDFs are:

	UTMx	UTMy
Cancer	587135.52	4131721.81
Chronic HI, PM _{2.5}	587134.89	4131761.81
Acute HI	587057.1	4131620.57

Abbreviations:
BAAQMD: Bay Area Air Quality Management District
EDF: Environmental Design Feature
HI: health index
ug/m³: micrograms per cubic meter
UTM: Universal Transverse Mercator coordinate system

And with EDF's here:

Figure 27: VTS Hills at Vallco Cancer Risk Assessment with EDFs

Table AQ-14
Project-Related Construction Health Risk Impacts at Sensitive Receptors, With EDFs
Town Center/Community Park
Cupertino, California

Emission Source	Cancer Risk Impact ¹ (in one million)	Chronic Non-Cancer Hazard Index ¹	Acute Non-Cancer Hazard Index ¹	Annual PM _{2.5} Concentration ¹ (ug/m ³)
Project Construction, With EDFs	7.5	0.0063	0.089	0.024
BAAQMD Significance Threshold	10	1	1	0.3

Notes:

1. The existing residential locations experiencing maximum project impacts with EDFs are:

	UTMx	UTMy
Cancer	587360.2	4131425.31
Chronic HI, PM _{2.5}	587361.46	4131345.32
Acute HI	587330.47	4132044.92

Abbreviations:
 BAAQMD: Bay Area Air Quality Management District
 EDF: Environmental Design Feature
 HI: health index
 ug/m³: micrograms per cubic meter
 UTM: Universal Transverse Mercator coordinate system

P. 55 of GHG Assessment cancer risk assessment shows much lower risk:

“Results of this assessment indicate that the maximum excess residential cancer risks would be 26.7 in one million for an infant/child exposure and 0.9 in one million for an adult exposure. The maximally exposed individual (MEI) would be located at a second floor residence at the location shown in Figure 5. The maximum residential excess cancer risk at the MEI would be greater than the BAAQMD significance threshold of 10 in one million. Implementation of Mitigation Measures AQ-1 and AQ-2 would reduce this risk to below the BAAQMD threshold of significance.”

This lower result for a larger project does not make sense given both the proximity to the I-280, down wind location, and the questionable ability of the city to enforce what types of construction vehicles are used, what types of architectural coatings are used, what company electricity is purchased from, and maintain freeway volumes from increasing and slowing traffic further.

Impact AQ-9:

Implementation of the proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would cumulatively contribute to cumulatively significant air quality impacts in the San Francisco Bay Area Air Basin.

Significant and Unavoidable Impact with Mitigation Incorporated

MM AQ-9.1: Implement MM AQ-3.1

MM AQ-3.1: Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall use low-VOC paint (i.e., 50 g/L or less) on operational architectural coatings and no hearths or fireplaces (including natural gas-powered) shall be installed in the residential units.

This is very incomplete, this suggests the re-tenanted mall is the best alternative.

3.4 BIOLOGICAL RESOURCES

The conclusions that there are no significant impacts on biological resources are incorrect and mitigations are not achievable.

General Plan Strategy LU-19.1.13 “Retain trees along the Interstate 280, Wolfe Road and Stevens Creek Boulevard to the extent feasible, when new development are proposed.”

The DEIR states: “The existing 1,125 trees on the project site were planted as part of the development of Vallco Shopping Mall and, therefore, are all protected trees.”

Because of the closing of mall activities, there has very likely been an increase in wildlife on the site with less human presence.

The city has demonstrated that they will approve construction of an excessively glazed structure, Apple Park, where both birds and humans will run into the glass and be harmed. There is no assurance that there will be care taken for the existing wildlife on site during construction, and no assurance there will be care in maintaining the habitat in the future. Referring to the Vallco SB 35 application excuse that there are essentially, too many ash trees on the property provides only an expectation that the developer intends to cut them all down.

A mitigation suggested includes: *“Prohibiting glass skyways and freestanding glass walls”* While renderings of the two story walkway over Wolfe Rd. show an all glass walled structure. Roof top amenities shown with tall glass walls. There does not appear to be any intention to enforce this mitigation.

The following mitigation should be added, from Measure D VTCSP:

“30. Nitrogen Deposition Fee: The Town Center/Community Park applicant and other project applicants for future development shall pay a Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan Nitrogen Deposition Fee to the Implementing Entity of the Habitat Conservation Plan, the Santa Clara Valley Habitat Agency, even though the fee would not otherwise be legally applicable to the future development. The Town Center/Community Park applicant shall pay the Nitrogen Deposition Fee commensurate with the issuance of building permits within the Town Center/Community Park.- source VTCSP 9212 report, JD Powers”

3.5. CULTURAL RESOURCES

HISTORICAL RESOURCES

Apply the following from VTCSP with multiple historical photographs and educational information boards.

“The Vallco Shopping District is designated as a City Community Landmark in the City’s General Plan. The General Plan EIR concluded that the redevelopment of the Vallco site would not result in significant impacts to historic resources, if redevelopment is consistent with General Plan Policy LU-6.3.60 The VTCSP would be consistent with General Plan Policy LU-6.3 by providing a plaque, reader board and/or other educational tools on the site to explain the historic significance of the resource. The plaque shall include the city seal, name of resource, date it was built, a written description, and photograph. The plaque shall be placed in a location where the public can view the information.- source 9212 report JD Powers”

Include the history of environmental pollution of the orchard industry from the use of lead arsenate and DDT in the ‘Valley of Heart’s Delight’, photos of child employment “cutting ‘cots””, to environmental pollution from the computer industry including the Apple Park superfund site and pollutants at 19,333 Vallco Parkway (where pollutants like Freon and TCE were allegedly just dumped out the back door), and the onsite pollution already noted in this DEIR to the history of the site, to proposed project and alternatives.

3.6 ENERGY

Figure 28: DEIR: Energy Demand

	Estimated Electricity Demand* (GWh per year)	Estimated Natural Gas Demand* (Btu per year)	Estimated Gasoline Demand† (million gallons per year)
Existing	7	703 million	2
Proposed Project	70	64 billion	12
General Plan Buildout with Maximum Residential Alternative	60	63 billion	10
Retail and Residential Alternative	45	57 billion	6
Occupied/Re-Tenanted Mall Alternative	19	12 billion	4

Notes: * The net energy demand is identified for the proposed project and project alternatives.
 † The estimated gasoline demand was based on the estimated vehicle miles traveled discussed in Section 3.17 Transportation/Traffic and the average fuel economy of 35 mpg.
 Source: Illingworth & Rodkin, Inc. *Vallco Special Area Specific Plan Air Quality and Greenhouse Gas Emissions Assessment*. May 2018. Attachment 2.

Because the city has no regulatory framework with which to ensure poorly operating equipment is used for the construction of the project, or for operation, or that energy would be purchased from one supplier over another, or that recycled water would come from one source over another, assumptions that the project will have less than significant impact are not verifiable. Additionally, proposed project requires 3 times the electricity, 5 times the natural gas, and 3 times the gasoline demand of the occupied/re-tenanted mall alternative.

3.7 GEOLOGY AND SOILS

There is very likely a huge amount of topsoil which was encased in the mounded soil to the north of the JC Penney building. Excavation of the site will remove any and all of what was once topsoil on the site and excavate up to 45' below the top of curb on Wolfe Road for the subterranean parking structures.

3.8 GREENHOUSE GASES AND AIR QUALITY AND GREENHOUSE GAS EMISSIONS ASSESSMENT

Baseline values are unacceptable due to their being a combination of an air quality monitoring station from the west side of Cupertino, in a neighborhood (Voss Avenue site which closed in 2013) and data from San Jose monitoring stations which are approximately 10 miles away. Meteorological data was used from 2006-2010 at the San Jose Mineta airport, which is both too old, too far from the site, and irrelevant due to the recent drought conditions. Project site, adjacent to the I-280, has had no relevant air quality monitoring, ever. Guidelines § 15064.4 in conjunction with Guidelines § 15125 concerning project baselines ("An EIR must include a

description of the physical environmental conditions in the vicinity of the project, as they exist at the time the [notice of preparation](#) is published, which was February 8, 2018. The most recent data used as a baseline was from 2016. There is no excuse for not actually monitoring the air quality at the site given the relatively low cost to rent the instruments and the immense size of this project. Additionally, the air quality expectations for the existing sensitive receptors throughout the construction process will impose an increased cancer risk, in particular during the 130 day architectural coating period, demolition phase, and excavation.

BAAQMD monitors air pollution at various sites within the Bay Area. The closest official monitoring station is located in Cupertino at 22601 Voss Avenue. However, that station closed in 2013, so data from San Jose are presented for years 2014 through 2016. Pollutant monitoring results for the years 2012 and 2013 at the Cupertino ambient air quality monitoring station are shown in Table 3.

TABLE 3 Ambient Air Quality at the Cupertino and San Jose Monitoring Stations

Pollutant	Average Time	Measured Air Pollutant Levels				
		Cupertino		San Jose		
		2012	2013	2014	2015	2016
Ozone (O ₃)	1-Hour	0.083 ppm	0.091 ppm	0.089ppm	0.094 ppm	0.087 ppm
	8-Hour	0.067 ppm	0.077 ppm (1 day)	0.066 ppm	0.081 ppm (2 days)	0.066 ppm
Carbon Monoxide (CO)	8-Hour	0.73 ppm	ND	ND	ND	ND
Nitrogen Dioxide (NO ₂)	1-Hour	0.045 ppm	0.042 ppm	0.058 ppm	0.049 ppm	0.051 ppm
	Annual	0.008 ppm	0.009 ppm	0.013 ppm	0.012 ppm	0.011 ppm
Respirable Particulate Matter (PM ₁₀)	24-Hour	41.5 µg/m ³	33.5 µg/m ³	56.4 µg/m³ (1 day)	58.8 µg/m³ (1 day)	41.0 µg/m ³
	Annual	13.5 µg/m ³	14.5 µg/m ³	20.0 µg/m ³	21.9 µg/m³	18.3 µg/m ³
Fine Particulate Matter (PM _{2.5})	24-Hour	27.5 µg/m ³	38.9 µg/m³	60.4 µg/m³ (2 days)	49.4 µg/m³ (2 days)	22.7 µg/m ³
	Annual	ND	8.5 µg/m ³	8.4 µg/m ³	9.9 µg/m ³	8.4 µg/m ³

Source: CARB, 2018. <https://www.arb.ca.gov/adam/>

Note: ppm = parts per million and µg/m³ = micrograms per cubic meter
 Values reported in **bold** exceed ambient air quality standard
 ND = No Data available.

GHG assessment must require an analysis of how existing environmental conditions will impact future residents or users of the proposed project because "... the proposed project risks exacerbating environmental hazards or conditions that already exist (California Supreme Court Case No. S213478)." Proposed project will have operational GHG emissions in excess of BAAQMD thresholds. No accurate existing environmental conditions have yet been recorded.

Proposed project will exacerbate traffic in the area and especially on I-280, backing up and slowing down traffic. Free flowing traffic produces much less air pollution than stop and go traffic. Proposed project will exacerbate existing environmental hazards to the detriment of future residents and users. Proposed project will reduce and potentially trap airflow due to tall buildings planned and proposed 30 acre green roof which may further impede airflow and trap exhaust from traffic in the interior street grid. The green roof plans so far presented in Measure D and the Vallco SB 35 application thus far do not have living spaces directly under them to have the cooling benefit from the insulation and the roof is planned too high to mitigate air pollution for residents living below it where freeway air pollutants settle.

