

CC 5/13/19
closed session

Oral Communication, May 13, 2019

Ignatius Y Ding, 42-resident of Cupertino

Mayor Scharf, Vice Mayor Chao, and Council Members Paul, Sinks, and Willey:

Please include this communication for the record at today's Council meeting.

As one of thousands of concerned residents against the development project that is currently on-going at the Vallco site by **Sand Hill Property** under the provision of the state law SB35, I want to draw your attention to the legal implications for the city to continue issuing permits to allow the developer to proceed with the project while it is in litigation. **(Note: while I am a board member of the Friends of Better Cupertino, I speak for myself only).**

Despite of its known billion-dollar war chest and long history of working in the Silicon valley, **San Hill Property Company** is **NOT a legal business entity** incorporated in California, but a fictitious name of an individual, namely Peter Pau of Atherton, registered in the County of Santa Clara County (as shown in the county record dated July 13, 2017).

California State Law stipulates that it's illegal to register a business under a fictitious name of an individual. **All business and contractual agreements with such an illegal entity might be void and thereby unenforceable.** The Council might need to verify this matter and consider taking certain course of corrective action to protect our city.

A recent communication to city residents from Sand Hill has cited that the Vallco site has been thoroughly inspected by a state-licensed contractor. Sand Hill claims the site to be completely clear of toxic contamination and suitable for development as proposed.

First of all, the so-called inspection was carried out by a mediocre company from Sacramento for a **meager three hundred and fifty dollars (\$350)**. The contractor did not even look at the two spots on the site where the underground tanks used by JC Penney and Sears for decades. Both locations were listed, as active, by the state environmental agencies as hazardous toxic waste sites imposing serious threats to public health and nearby water storm drainages.

The contractor has also neglected to examine to **severe contamination by heavy dosage of DDT other harmful pesticide** used by farming companies prior to the forming and incorporation of the Vallco site as a commercial complex. Disregarding this public health threat and converting the site for residential use without proper clean-up is **morally inexcusable and legally criminal. It is particularly incomprehensible the Sand Hill plans to build the low-income units over this toxic waste site.**

Lastly, the developer is removing hundreds of matured trees from the site without any replant or reseed plan. The environmental damage is devastating. The city must require Sand Hill to file a set of tree removal/replacement plan before proceeding with the project.

Thank you very much.

SEE BACK SIDE FOR INSTRUCTIONS

Fictitious Business Name (FBN) Statement (includes registration of 1 business name, 1 or 2 registrants and 1 certified copy)..... \$40.00

Each additional business name and/or registrant (must have the same business address and registrant) on the same statement \$7.00

Filed in County Clerk's Office

Regina Alcomendras
Santa Clara County - Clerk-Recorder

FBN631951

07/13/2017

FBN

Pages: 1

Fee: \$40.00

Exp: 07/13/2022

By tsantos, Deputy

FICTITIOUS BUSINESS NAME

FILED WITH THE COUNTY CLERK-RECORDER OF SANTA CLARA COUNTY ON THE DATE IDENTIFIED ON THE FILING LABEL

The following person (persons) is (are) doing business as: (Use the ADDENDUM page to list additional fictitious business names.)

1. FICTITIOUS BUSINESS NAME

SAND HILL PROPERTY COMPANY

at: (DO NOT USE P.O. BOX, PRIVATE MAIL BOX ADDRESSES)

2. STREET ADDRESS OF PRINCIPAL PLACE OF BUSINESS

965 PAGE MILL ROAD

CITY

PALO ALTO

STATE

CA 94304

ZIP

COUNTY

SANTA CLARA

If the principal place of business identified in #2 above is not in Santa Clara County, a current fictitious business name statement for the fictitious business name(s) identified in #1 above shall be on file at the above-identified County that is the principal place of business. If applicable, please complete #3 below:

3. ☐ THE PRINCIPAL PLACE OF BUSINESS IS IN _____ COUNTY AND A CURRENT FICTITIOUS BUSINESS NAME STATEMENT IS ON FILE AT THE COUNTY CLERK-RECORDER'S OFFICE OF SAID COUNTY.

This business is owned by: (An asterisk (*) item requires proof of registration with the California Secretary of State's Office)

4. ☒ AN INDIVIDUAL ☐ A GENERAL PARTNERSHIP ☐ A LIMITED PARTNERSHIP ☐ A LIMITED LIABILITY COMPANY
☐ AN UNINCORPORATED ASSOCIATION OTHER THAN A PARTNERSHIP ☐ A CORPORATION ☐ A TRUST ☐ COPARTNERS
☐ MARRIED COUPLE ☐ JOINT VENTURE ☐ STATE OR LOCAL REGISTERED DOMESTIC PARTNERS ☐ LIMITED LIABILITY PARTNERSHIP

The name and residence address of the registrant(s) is (are):

(DO NOT USE P.O. BOX, PRIVATE MAIL BOX ADDRESSES)

NOTE: General Partnerships, Copartnership, Joint Venture, Limited Liability Partnership, Unincorporated Association, and Limited Partnership - Insert name and residence address of each General Partner, Trusts - Insert the full name and resident address of each trustee; Limited Liability Company and Corporation - Insert full name and address of Limited Liability Company or Corporation as registered with the California Secretary of State's Office; State or local registered Domestic Partners - Insert full name and residence address of each Domestic Partner.

USE THE ADDENDUM PAGE TO