Plans from the Specific Plan process are not finalized but have all shown 2 levels of underground parking. The site location across the freeway and massive Apple Park parking garages make it even more impacted by the freeway because 14,200 Apple employees will work at that site (according to Cupertino Mayor Paul, 6,000 employees had occupied the site as of March, 2018 up from a few hundred in December, 2017) and have acceleration and deceleration off the freeway at the Wolfe Rd. exit.

Unfortunately, Vallco site is downwind of the I-280, yet the GHG modeling selected "variable" wind rather than the N NE calm conditions typical, in doing so the pollutants would dissipate differently than actual conditions. CO modeling within the site needs to be performed along with studying the other GHG emissions. This is imperative because (as the traffic study reflects, by showing high trip reduction rates) people are expected to live and work on site and have retail needs met as well, potentially not leaving the area.

GHG calculations assume an exhaust pipe height for all construction equipment of 16.9' which is inaccurate.

2 Million CY of soil export assumption may be increased due to the Specific Plan process currently stating 85% of parking will be subterranean.

Mitigation of Operational project that electricity would be purchased from a new company, Silicon Valley Clean Energy is not enforceable, and the assumption in GHG calculations that the site currently uses PG& E is not consistent with the Land Use chapter stating the site currently uses SVCE and will continue to do so.

Construction period PM 2.5 Exhaust and PM 10 Exhaust do not have PM 2.5 and PM 10 values resulting from demolition and excavation? They appear to just show exhaust.

DEIR GHG and Air Quality reports do not appear to have studied the cooling tower/central plant. The following has been modified from the JD Powers VTCSP 9212 report for the proposed project:

"The proposed project and alternatives will likely include a central plant (a stationary source), which would provide heating, ventilation, and air conditioning for most buildings. The central plant would

consist of a condenser water system, cooling towers, and boilers. It is possible that operation of the central plant produce greenhouse gas emissions that would exceed the BAAQMD greenhouse gas threshold of significance for stationary sources. The proposed project should include the following EDF to reduce greenhouse gas emission impacts from the central plant:

“36. **Central Plant Boilers Carbon Offsets:** Prior to completion and operation of any Central Plant Boilers with emissions above 10,000 MT C02e/yr., the Town Center/Community Park applicant and other project applicants for future development shall enter into one or more contracts to purchase voluntary carbon credits from a qualified greenhouse gas emissions broker in an amount sufficient to offset the operational emissions above 10,000 MT C02e/yr., on a net present value basis in light of the fact that the applicant shall acquire such credits in advance of any creation of the emissions subject to the offset.

Pursuant to CARB’s Mandatory Reporting Requirements, applicant(s) shall register the Central Plant Boilers in the Mandatory Greenhouse Gas Emissions Reporting Program. The applicant(s) shall provide copies of carbon purchase contracts to CARB during registration.

The City would likely first require any feasible on-site modifications to the stationary source to reduce greenhouse gas emissions. If the greenhouse gas emissions from the stationary source could not be reduced below the BAAQMD threshold of significance, the City would likely require carbon credits (such as those identified in EDF 36) be purchased and that the credits be locally sourced (i.e., within the City of Cupertino, County of Santa Clara, or same air basin).”

Here is the subterranean parking plan from the SB 35 application:

Figure 30: SB 35 Vallco Subterranean Parking Plan



Here is the subterranean parking plan from Vallco Measure D, nearly identical:

Figure 31: VTC Hills at Vallco Subterranean parking Plan



General Comments: GHG emissions should be calculated for the actual construction period which is 6-8 years according to Vallco Property owner representative, Reed Moulds. By dividing tons of GHG by 10 year construction artificially lower results end up being compared to BAAQMD thresholds. The Hyatt House construction will be complete before Proposed Project construction begins and should not be included in the study for construction emissions. The lot acreage input perhaps should read 50.82 acres, instead of 58.00 per the data entry because construction on other parcels is not part of this study, and would be completed, however the operational emissions would include buildout of the entire Vallco Shopping District Specific Plan Area:

Figure 32: DEIR GHG Section, Acreage



tblLandUse	LotAcreage	45.91	58.00
tblLandUse	LotAcreage	102.52	0.00



The traffic volume at I-280 was incorrectly pulled from the referenced Caltrans traffic count. I-280, between Wolfe Rd. and Stevens Creek Blvd. has an AADT of 176,000 and between Wofe Rd. and De Anza/Saratoga Sunnyvale Blvd. of 168,000:

Figure 33: Caltrans Traffic

2016 Traffic Volumes on California State Highways										
Dist	Route	County	Postmile	Description	Back Peak Hour	Back Peak Month	Back AADT	Ahead Peak Hour	Ahead Peak Month	Ahead AADT
02	273	SHA	16.833	JCT. RTE. 299 W AND JCT. RTE. 44 E				1750	17400	15800
02	273	SHA	17.39	QUARTZ HILL/RIO	1700	17400	16200	1800	19300	19000
02	273	SHA	17.81	REDDING, BENTON DRIVE	1800	19300	19000	1950	21700	20800
02	273	SHA	18.622	LAKE BOULEVARD	1950	21700	20800	1250	12800	12700
02	273	SHA	18.92	TWINVIEW BOULEVARD	1250	12800	12700	860	14200	9000
02	273	SHA	19.77	CATERPILLAR ROAD	860	14200	9000	710	7300	7100
02	273	SHA	20.033	JCT. RTE. 5	710	7300	7100			
03	275	YOL	12.009	JCT. RTE. 50				1350	11300	9300
03	275	YOL	12.039	WEST SACRAMENTO, JCT. RTE. 84	1350	11300	9300	1850	18000	16500
03	275	YOL	13.077	SAC/YOL COUNTY LINE, END OF ROUTE	1850	18000	16500			
03	275	SAC	0	SAC/YOL COUNTY LINE, END OF ROUTE				1850	18000	16500
04	280	SCL R	0	SAN JOSE, JCT. RTES. 101/680				12600	169000	164000
04	280	SCL R	.366	MCLAUGHLIN AVENUE	13400	179000	174000	19800	264000	256000
04	280	SCL R	1.294	SAN JOSE, 10TH STREET	19800	264000	256000	17900	238000	231000
04	280	SCL R	1.992	SAN JOSE, JCT. RTE. 82	17900	238000	231000	18600	247000	240000
04	280	SCL R	2.522	SAN JOSE, JCT. RTE. 87	18600	247000	240000	15100	201000	195000
04	280	SCL R	2.875	SAN JOSE, BIRD AVENUE	15100	201000	195000	18600	248000	241000
04	280	SCL R	3.764	RACE STREET/SOUTHWEST EXPRESSWAY	18600	248000	241000	12900	172000	167000
04	280	SCL L	4.663	SAN JOSE, LELAND AVENUE	14400	193000	187000	15800	211000	205000
04	280	SCL L	5.408	SAN JOSE, JCT. RTES. 17/880	15800	211000	205000	15100	202000	195000
04	280	SCL L	5.954	SAN JOSE, WINCHESTER BOULEVARD	15100	202000	195000	17000	228000	220000
04	280	SCL	5.949	SAN JOSE, SARATOGA AVENUE	17000	228000	220000	14900	199000	192000
04	280	SCL	7.123	SAN JOSE, LAWRENCE EXPRESSWAY	14900	199000	192000	11600	155000	150000
04	280	SCL	7.388	STEVENS CREEK BOULEVARD	11600	155000	150000	13200	176000	170000
04	280	SCL	8.375	CUPERTINO, WOLFE ROAD	13200	176000	170000	12500	168000	162000
04	280	SCL	9.433	SARATOGA, SUNNYVALE/DE ANZA BOULEVARD	12500	168000	162000	11300	151000	146000

Caltrans, 2017. 2016 Annual Average Daily Truck Traffic on the California State Highway System. Available: <http://www.dot.ca.gov/trafficops/census/>

The GHG Assessment chose the lowest value from the Caltrans data to use (162,000 AADT), rather than the highest peak month value which would be a base rate of 176,000 AADT:

Figure 34: DEIR, GHG, Traffic

Traffic Data Year = 2016

Caltrans Truck AADT	Total	Total Truck	Truck by Axle			
			2	3	4	5
I-280 B Saratoga,Sunnyvale/De Anza E	162,000	5,119	2,466	505	138	2,011
			48.17%	9.86%	2.70%	39.28%
	Percent of Total Vehicles	3.16%	1.52%	0.31%	0.09%	1.24%

Traffic Increase per Year (%) = 1.00%

The following data appears to have no source dividing up vehicular type, speed, and what type of emission each would have, and the 2029 predicted number of vehicles is too low, showing only 183,061 AADT:

Figure 35: DEIR, GHG, Traffic

Vallco Specific Plan, Cupertino, CA
I-280 Traffic Data and PM2.5 & TOG Emission Factors - 60 mph

Analysis Year = 2029

Vehicle Type	2016 Caltrans Number Vehicles (veh/day)	2029 Number Vehicles (veh/day)	2029 Percent Diesel	Number Diesel Vehicles (veh/day)	Vehicle Speed (mph)	Emission Factors				
						Diesel Vehicles DPM (g/VMT)	All Vehicles		Gas Vehicles	
							Total PM2.5 (g/VMT)	Exhaust PM2.5 (g/VMT)	Exhaust TOG (g/VMT)	Running TOG (g/VMT)
LDA	112,843	127,512	1.30%	1,658	60	0.0017	0.0188	0.0011	0.0069	0.037
LDT	44,038	49,763	0.19%	96	60	0.0036	0.0188	0.0011	0.0098	0.066
MDT	2,466	2,786	11.24%	313	60	0.0064	0.0220	0.0015	0.0165	0.156
HDT	2,654	2,999	90.45%	2,713	60	0.0037	0.0527	0.0033	0.0264	0.070
Total	162,001	183,061	-	4,780	60	-	-	-	-	-
Mix Avg Emission Factor						0.00315	0.01941	0.00110	0.00785	0.04671
Increase From 2016		1.13								
Vehicles/Direction		91,530		2,390						
Avg Vehicles/Hour/Direction		3,814		100						

Traffic Data Year = 2016

Caltrans Truck AADT	Total	Total* Truck	Truck by Axle			
			2	3	4	5
I-280 B Saratoga,Sunnyvale/De Anza E	162,000	5,119	2,466	505	138	2,011
			48.17%	9.86%	2.70%	39.28%
	Percent of Total Vehicles	3.16%	1.52%	0.31%	0.09%	1.24%

Traffic Increase per Year (%) = 1.00%

The predicted ADT for I-280 was not included in the GHG calculation which has a 2029 starting date. The following VTA study shows the 2035 ADT predictions for segment A (Vallco site is within segment A). There

should be a 2040 AADT prediction available as well. The 2035 forecast was for a total of 284,492 ADT for 2035.

Figure 36: VTA 2035 Forecast

Table 11: I-280 Future Traffic Projections

Forecast Future Conditions – 2035											
Segment	Directional								NB AADT	SB AADT	Truck %
	NB AM peak hr	SB AM peak hr	NB PM peak hr	SB PM peak hr	NB AM peak hr V/C	SB AM peak hr V/C	NB PM peak hr V/C	SB PM peak hr V/C			
A	10,435	9,029	11,052	10,333	1.24	1.07	1.32	1.23	150,496	133,996	3.1%
B	7,875	7,875	7,088	7,875	0.83	0.83	0.75	0.83	90,625	84,306	3.3%
C	6,235	8,400	8,400	5,979	0.74	1.00	1.00	0.71	74,674	71,604	2.3%
D	6,991	8,400	8,400	5,851	0.83	1.00	1.00	0.70	76,490	72,706	1.7%
E	7,834	8,400	8,400	8,400	0.93	1.00	1.00	1.00	119,725	125,179	0.9%
F	8,400	5,480	6,016	8,400	1.00	0.65	0.72	1.00	102,705	106,516	1.7%
G	7,350	3,595	5,106	6,043	1.17	0.57	0.81	0.96	71,565	60,838	2.5%
H	3,915	1,921	2,421	3,174	0.93	0.46	0.58	0.76	36,098	33,503	2.1%

Source: Caltrans, District 4

Source: http://www.dot.ca.gov/dist4/systemplanning/docs/tcr/I280draft_final_tcr_signed_07162013_nr_ig.pdf

GHG assessment has errors in selecting the AM and PM speeds of traffic, in particular the PM peak period average travel speed of 60 MPH is incorrect, not consistent with the [CMP data](#) they used (or our own observations) which is on the following page:

Table 4.7 2016 Freeway LOS – AM Peak Period

ID	Facility	Dir	From/To		Miles	Number of Lanes			Peak Photo Time	Max Density		LOS (Density)		Speed		Flow	
			From/To	From/To		Total	Mixed	HOV		Mixed	HOV	Mixed	HOV	Mixed	HOV	Mixed	HOV
137	I-280	EB	De Anza Blvd.	Wolfe Rd.	1.06	4	3	1	07:40 - 08:00	22	22	C	C	66	66	4360	1460
138	I-280	EB	Wolfe Rd.	Lawrence Expwy.	1.24	4	3	1	08:00 - 08:20	21	12	C	B	66	67	4160	810
120	I-280	WB	Wolfe Rd.	De Anza Blvd.	1.06	4	3	1	08:00 - 08:20	75	48	F	E	24	45	5400	2160
119	I-280	WB	De Anza Blvd.	SR 85	1.31	4	3	1	08:00 - 08:20	76	46	F	D	23	47	5250	2170

Table 4.8 2014 Freeway LOS – PM Peak Period

ID	Facility	Dir	From/To		Miles	Number of Lanes			Peak Photo Time	Max Density		LOS (Density)		Speed		Flow	
			From/To	From/To		Total	Mixed	HOV		Mixed	HOV	Mixed	HOV	Mixed	HOV	Mixed	HOV
137	I-280	EB	De Anza Blvd.	Wolfe Rd.	1.06	4	3	1	18:00 - 18:20	74	63	F	F	24	40	5330	2520
138	I-280	EB	Wolfe Rd.	Lawrence Expwy.	1.24	4	3	1	18:20 - 18:40	61	42	F	D	32	60	5860	2520
121	I-280	WB	Lawrence Expwy.	Wolfe Rd.	1.24	4	3	1	18:00 - 18:20	25	12	C	B	66	70	4950	840
120	I-280	WB	Wolfe Rd.	De Anza Blvd.	1.06	4	3	1	16:40 - 17:00	27	14	D	B	66	70	5310	980

“For all hours of the day, other than during peak a.m. and p.m. periods, an average free-flow travel speed of 65 mph was assumed for all vehicles other than heavy duty trucks which were assumed to travel at a speed of 60 mph. Based on traffic data from the Santa Clara Valley Transportation Authority's 2016 Congestion Management Program Monitoring and Conformance Report, traffic speeds during the peak a.m. and p.m. periods were identified.¹⁵ For two hours during the peak a.m. period an average travel speed of 25 mph was used for west-bound traffic. For the p.m. peak period an average travel speed of 60 mph was used for east-bound traffic. The free-flow travel speed was used for the other directions during the peak periods.” -GHG Assessment p. 39-40

IMPACT GHG-1

Impact GHG-1: The project (and General Plan Buildout with Maximum Residential Alternative) would not generate cumulatively considerable GHG emissions that would result in a significant cumulative impact to the environment.

Less than Significant Cumulative Impact with Mitigation Incorporated

An additional mitigation should include those offered for Measure D, VTCSPP:

*“EDF 18. **Transportation Demand Management Plan:** Consistent with the Plan Area’s environmental design features, require the preparation and implementation of a Transportation Demand Management (“TDM”) Plan with an overall target of reducing Specific Plan officegenerated weekday peak hour trips by 30 percent below applicable Institute of Transportation Engineers trip generation rates...” – source VTCSPP 9212 report, JD Powers.”*

GHG-1 conclusion that mitigations result in less than significant cumulative impacts is inconsistent with the data from the GHG report which clearly states that the project during construction and at build out would exceed the GHG thresholds of BAAQMD, and that was determined spreading out all emissions over a period of 10 years for the construction phase which is not the actual timeline presented by the developer of 6-8 years:

TABLE 6 Construction Period Emissions

Scenario	ROG	NO_x	PM₁₀ Exhaust	PM_{2.5} Exhaust
Proposed Project Construction Emissions (tons)	41.10 tons	194.00 tons	1.68 tons	1.57 tons
Average daily emissions (pounds) ¹	31.6 lbs.	149.2 lbs.	1.3 lbs.	1.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Exceed Threshold?	No	Yes	No	No
Mitigated Proposed Project Construction Emissions (tons)		145.50 tons		
Mitigated average daily emissions (pounds) ¹		111.9 lbs.		
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Exceed Threshold?	No	Yes	No	No
Maximum Residential Alternative Construction Emissions (tons)				
Maximum Residential Alternative Construction Emissions (tons)	51.64 tons	199.21 tons	1.73 tons	1.62 tons
Average daily emissions (pounds) ¹	39.7 lbs.	153.2 lbs.	1.3 lbs.	1.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Exceed Threshold?	No	Yes	No	No
Mitigated Maximum Residential Alternative Construction Emissions (tons)		149.41 tons		
Mitigated average daily emissions (pounds) ¹		114.9 lbs.		
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Exceed Threshold?	No	Yes	No	No
Retail and Residential Alternative Construction Emissions (tons)				
Retail and Residential Alternative Construction Emissions (tons)	54.74 tons	175.51 tons	1.69 tons	1.58 tons
Average daily emissions (pounds) ¹	42.1 lbs.	135.0 lbs.	1.3 lbs.	1.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Exceed Threshold?	No	Yes	No	No
Mitigated Retail and Residential Alternative Construction Emissions (tons)		131.63 tons		
Mitigated average daily emissions (pounds) ¹		101.26 lbs.		
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Exceed Threshold?	No	Yes	No	No
Notes: ¹ Assumes 2,600 workdays				

ROG is likely due primarily from architectural coatings, as the previous Vallco Town Center Measure D Environmental Assessment showed in the Vallco Town Center Environmental Assessment PDF p 652/2023 included in the NOP EIR comments and submitted to the city:

Figure 38: DEIR, GHG, Notice Days of Construction

Table AQ-3
 Daily Construction Mass Emissions, With EDFs
 Town Center/Community Park
 Cupertino, California

Project Construction	CAP Emissions (lb)			
	ROG	NOx	Exhaust PM ₁₀	Exhaust PM _{2.5}
Off-Road Emissions	1,225	6,890	136	125
On-Road Emissions	5,282	90,773	4,188	1,956
Paving Off-Gas Emissions	60	-	-	-
Architectural Coating	43,726	-	-	-
Total	50,293	97,663	4,324	2,081
Length of Construction (calendar days)	1,825			
Average Daily Emissions (lb/day)	28	53.5	2.4	1.1
BAAQMD Significance Threshold (lb/day)	54	54	82	54

Abbreviations:

- CAP: Criteria Air Pollutant
- EDF: Environmental Design Feature
- lb: pounds
- NOx: nitrogen oxides
- PM: particulate matter
- ROG: reactive organic gases

The Environmental Assessment for Vallco Town Center Measure D was included in the EIR NOP comments, the following table shows errors in calculating the criteria pollutants, by dividing the entire construction period into the various pollutants, a much lower daily value is attained, this would not be the case since, architectural coatings will not be applied for the entire multi-year construction time frame, however, the GHG technical report shows 130 days or about 4 months which would likely result in extremely hazardous levels of ROGs.

Figure 39: DEIR, GHG, 130 Days for Architectural Coating

Construction Phase						
Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days
1	Demolition	Demolition	1/1/2019	7/1/2019	5	130
2	Site Preparation	Site Preparation	7/2/2019	10/17/2019	5	78
3	Grading	Grading	10/18/2019	6/29/2020	5	182
4	Building Construction	Building Construction	6/30/2020	12/20/2027	5	1950
5	Paving	Paving	12/21/2027	6/19/2028	5	130
6	Architectural Coating	Architectural Coating	6/20/2028	12/18/2028	5	130

Referring back to Table 6, the tonnage of ROGs expected is 41.1, and about 80% of that is from Architectural Coatings. 130 days for architectural coatings that would be approximately 632 lbs/day which is more than ten times the BAAQMD threshold. $41.1 \text{ tons of ROG emissions} \times 2000 \text{ lbs/ton} / 130 \text{ days} = 632 \text{ lbs/day} \times 80\% = 505.6 \text{ lbs of ROGs per day over a roughly four month period!}$

On-road emissions would be concentrated into a couple of years. Since the Proposed Project and alternatives are larger than Measure D, we can expect even larger exceeding of the BAAQMD thresholds.

Operational air pollution thresholds per BAAQMD are lower than the construction thresholds and only PM 2.5 is not exceeded by the project but very likely exceeded by the freeway contribution. Operational Air Pollutant emissions, subtracts the existing emissions, however, that does not make sense. The threshold is in tons per year produced of GHG, not whether the project will increase the emissions by more than the threshold.

TABLE 7 2029 Operational Air Pollutant Emissions

Scenario	ROG	NOx	PM ₁₀	PM _{2.5}
Existing Operational Emissions (tons)	2.65 tons	5.29 tons	5.82 tons	1.58 tons
Occupied/Re-Tenanted Mall Alternative Emissions (tons)	9.83 tons	14.26 tons	15.19 tons	4.16 tons
Net Emissions (minus Existing)	7.18 tons	8.97 tons	9.37 tons	2.58 tons
Proposed Project (tons)	26.23 tons	35.20 tons	39.50 tons	10.93 tons
Net Proposed Project (minus Existing)	23.58 tons	29.91 tons	33.68 tons	9.35 tons
<i>BAAQMD Thresholds (tons per year)</i>	<i>10 tons</i>	<i>10 tons</i>	<i>15 tons</i>	<i>10 tons</i>
Exceed Threshold?	Yes	Yes	Yes	No
Maximum Residential Alternative (tons)	30.29 tons	33.61 tons	37.29 tons	10.39 tons
Net Emissions (minus Existing)	27.64 tons	28.32 tons	31.47 tons	8.81 tons
<i>BAAQMD Thresholds (tons per year)</i>	<i>10 tons</i>	<i>10 tons</i>	<i>15 tons</i>	<i>10 tons</i>
Exceed Threshold?	Yes	Yes	Yes	No
Retail and Residential Alternative (tons)	28.92 tons	20.18 tons	20.95 tons	5.98 tons
Net Emissions (minus Existing)	26.27 tons	14.89 tons	15.13 tons	4.40 tons
<i>BAAQMD Thresholds (tons per year)</i>	<i>10 tons</i>	<i>10 tons</i>	<i>15 tons</i>	<i>10 tons</i>
Exceed Threshold?	Yes	Yes	Yes	No
Average Daily Existing Emissions (pounds) ¹	14.5 lbs.	29.0 lbs.	31.9 lbs.	8.7 lbs.
Net Average Daily Occupied/Re-Tenanted Mall Alternative Emissions (pounds) ¹	39.3 lbs.	49.2 lbs.	51.3 lbs.	14.1 lbs.
Net Average Daily Proposed Project Emissions (pounds) ¹	129.2 lbs.	163.9 lbs.	184.5 lbs.	51.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54 lbs.</i>	<i>54 lbs.</i>	<i>82 lbs.</i>	<i>54 lbs.</i>
Exceed Threshold?	Yes	Yes	Yes	No
Net Average Daily Maximum Residential Alternative Emissions (pounds) ¹	151.5 lbs.	155.2 lbs.	172.4 lbs.	48.3 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54 lbs.</i>	<i>54 lbs.</i>	<i>82 lbs.</i>	<i>54 lbs.</i>
Exceed Threshold?	Yes	Yes	Yes	No
Net Average Daily Retail and Residential Alternative Emissions (pounds) ¹	144.0 lbs.	81.6 lbs.	82.9 lbs.	24.1 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54 lbs.</i>	<i>54 lbs.</i>	<i>82 lbs.</i>	<i>54 lbs.</i>
Exceed Threshold?	Yes	Yes	Yes	No

Notes: ¹ Assumes 365-day operation.

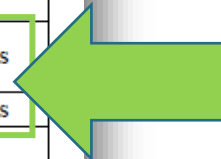


TABLE 8 Mitigated 2029 Operational Air Pollutant Emissions

Scenario	ROG	NOx	PM ₁₀	PM _{2.5}
Proposed Project (tons)	24.94 tons	35.18 tons	39.49 tons	10.93 tons
Net Proposed Project (minus Existing)	22.29 tons	29.89 tons	33.67 tons	9.35 tons
<i>BAAQMD Thresholds (tons per year)</i>	<i>10 tons</i>	<i>10 tons</i>	<i>15 tons</i>	<i>10 tons</i>
Exceed Threshold?	Yes	Yes	Yes	No
Maximum Residential Alternative (tons)	28.56 tons	33.52 tons	37.28 tons	10.38 tons
Net Emissions (minus Existing)	25.91 tons	28.23 tons	31.46 tons	8.80 tons
<i>BAAQMD Thresholds (tons per year)</i>	<i>10 tons</i>	<i>10 tons</i>	<i>15 tons</i>	<i>10 tons</i>
Exceed Threshold?	Yes	Yes	Yes	No
Retail and Residential Alternative (tons)	26.96 tons	20.04 tons	20.94 tons	5.97 tons
Net Emissions (minus Existing)	24.31 tons	14.75 tons	15.12 tons	4.39 tons
<i>BAAQMD Thresholds (tons per year)</i>	<i>10 tons</i>	<i>10 tons</i>	<i>15 tons</i>	<i>10 tons</i>
Exceed Threshold?	Yes	Yes	Yes	No
Net Average Daily Proposed Project Emissions (pounds) ¹	122.1 lbs.	163.8 lbs.	184.5 lbs.	51.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54 lbs.</i>	<i>54 lbs.</i>	<i>82 lbs.</i>	<i>54 lbs.</i>
Exceed Threshold?	Yes	Yes	Yes	No
Net Average Daily Maximum Residential Alternative Emissions (pounds) ¹	142.0 lbs.	154.7 lbs.	172.4 lbs.	48.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54 lbs.</i>	<i>54 lbs.</i>	<i>82 lbs.</i>	<i>54 lbs.</i>
Exceed Threshold?	Yes	Yes	Yes	No
Net Average Daily Retail and Residential Alternative Emissions (pounds) ¹	133.2 lbs.	80.8 lbs.	82.8 lbs.	24.1 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54 lbs.</i>	<i>54 lbs.</i>	<i>82 lbs.</i>	<i>54 lbs.</i>
Exceed Threshold?	Yes	Yes	Yes	No
Notes: ¹ Assumes 365-day operation.				

Mitigation Measure AQ-3: Require the use of Low VOC paint for ongoing architectural coating and no hearths. The project applicant shall require the use of Low VOC paint (i.e., 50 g/L or less) on all operational architectural coatings and that no hearths or fireplaces be installed in the residential uses (including natural gas-powered).

BL2: DECARBONIZE BUILDINGS

Air quality modeling used the old data from an air quality monitoring station set up to study Lehigh Cement and situated on Voss Road which is not adjacent to the I-280 and closed in 2013 making the data irrelevant. Additionally, that data was during a period of lesser traffic regionally.

Providing clean energy to the site through an alternative fuel provider is not a mandate. This is potential mitigation. Proposed Project may need to purchase less expensive energy. The assumption that Silicon Valley Clean Energy is the energy provider for the site ignores future condominium, retail, and office space lessors and owners from choosing which energy company serves them. This assumption is unacceptable, any GHG reductions based on this assumption need to be removed.

“Electricity is provided to the site by Silicon Valley Clean Energy (SVCE). SVCE customers are automatically enrolled in the GreenStart plan, which generates its electricity from 100 percent carbon free sources; with 50 percent from solar and wind sources, and 50 percent from hydroelectric. Customers have the option to enroll in the GreenPrime plan, which generates its electricity from 100 percent renewable sources such as wind and solar”

BL4: URBAN HEAT ISLAND MITIGATION

“Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would reduce the urban heat island effect by incorporating measures such as cool surface treatments for parking facilities, cool roofs, cool paving, and landscaping to provide well shaded areas.”

There is no approved Specific Plan to make this determination. Any GHG reductions based on this assumption, must be removed.

NW2: URBAN TREE PLANTING

Consistent: Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would provide a comfortable, well-shaded environment.

This statement does not mandate tree planting. The cause of shade is not described, it could be a building blocking direct light. With a 30 acre green roof, what trees would be at street level?

CONSTRUCTION PERIOD EMISSIONS

There is an error in calculating Construction Period emissions because they use the entire 10 year construction period to get a better outcome of the pounds per day of emissions. Additionally, Sand Hill Property Company

representative Reed Moulds stated in the Vallco presentation meeting presented by the League of Women Voters and the Chamber of Commerce, linked here: <https://youtu.be/hiDvHM027R4> that construction would be 6-8 years, not 10. The bulk of the construction exhaust would occur in demolition and haul off which would be a matter of months and not years. There would be peaks in the construction emissions and they will likely exceed BAAQMD thresholds. This chart needs to be recalculated taking into consideration the reality of the construction timeline:

Figure 41: DEIR, GHG, Construction Period Emissions

TABLE 6 Construction Period Emissions

Scenario	ROG	NO _x	PM ₁₀ Exhaust	PM _{2.5} Exhaust
Proposed Project Construction Emissions (tons)	41.10 tons	194.00 tons	1.68 tons	1.57 tons
Average daily emissions (pounds) ¹	31.6 lbs.	149.2 lbs.	1.3 lbs.	1.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Exceed Threshold?	No	Yes	No	No
Mitigated Proposed Project Construction Emissions (tons)		145.50 tons		
Mitigated average daily emissions (pounds) ¹		111.9 lbs.		
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Exceed Threshold?	No	Yes	No	No
Maximum Residential Alternative Construction Emissions (tons)	51.64 tons	199.21 tons	1.73 tons	1.62 tons
Average daily emissions (pounds) ¹	39.7 lbs.	153.2 lbs.	1.3 lbs.	1.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Exceed Threshold?	No	Yes	No	No
Mitigated Maximum Residential Alternative Construction Emissions (tons)		149.41 tons		
Mitigated average daily emissions (pounds) ¹		114.9 lbs.		
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Exceed Threshold?	No	Yes	No	No
Retail and Residential Alternative Construction Emissions (tons)	54.74 tons	175.51 tons	1.69 tons	1.58 tons
Average daily emissions (pounds) ¹	42.1 lbs.	135.0 lbs.	1.3 lbs.	1.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Exceed Threshold?	No	Yes	No	No
Mitigated Retail and Residential Alternative Construction Emissions (tons)		131.63 tons		
Mitigated average daily emissions (pounds) ¹		101.26 lbs.		
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Exceed Threshold?	No	Yes	No	No

Notes: ¹ Assumes 2,600 workdays

“...estimated 2,600 construction workdays (based on an average of 260 workdays per year). Average daily emissions were computed by dividing the total construction emissions by the number of construction days”

Even with mitigation methods and spreading out the NOx generated from construction over 10 years, only a 25% reduction in NOx was achieved, and it did not meet the BAAQMD threshold. Are there more mitigations available?

Construction haul is shown to be 20 miles for demolition, has this been verified? No actual location has been stated to accept materials. Is the 20 miles round trip? What accepting locations are within 10 miles? Within 20 miles for hazardous material drop off (asbestos)?

Existing mall does not have enclosed parking garages with elevator which the GHG states. If this means that the parking garages have walls and requisite blowers to bring in fresh air, then this assumption would have an associated energy consumption inconsistent with the current mall parking. Much of the parking is at grade with no garage structure. Where there are parking garages, they are open.

Plan provides incomplete data on fuel usage.

3.9 HAZARDS AND HAZARDOUS MATERIALS

Because hazardous materials have already been noted onsite, the distance required to find an accepting landfill must be added into the GHG travel distance for hauling.

3.9.1.3 OTHER HAZARDS

The 30 acre green roof may pose a fire hazard. The SB 35 application suggested equipping golf carts on the roof with fire fighting equipment. What mitigations are going to be implemented for Proposed Project and alternatives? To what standard?

3.9.2.1 HAZARDS AND HAZARDOUS MATERIALS IMPACTS

Wildfire hazard from the green roof may be excessive without a mitigation plan. Emergency response may be too slow given the complex structures.

3.10 HYDROLOGY AND WATER QUALITY

Proposed project and all alternatives (other than re-tenanted mall) drastically alter the existing terrain. Over 2 Million Cubic Yards of soil cut is expected in all plans and an untested green roof over 30 acres is proposed for two of the options. The entire site will be encased in concrete or other non-permeable surface. Attempting to

have rainfall percolate into the soil would be extremely difficult given the site plan. The amount of storage area for rainfall to reuse for 50.82 acres would be a prohibitive expense.

The city cannot conclude that the roof park, which is sloped and of unknown depth, can or would absorb the same amount of rainfall that a flat grass park would. If the space is landscaped to be drought tolerant, there may be many open spaces and exposed gravel, concrete, and other impermeable areas. There is proposed public entertainment space planned on the roof which would not be permeable.

If recycled water is used, and any chemical fertilizers, on the green roof, these will concentrate and enter the water supply. If this runoff is collected and reused on the roof, it will further concentrate. Should gray water also be collected and used for irrigation, this may further degrade the chemical build up on the roof. These issues need to be very carefully thought out. The green roof is an experiment and further analysis into what the runoff coefficient would be is required.

The depth of groundwater may be of concern should an additional level of subterranean parking be required, given the shallow depth of the drainage trench along the north end of the property.

The project will interfere with groundwater recharge because the consumption of recycled water for the green roof, when it becomes available will redirect that water from being used for groundwater recharge.

3.11 LAND USE AND PLANNING

Impact LU-2 assumes the General Plan has no residential allocation controls in place, therefore residential alternatives above proposed project are not consistent with the General Plan.

DEIR, states in 2.4.2:

“The General Plan, however, controls residential development through an allocation system. This alternative [General Plan Buildout with Maximum Residential Alternative] assumes that there are no residential allocation controls in place and development can occur at the maximum density allowed by the General Plan”.

Table 3.11.11 has errors due to assuming some type of construction would result in disturbing the exterior environment of the existing mall in the re-tenanted mall option. The assumptions regarding the other alternatives would need to be verified after any corrections are made based on comments to DEIR.

The minimization of impermeable surfaces strategy is dependent on whether there is a ground level park. If the re-tenanted mall has areas converted to above grade parking structures, then that option would increase permeable surface area.

Policy ES-7.1: This policy is violated by proposed project and alternatives.

Strategy ES-7.1.1: The concentration of dissolved solids in the recycled water, along with 30 acres of space requiring fertilizer, may result in unacceptable storm water runoff.

Policy ES-7.2: the green roof may increase runoff amounts, it is not the same as park on grade from a hydrologic standpoint.

Strategy ES-7.2.3: onsite filtration is beyond the scope of capabilities of a typical development.

Policy ES-7.3: this is an unacceptable mitigation because of the scientific background required to monitor the runoff. This should be the responsibility solely of the owner and not suggest volunteers perform this duty.

Policy HE-4.1: This policy is violated because there is an excessive amount of green roof space proposed for the 800 residential units in Proposed Project.

Policy HS-3.2: Fire Department must study the green roof for emergency access and fire prevention.

Policy HS-8.1: This policy is violated due to excessive construction and operational noise.

Policy HS-8.3: Likely violated because construction vibrations may not be mitigated.

Strategy LU-3.3.1, LU- 3.3.2, LU-3.3.3: These strategies are not followed. The existing AMC is 83' in height. The adjacent 19,800 Wolfe Rd. apartment building is 61' to tallest parapet. Apple Park maximum height is 75'. The Apple Park parking garages across the I-280 are 48'. The scale of proposed project and alternatives is more than double the height of any building in the area and it is much denser.

Strategy LU-19.1.4: The proposed projects shown at the Opticos Charrettes have insufficient retail. The residential amounts over 800 are inconsistent with the General Plan.

Policy M-1.2: Proposed project degrades traffic LOS excessively.

Impact LU-4: Due to the Combination of Apple Park, Hamptons, Main Street Cupertino, and Proposed Project and alternatives, the project will have a cumulatively considerable contribution to a significant cumulative land use impact.

3.12 MINERAL RESOURCES

Agree with DEIR.

3.13 NOISE AND VIBRATION

Loud noise can cause hearing loss. The construction noise over the 10 year period may cause hearing loss for sensitive receptors and patrons of the surrounding retail areas. An outdoor concert venue in the proposed project or alternatives, will very likely result in hearing loss. The future noise contours from the DEIR indicate that walking along Wolfe Rd., Stevens Creek Blvd. and the proposed bike path along the I-280 will have areas above 80 dB.

The I-280 has directional traffic flow, slowed traffic, and associated decreased noise, during peak hour traffic would only be for 4 of the 8 lanes. There would always be traffic at free flow, generating that noise level. As the freeway continues to decline in service, and development in San Jose increases, the traffic should slow at peak hour in both directions.

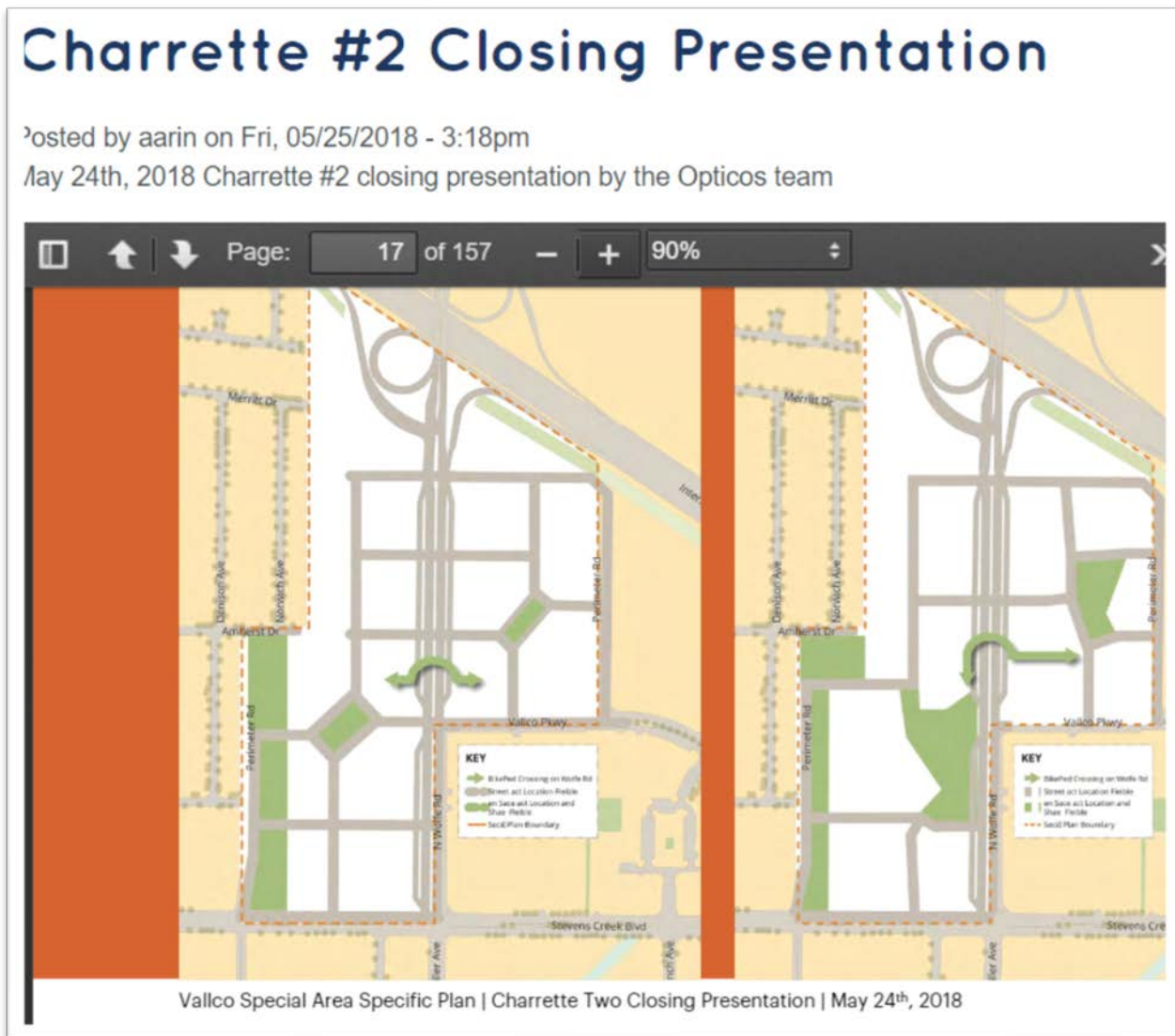
From DEIR:

PLAYGROUNDS

“Playground noise would primarily result from activities such as raised voices and the use of playground equipment. Typical noise levels resulting from various playground activities range from 59 to 67 dBA Leq at a distance of 50 feet. Maximum instantaneous noise levels typically result from children shouting and can reach levels of 75 dBA Lmax at a distance of 50 feet. Assuming playground activities would be restricted to daytime hours only, the minimum setback of the center of the playground areas to the nearest residential property lines would need to be 60 feet for the typical noise levels to meet the daytime threshold of 65 dBA.”

Charrette #2 Closing Presentation shows parks adjacent to back yards of single family residences. This may, combined with Perimeter Rd. noise exceed Municipal Code permissible sound levels. The DEIR does not adequately address this.

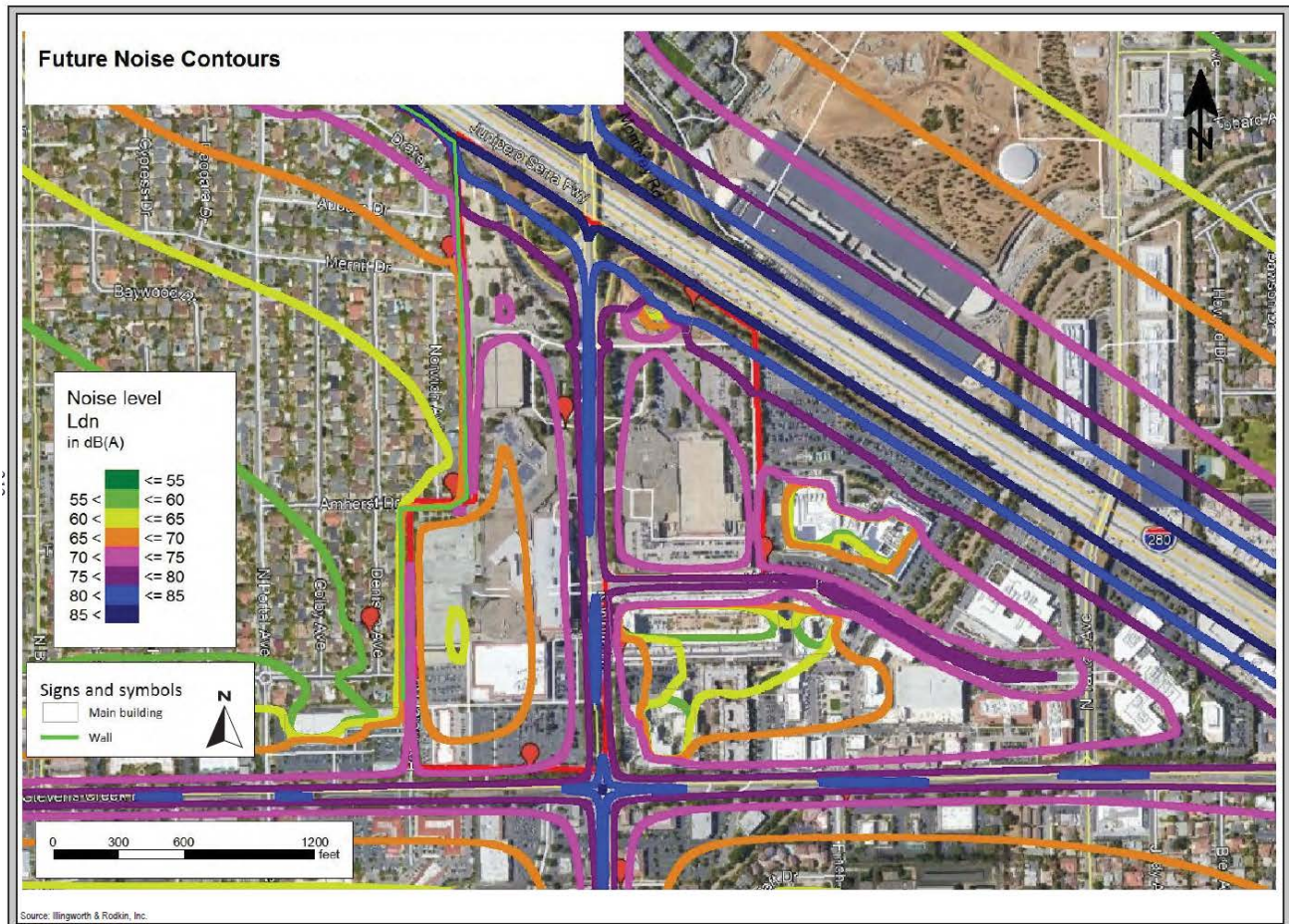
Figure 42: Opticos Charrette #2



FUTURE NOISE CONTOURS

The Future Noise Contours map has some omissions regarding noise from the Perimeter Road, western edge park, and proposed amphitheater. The map has gross assumptions regarding what the plan would look like and ignores conditions on the roof which would result in a separate layer of mapping: One layer for ground level (ear level) and one level for the roof park to see if it meets park noise requirements.

The future noise contours for the project site exceed residential maximum levels according to the Cupertino Municipal Code 10.48.040.



FUTURE NOISE CONTOURS FOR CUMULATIVE PLUS PROJECT/PROJECT ALTERNATIVE SCENARIOS

FIGURE 3.13-2

CUPERTINO MUNICIPAL CODE MAXIMUM PERMISSIBLE SOUND LEVELS

Figure 43: from VTC Hills at Vallco EA, CMC 10.48.040

Table 5: Cupertino Maximum Permissible Sound Levels

Land Use at Point of Origin	Maximum Noise Level at Complaint Site of Receiving Property	
	Nighttime ^(a)	Daytime ^(b)
Residential	50 dBA	60 dBA
Non-Residential	55 dBA	65 dBA

^(a) Nighttime hours are defined in CMC 10.48.010 as the "... periods of weekdays from eight p.m. [8 p.m.] to twelve midnight [12 a.m.] , and from midnight [12 a.m.] to seven a.m. [7 a.m.], and periods on weekends from six p.m. [6 p.m.] to midnight [12 a.m.] and from midnight [12 a.m.] to nine a.m. [9 a.m.]."

^(b) Daytime hours are defined in CMC 10.48.010 as "... the period from seven a.m. [7 a.m.] to eight p.m. [8 p.m.] on weekdays, and the period from nine a.m. [9 a.m.] to six p.m. [6 p.m.] on weekends."

Source: CMC 10.48.040

CONSTRUCTION NOISE

The DEIR did not show Construction Noise Emissions, this needs to be included.

During Construction, which is 6-10 years, according to the Ramboll Environ Noise Assessment for Vallco Town Center Specific Plan, noise levels exceed noise limits, and it does not make sense that demolition of the parking garage near R4 would not exceed noise limits:

Table 17: Construction Noise Emissions at Property Line

Rec	Distance to Receptor (ft)	Sound Level from Construction at 25 feet from Property Line (dBA)						CMC Construction Noise Limit
		Demolition	Site Preparation	Grading	Building Construction	Paving	Architectural Coating	
R1-R5 ^(a)	35	79	80	82	81	74	66	80 dBA
R6-R8	25	93	94	95	94	87	80	

Source: Calculations by Ramboll Environ

Note: Shading denotes sound levels that exceed CMC construction noise limit

^(a) Noise levels for R1-R5 assume the receptor is located 10 feet from an 8-foot wall for a total distance of 35 feet from source; walls provides an approximate reduction of 11 dBA.

Figure 45: VTC Hills at Vallco EA, Noise Receptors



Figure 4. Construction Noise Receptor Locations

Suggest requiring the following from the VTCSP 9212 report:

“The development of the VTCSP would be subject to applicable noise policies and regulations including those in the General Plan (including Policies HS-8.1, HS-8.2, HS-8.3, and HS-8.4), Municipal Code, and Zoning Ordinance. The development of the VTCSP could result in the noise and vibration impacts discussed below.

• **Construction-related noise** – Noise generated from construction activities associated with the development of the VTCSP would likely result in significant, temporary noise impacts at adjacent residences. The VTCSP includes the following EDFs that would reduce construction-related noise impacts:

On-Site Construction Noise: The Town Center/Community Park applicant and other project applicants for future development shall be required to adhere to the construction noise limits of the Cupertino Municipal Code. The following items would further reduce the potential for high levels of noise from construction equipment or activities, and ensure that noise complaints are address promptly and if necessary, corrective action is taken:

- Along the western boundary of the Town Center/Community Park and near the existing residential district, **prepare and implement a 24-hour construction noise monitoring program** to be installed and operated remotely. The noise monitoring program would continuously monitor construction noise levels at select perimeter locations and alert a designated person(s) when noise levels exceed allowable limits. If noise levels are found to exceed allowable limits, additional noise attenuation measures (i.e., sound walls) will be undertaken.
- Require that all equipment be fitted with properly sized mufflers, and if necessary, engine intake silencers.
- Require that all equipment be in good working order.
- Use quieter construction equipment models if available, and whenever possible, use pneumatic tools rather than using diesel or gas-powered tools.
- Place portable stationary equipment as far as possible from existing residential areas, and if necessary, **place temporary barriers around stationary equipment.**
- Whenever possible, require that construction contractors lift heavy equipment rather than drag.
- For mobile equipment that routine operates near residential area (i.e., within approximately 200 feet), **consider placement of typical fixed pure-tone backup alarms with ambient-sensing and/or broadband backup alarms.**
- **Assign a noise control officer to ensure that the above requirements are being implemented.**
- **Implement a noise complaint hotline and** post the hotline phone number on nearby visible signs and online. Require that either the noise control officer or a designated person be available at all times to answer hotline calls and ensure that follow-up and/or corrective action is taken, if necessary.

Prompt Demolition: To ensure swift completion of the remainder of the Plan Area, a commitment to demolish 100% of the remaining existing Mall improvements within 6 months of receiving a certificate of occupancy for the afore-described initial retail component, subject to existing leases and an appropriate temporary improvement plan for demolished areas.

Haul Traffic Noise: To reduce haul traffic noise, contractors for developments pursuant to the Specific Plan shall require that haul trucks travel at low speeds (e.g., 10 mph) when operating on or adjacent to the Plan Area. The Town Center/Community Park applicant and other project

applicants for future development shall ensure that this requirement is included in the construction specifications. In addition, the construction contractor shall ensure that haul trucks be fitted with properly sized and functioning exhaust mufflers.”

Operation-related noise – Operation of the uses at Vallco under the VTCSP could result in significant noise increases at adjacent sensitive receptors. To mitigate operation-related noise impacts at adjacent sensitive receptors, the **City requires compliance with the noise standards in the Municipal Code**, and could require measures that limit or attenuate noise such as sound barriers, limitations on hours of operations, and **orientation of stages and speakers away from sensitive receptors**

Operation of the VTCSP would result in an increase in traffic to and from the site, which could increase noise levels at adjacent sensitive receptors. On Stevens Creek Boulevard and North Wolfe Road in the Vallco vicinity, the existing daily trips are 30,000 and 34,000 respectively. **In general, for traffic noise to increase noticeably (i.e., by a minimum of three dBA), existing traffic volumes must double.**”

Traffic volumes on Perimeter Rd. may at a minimum, double. The DEIR did not address this fully.

Additional noise requirements from the VTCSP 9212 report:

“The noise and land use compatibility of the proposed uses in the VTC with the existing ambient noise environment could also be an issue. Exterior and interior noise levels at future uses at Vallco under the VTC would exceed the City’s noise standards in the General Plan and Municipal Code. The VTC shall include the following EDF to meet the State and City interior noise standard at future residences on-site:

Acoustical Assessment: Prior to completion of detailed design for dwelling units, the Town Center/Community Park applicant and other project applicants for future development shall prepare an acoustical assessment to demonstrate how interior sound levels would achieve interior sound levels at or below 45 dBA CNEL. The following development standards shall be included in the acoustical assessments:

- Install HVAC systems for all residential units to ensure that windows and doors can remain closed during warm weather;
- Install double-glazed windows, especially on sides of buildings that are adjacent to busy roadways;
- Ensure that all windows and doors are properly sealed; and
- Ensure that exterior wall building materials are of an adequately rated Sound Transmission Class.”

If there is an outdoor performance venue, it must not be located where adjacent homes will be impacted, how will the plan address this? The following table is from VTCSP EA:

Table 12: Outdoor Performance Venue

Existing Avg. Evening Sound Level at LT-3 (a)	Estimated Future Evening Sound Level at LT-3 (a)	Estimated Non-Rock Concert Sound Level at 100 feet (c)	Concert at 450 feet (LT-3), With Topo (d)	Limits (e)	Within Limits?
56	53	90	63	70 dBA (daytime, can be exceeded for up to 3 hours)	Yes
				65 dBA (8pm – 11pm)	Yes

(a) From Illingworth & Rodkin, Inc. Sound Level Measurement summary data at LT-3, average of hourly evening sound levels between 6 p.m. and 9 p.m., Nov 19, 20, 21, and 22, 2015.
 (b) Assumed reduction of 3-dBA in ambient levels based on I&R observations that I-280 is major noise source. Future configuration of buildings would provide intervening topography between LT-3 and I-280 and reduce noise from I-280.
 (c) Anticipated concert sound level for outdoor venue in busy urban area by a non-rock type performance (rock music or similar typically 10 to 20 dBA higher). Actual sound levels at 100 feet may be higher or lower depending performance and unlikely to be a continuous noise source.
 (d) Based on standard attenuation rate of 6-dBA per doubling of distance for a point source (i.e., concert stage). Assumed reduction provided by Project green roof is 15 dBA.
 (e) From CMC 10.48.051
 Source: Sound level measurement data by Illingworth & Rodkin, Inc.; calculations and assessment by Ramboll Environ

VIBRATION

It is unlikely vibration could be mitigated particularly for the residences on the west property.

3.14 POPULATION AND HOUSING

3.14.12 EXISTING CONDITIONS

The existing population per the footnote provided shows Cupertino's 2018 population at 60,091 not the 58,915 population estimate they show which is from 2016. The existing condition should be the most current.

The city states the population of residents per residential unit is 2.94, per the DEIR:

Note: The estimated residential population and jobs/employees for buildout of the General Plan are based on the following general, programmatic rates: 2.94 residents per unit, 1 employee/450 square feet of commercial uses, 1 employee/300 square feet of office uses, and 0.3 employees/hotel room (City of Cupertino. Cupertino General Plan Community Vision 2015-2040. October 15, 2015. Page 3-12.).

IMPACT POP-1

Increases in population for Proposed Project would be 800 residential units resulting in 2,264 residents which would be a 4% increase in city population. This excludes the Hamptons approved 600 residential unit increase to 942 residential units which are adjacent to the project.

Alternative with 2,640 residential units would result in 7,471 residents and a 12% population increase to the city. The 4,000 residential unit alternative would result in 11,320 residents and a 19% population increase.

The Proposed Project and re-tenanted mall do not induce significant population growth to the city.

Project Alternatives with 2,640 and 4,000 residential units induce significant population growth to the city.

IMPACT POP-3

The proposed project, with 2 Million SF of office space will result in a housing deficit across the region. Project alternatives will induce significant population growth in an area of the city already impacted with Apple Park and other developments.

The Charrette alternatives also induce significant population growth to the city (3,200 residential units) and further exacerbate the excess jobs in the city.

The project (and project alternatives) will have a cumulatively considerable contribution to a significant cumulative population and housing impact.

Emotional effects of cramped housing on children:

<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.734.6008&rep=rep1&type=pdf>

3.15 PUBLIC SERVICES

Impact PS-1: It is unclear what special Fire Department services are required for the green roof.

Impact PS-2: It is unclear, if a major tech employer were to occupy the 2 Million SF of office space, what additional police support would be necessary. What additional support would a potential 11,320 residents require?

SANITARY SEWER

“Sanitary Sewer System Capacity – The existing sewer lines in the vicinity of Vallco are in North Wolfe Road, Vallco Parkway, and Stevens Creek Boulevard. Most sewage generated at Vallco discharges to the 15-inch sewer main in North Wolfe Road. Under existing peak wet weather flow conditions, flows to this 15-inch sewer main in North Wolfe Road exceed its capacity.³⁷

Development of the VTCSP would intensify the use of the site, which would result in an increase in sewage generated from the site compared to existing conditions. For this reason, the development of the VTCSP would require sewer system improvements to ensure sufficient conveyance capacity. Based on preliminary analysis, redevelopment of Vallco under the General Plan would require the construction of a parallel pipe to the existing 15-inch sewer main in North Wolfe Road.

Sanitary Sewer Conveyance Facilities: Prior to the issuance of occupancy permit(s) for the final construction sequence, the Town Center/Community Park applicant and other project applicants for future development shall demonstrate to the reasonable satisfaction of the Public Works Director that adequate sanitary sewer services are available.” – 9212 VTCSP

Figure 47: DEIR SGR and Students Generated. DEIR p. 247

	Proposed Project	General Plan Buildout with Maximum Residential Alternative	Retail and Residential Alternative
Elementary (Grades K-5)	0.13	0.20	0.13
Middle (Grades 6-8)	0.04	0.06	0.04
High School (Grades 9-12)	0.04	0.06	0.04

The estimated numbers of students that would be generated by the proposed project, General Plan Buildout with Maximum Residential Alternative, Retail and Residential Alternative are listed in Table 3.15-3.

	Proposed Project	General Plan Buildout with Maximum Residential Alternative	Retail and Residential Alternative
Elementary (Grades K-5)	104	528	520
Middle (Grades 6-8)	32	158	160
High School (Grades 9-12)	32	158	160

The student generation rates are based off of too small of a sample size and the data appears to have been from Fall of 2015, since the same results for 19,800 Wolfe Rd. and Biltmore have repeated after 2 ½ years. Additionally, from that same initial result, the current SGRs they calculated for the Proposed Project, which is nearly identical to The Hills at Vallco now have inexplicably dropped the SGR’s for the same project.

Since the proposed project will likely have the possibility of selling the residential units at some time, and the lack of information regarding the sizes of the units, and the continued growth and interest in the Cupertino High School boundary area, these SGRs are likely too low. A larger sampling size is needed for these figures to be believable.

The BMR units proposed will have a higher student generation rate according to Polly Bove of FUHSD (Valleco meeting recorded by League of Women Voters, May, 2018). These higher rates are not reflected. The project alternatives are untested as to number of students generated.

DEIR STUDENT GENERATION RATES

Figure 48: DEIR SGR

Unfortunately, these averages are for only two buildings, the only multiple-unit buildings that have been completed in the last few years. The individual SGRs of these buildings are also relevant. Table I-1 shows the SGRs of the two developments and their combined SGR (weighted by their number of units).

Table I-1
SGRs in Comparable Developments

Development	Unit Characteristics	Number of Units	CUSD SGR	FUHSD SGR
<i>Nineteen800/Rose Bowl</i>	large apartments	204	0.33	0.10
<i>Biltmore Addition</i>	average size apartments	80	0.28	0.04
<i>Both Projects</i>		284	0.32	0.08

Sources: Enrollment Projection Consultants.

The “Nineteen800 apartment complex, also known as the “Rose Bowl”, is adjacent to the Valleco Special Area. Its 204 units have 68 CUSD students, an SGR of 0.33 and 21 FUHSD students, an SGR of 0.10. It should be noted that these units are on average significantly larger than the average size of units built in the decade before them, indicating that the Nineteen800 development SGRs are higher than new units of more average size are likely to be. The 80 new units in the Biltmore apartment development at the intersection of Blaney Avenue and Stevens Creek Blvd. have significantly lower SGRs, 22 CUSD students, an SGR of 0.28, and three FUHSD students, an SGR of 0.04. These SGRs are lower, especially for the middle school and

Table I-2
Vallco Specific Plan and Alternatives
Projected SGRs

	<i>Proposed Project</i>	<i>General Plan Buildout</i>	<i>Retail and Residential</i>
<i>Elementary (K-5) SGR</i>	0.13	0.20	0.13
<i>Middle (6-8) SGR</i>	0.04	0.06	0.04
<i>Total CUSD SGR</i>	0.17	0.26	0.17
<i>High School FUHSD SGR</i>	0.04	0.06	0.04

Source: Schoolhouse Services.

FAILED MEASURE D HILLS AT VALLCO STUDENT GENERATION RATES TO COMPARE

to the proposed project site. As of Fall 2015, 184 units (out of 204) had been rented. These units have 60 CUSD students, an SGR of 0.33, and 13 FUHSD students, an SGR of 0.07. It should be noted that these units are on average significantly larger than the proposed units in The Hills at Vallco project, indicating that the Rosebowl SGRs are likely to be higher than those of the units in the Vallco project.

The 80 new units in the Biltmore apartments, nearby along Stevens Creek Blvd., have significantly lower SGRs - 12 CUSD students, an SGR of 0.15, and three FUHSD students, an SGR of 0.04. These SGRs are surprisingly low, especially given that the units are modestly larger than the proposed units in the Vallco project. These two are the only large projects that have been renting in the last 18 months. Table I-4 shows other developments and their SGRs.

**Table I-4
SGRs in Comparable Developments**

Development	Unit Characteristics	Number of Units	CUSD SGR	FUHSD SGR
<i>19800/Rosebowl</i>	much larger apartments ¹	184 ¹	0.33	0.07
<i>Biltmore Addition</i>	larger apartments ²	80	0.15	0.04
<i>Earlier Apartments</i> ³	high density	828	0.32	0.07

¹ Number and average size of units: 165 2-bedroom, 1,310 sq. ft.; and 39 3-bedroom, 1,573 sq.ft. Only 184 units occupied at the time of the Fall 2015 student counts.

² Number and average size of units: 34 1-bed-room, 813 sq. ft., 46 2-bedroom, 1,212,sq. ft.

³ SGRs in 2013, when the units were significantly more affordable.

Sources: Enrollment Projection Consultants, City of Cupertino, and Schoolhouse Services.

**Table I-5
Valco Development
Projected SGRs**

	<i>Valco Project</i>
<i>Elementary (K-5) SGR</i>	0.19
<i>Middle (6-8) SGR</i>	0.09
<i>Total CUSD SGR</i>	0.28
<i>High School (FUHSD) SGR</i>	0.06

Source: Schoolhouse Services.

The DEIR may study the impacts of traffic rerouting of students. According to the Shute, Mihaly, and Weinberger Memo to the City of Cupertino Attorney, February 25, 2014:

“Therefore, a lead agency may consider, in an EIR, among other factors the following impacts potentially caused by school expansion or construction:

- traffic impacts associated with more students traveling to school;*
- dust and noise from construction of new or expanded school facilities;*
- effects of construction of additional school facilities (temporary or permanent) on wildlife at the construction site;*
- effects of construction of additional school facilities on air quality;*
- other “indirect effects” as defined by CEQA Guidelines § 15258 (a)(2)*

(growth-inducing effects, changes in pattern of land use and population density, related effects on air and water and other natural systems). See Chawanakee Unified School District, 196 Cal. App. 4th at 1029.

CONCLUSION

When it comes to arguments about the impact of a proposed development on existing school facilities and their ability to accommodate more students, the CEQA process is essentially ministerial. Agencies must accept the fees mandated by SB 50 as the exclusive means of considering and mitigating the impacts of the proposed development on school facilities. However, nothing in SB 50 or in CEQA or current case law prohibits an agency from conducting environmental review of an application that creates significant environmental impacts on non-school-facility settings or sites, regardless of whether the applicant has agreed to pay mitigation fees under SB 50.”

PARK LAND REQUIREMENTS

The city residents per unit is 2.83. The park land calculations are both low and assuming a City Council action to accept park land acreage on a roof in lieu of park land. This has been discussed in earlier sections.

RECREATION

The 70,000 SF Bay Club gym on site is the only gym in the east side of Cupertino and it will be closed for multiple years during construction and likely will not return.

Creekside park is permitted year around to the De Anza Youth Soccer League and has additional camps in the summer using the space.

Ranch San Antonio is so over utilized by the region that the neighboring residents had to have permitted parking and parking has been limited to preserve the area because it is a natural area. During the weekdays a return trip across town after 2:30pm results in a 30 minute drive. Due to excess demand on Rancho San Antonio, there is a limited window mid day and mid week where a parking spot may be found.

Proposed project and alternatives will have significant negative impacts to the area and further increase demand for the parks existing. Even the low SGR for the school is enough students to start an entire new soccer league.

3.17 TRANSPORTATION/TRAFFIC

EXISTING CONDITIONS

Counts on January 15, 2018 included the AMC movie theater which is closed, and a transit hub which includes Genentech, Google, and Facebook with no individual counts to separate out these uses. The mall had a 24% occupancy at the time.

LEVELS OF SERVICE

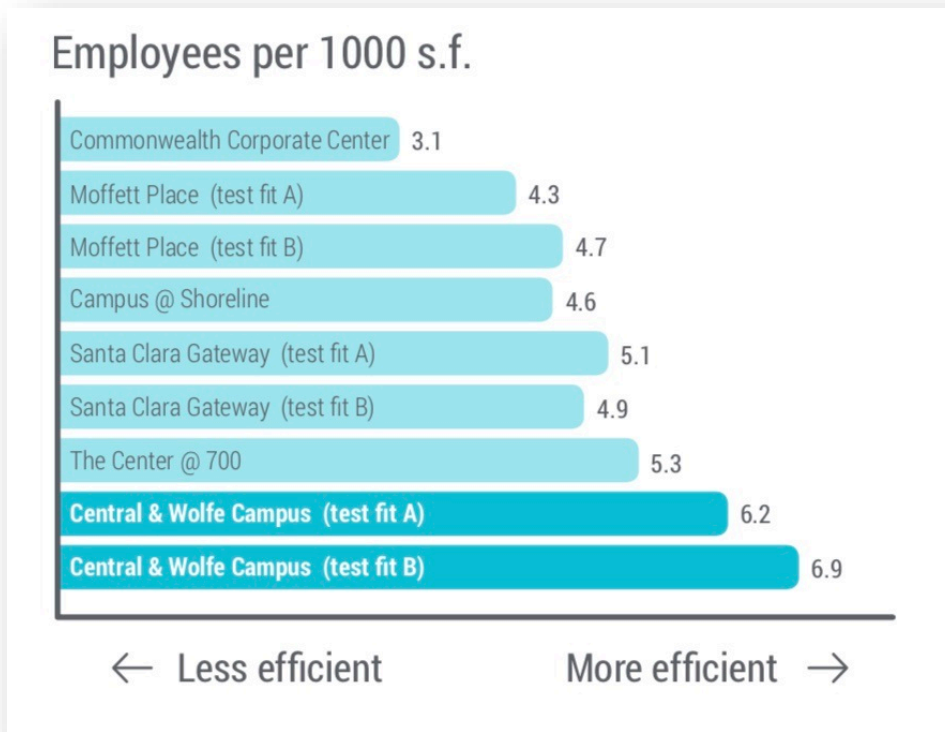
Please note that LOS is an average and there is some directional flow within the city intersections such that the LOS may not reflect what drivers are experiencing because of the averaging of each lane approach. Of particular concern is how slow the movement of traffic out of the city and returning would be for the 80%+ of Cupertino worker commuters out of the city daily.

The trips generated by the Proposed Project calculated by Fehr + Peers are incorrect and artificially low due to selecting lower trip generation rates. For instance, no break out of retail trips was made to account for a movie theater, restaurants which generate 4-10 times as much traffic as retail, ice rink, bowling alley, hotel conference room, or the performing arts center. The Civic rate is undercalculated, the SF should be 65,000 to match the charrette discussions and the ITE Government Building 710 trip generation rate should be used. A high turnover restaurant which we would see in a business area would result in a trip generation rate of nearly 90. By using generalities for the “Shopping Center” when the Vallco Shopping District is supposed to be a regional destination with shopping, dining, and entertainment uses, the Daily trips generated are undercalculated by about 50%. The SB 35 Vallco application has 120,000 SF entertainment, 133,000 SF retail stores, and 147,000 SF restaurants. The restaurants would likely be high turnover due the high number of office employees in the area.

APPROVED AND PENDING PROJECTS TRIP GENERATION, DISTRIBUTION, AND ASSIGNMENT

It is unclear, given that Apple Park has been occupying, how their (Apple Park) traffic has been assigned. For instance, there were traffic counts in May, 2017 which would reflect thousands of trips by construction workers to the site which would likely have been coming from the I-280 and east bound AM and westbound PM. There were also traffic counts in January, 2018, which would perhaps now show a few hundred Apple tech workers who would presumably be coming from other areas along with continued construction workers. As of March, 2018 approximately 6,000 employees were at Apple Park out of the expected 14,200. There have been many requests of the city to wait until Apple Park fully occupies to perform traffic counts. Main Street Cupertino was also under construction during May, 2017 and those construction workers would also be impacting the counts. There have been several intersections under construction, including the Calvert/I-280 project and Lawrence Expressway/I-280 exit project. These multiple projects have rerouted traffic and altered the makeup of drivers into artificial patterns not reflected in the study. What the traffic counts show, is what the area traffic is like with major construction underway.

Figure 52: Sample of local advertising showing higher employees per 1000 SF than studied



Traffic impacts, while significant and unavoidable with mitigation is underestimated.

Figure 53: DEIR Trip Generation Estimates

Land Use	Project				General Plan Buildout with Maximum Residential Alternative				Retail and Residential Alternative				Occupied/Re-Tenanted Mall Alternative			
	Quantity	Daily Trips	AM Peak Hour	PM Peak hour	Quantity	Daily Trips	AM Peak Hour	PM Peak hour	Quantity	Daily Trips	AM Peak Hour	PM Peak hour	Quantity	Daily Trips	AM Peak Hour	PM Peak hour
Office	2,000 ksf	24,700	2,580	2,400	1,000 ksf	12,350	1,290	1,200								
Shopping Center	600 ksf	20,331	452	2,046	600 ksf	20,331	452	2,046	600 ksf	20,331	452	2,046	1,208 ksf	32,717	756	3,434
Hotel	339 rooms	2,834	159	204	339 rooms	2,834	159	204	339 rooms	2,834	159	204	148 rooms	1,209	78	89
Multifamily Housing	800 units	4,352	288	352	2,640 units	14,362	950	1,162	4,000 units	21,760	1,440	1,760				
Green Roof	30 acres	567	135	105	30 acres	567	135	105								
Civic Uses	55 ksf	1,305	168	100	55 ksf	1,305	168	100								
STEM Lab	10 ksf	140	34	22	10 ksf	140	34	22								
<i>Subtotal (A)</i>		54,229	3,816	5,229		51,889	3,188	4,840		44,925	2,051	4,010		33,926	834	3,523
Transit and/or Mixed Use Reduction %		-17%	-23%	-24%		-20%	-25%	-30%		-20%	-20%	-25%		-5%	-5%	-5%
Mixed Use Reduction (B)		-9,218	-876	-1,255		-10,377	-797	-1,452		-8,985	-411	-1,003		-1,696	-42	-176
Transit Hub (C)		808	175	193		808	175	193		808	175	193				
<i>Total Project or Project Alternative Trips (D = A-B+C)</i>		45,819	3,113	4,167		42,320	2,566	3,581		36,748	1,815	3,200		32,230	792	3,347
Existing Trips (E)		-8,813	-485	-949		-8,813	-485	-949		-8,813	-485	-949		-8,813	-485	-949
Net Project or Project Alternative Trips (F = D-E)		37,006	2,628	3,218		33,507	2,082	2,632		27,935	1,330	2,251		23,417	307	2,398

Notes: ksf = 1,000 square feet. Refer to Appendix H for detailed breakdown of the trip generation estimates.

Trips generated are lower than the Hills at Vallco? That seems incorrect. Neither break out actual uses (restaurants, theater, City Halls which all generate much heavier traffic than is shown).

Figure 54: VTC Hills at Vallco Trip Generation Planner

Trip Generation Planner (ITE 9th Edition) - Summary Report

Weekday Trip Generation			Project Name		Vallco Town Center Specific Plan										
Trips Based on Average Rates/Equations			Project Number		097283001.1.340										
ITE Code	Notes	Land Use Description	Independent Variable	No. of Units	Avg Rate or Eq	Rates			Total Trips						
						Daily Rate	AM Rate	PM Rate	Daily Trips	AM Trips	PM Trips	AM Trips In	AM Trips Out	PM Trips In	PM Trips Out
SV-A	1	The Town Center/Community Park - Office	1,000 Sq Ft	2000	Avg	12.35	1.29	1.20	24,700	2,580	2,400	2,270	310	408	1,992
820-A	2	The Town Center/Community Park - Retail	1,000 Sq Ft GLA	640	Eq	N/A	N/A	N/A	22,698	484	2,078	300	184	997	1,081
220	3	The Town Center/Community Park - Apartment	Dwelling Unit(s)	760	Eq	N/A	N/A	N/A	4,730	376	436	75	301	283	153
252		The Town Center/Community Park - Senior Adult Housing (Attached)	Occ. Dwelling Unit(s)	40	Avg	3.44	0.19	0.23	138	8	9	3	5	5	4
SV-B	4	The Town Center/Community Park - Pavilion 4 - Banquet Hall	1,000 Sq Ft	15	Avg										
530	5	The Town Center/Community Park - High School Innovation Center (1)	Student(s)	100	Avg	1.71	0.43	0.13	171	31	29	29	2	10	19
SV-C	1	The Town Center/Community Park - Pavilion 6 - Civic Meeting Space	1,000 Sq Ft	4	Avg	12.35	1.29	1.20	50	5	5	4	1	1	4
SV-D	6	The Town Center/Community Park - Transit Center	1,000 Sq Ft		Avg										
SV-E	1	The Town Center/Community Park - Pavilion 5 - Office Event Center	1,000 Sq Ft	20	Avg	12.35	1.29	1.20	248	26	24	23	3	4	20
SV-F	1	The Town Center/Community Park - Pavilion 7 - Office Caf / Fitness	1,000 Sq Ft	20	Avg	12.35	1.29	1.20	248	26	24	23	3	4	20
SV-G	1	The Town Center/Community Park - Additional Office Amenities	1,000 Sq Ft	135	Avg	12.35	1.29	1.20	1,668	174	162	153	21	28	134
SV-H	1	The Town Center/Community Park - Loading Facilities & Security Areas	1,000 Sq Ft	75	Avg	12.35	1.29	1.20	928	97	90	85	12	15	75
110		The Town Center/Community Park - Industrial Testing & Workshop	1,000 Sq Ft	175	Eq	N/A	N/A	N/A	1,206	117	93	103	14	11	82
SV-I	7	The Town Center/Community Park - Central Plant	1,000 Sq Ft	45	Avg										
411-A	8	The Town Center/Community Park - Rooftop Garden Park	Acre(s)	10	Avg	20.00	4.50	3.50	200	45	35	25	20	20	15
The Town Center/Community Park Total Project Trips									56,985	3,969	5,385	3,093	876	1,786	3,599
310		Vallco Town Center Specific Plan - Block 14	Room(s)	191	Avg	8.17	0.53	0.60	1,562	101	115	60	41	59	56
Total Gross Vallco Town Center Specific Plan Project Trips									58,547	4,070	5,500	3,153	917	1,845	3,655
9		MXD Trip Reduction - Internal and Non-Motorized Trips				-21%	-16%	-21%	-12,169	-632	-1,125	-492	-139	-373	-752
Net External Project Trips									46,378	3,438	4,374	2,661	778	1,472	2,903
820-C	10	Existing Mall - 82.83% Occupancy	1,000 Sq Ft GLA	994	Eq	N/A	N/A	N/A	-30,216	-633	-2,791	-392	-241	-1,340	-1,451
Totals									16,162	2,805	1,583	2,269	537	132	1,452

Notes:

(1) AM and/or PM rates correspond to peak hour of generator.

- 1 Silicon Valley (SV) Trip Rates applied to office land uses based on local surveys and empirical data from Fehr & Peers Study
- 2 Includes entertainment uses, health club uses, and roof pavilions.
- 3 Includes clubhouse and fitness pool.
- 4 Land Use only expected to generate trips on special events and excluded from weekday Trip Generation.
- 5 High School trips based on Fehr & Peers Study and agreed with the City of Cupertino.
- 6 Facility on Stevens Creek Blvd. Trip Generation accounted in Office Land Use from SV Trip Rates.
- 7 Not a typical ITE Land Use. Facility does not generate additional trips.
- 8 Trip Generation conservatively estimated by assuming City Park (ITE Land Use 411) rates to 1/3 of 30 total acres. AM and PM rates from ITE weekday peak hour generator studies.
- 9 MXD reductions account for internalization, transit, and bike/ped access. Rates determined from EPA MXD model for the Proposed The Town Center/Community Park Project.
- 10 Daily, AM, and PM Trips for existing land use at the Existing Mall are conservatively based on 1.2 million Sq Ft Shopping Center (ITE Land Use 820) reduced to reflect 82.83% mall occupancy.

3.18 UTILITIES AND SERVICE SYSTEMS

Projects with recycled water (30 acre green roof) will result in an expansion of recycled water production which is a significant negative impact. Redirecting water which could be used for groundwater recharge and then used for drinking water is wasteful.

City must have a regulatory framework to manage conservation claims.

SECTION 4.0 GROWTH-INDUCING IMPACTS

The claim that project and alternatives would have no significant impact is subjective. Residents per unit are inconsistently applied in the DEIR when the population increase from Vallco project and alternatives would largely be accounting for the city-wide population increase, therefore the assumption to population must logically use 2.94 residents per unit:

Note: The estimated residential population and jobs/employees for buildout of the General Plan are based on the following general, programmatic rates: 2.94 residents per unit, 1 employee/450 square feet of commercial uses, 1 employee/300 square feet of office uses, and 0.3 employees/hotel room (City of Cupertino. Cupertino General Plan Community Vision 2015-2040. October 15, 2015. Page 3-12.).

Table 4.0-1: Estimated Project and Project Alternative, Citywide, and Countywide Residential Population and Employee Projections			
	Estimated Dwelling Units	Estimated Residential Population	Estimated Jobs/Employees
Plan Bay Area Projections Year 2040			
Santa Clara County	818,400	2,423,500	1,229,520
Cupertino	24,040	71,200	33,110
General Plan 2040 Buildout			
Cupertino General Plan Buildout 2040	23,294	69,183	48,509
Project and Project Alternatives Buildout			
Project	800	1,600	9,594
General Plan Buildout with Maximum Residential Alternative	2,640	5,280	5,594
Retail and Residential Alternative	4,000	8,000	1,400
Occupied/Re-Tenanted Mall Alternative	0	0	2,550
<p>Note: The estimated residential population and jobs/employees for buildout of the General Plan are based on the following general, programmatic rates: 2.94 residents per unit, 1 employee/450 square feet of commercial uses, 1 employee/300 square feet of office uses, and 0.3 employees/hotel room (City of Cupertino. <i>Cupertino General Plan Community Vision 2015-2040</i>. October 15, 2015. Page 3-12.). The estimated population and jobs/employees for the project and project alternatives are based on a project-specific study of the specific uses proposed by the project completed by Economic & Planning Systems, Inc. The estimated residential and jobs/employees for the project and project alternatives are based on the following project-specific rates: 2.0 residents per unit, 1 employee/250 square feet of office, 1 employee/400 square feet of retail/restaurant, 1 employee/1,000 square of entertainment retail, and 1 employee/2 hotel rooms (Source: Economic & Planning Systems, Inc. "Population and Employment Projections." April 26, 2018.).</p>			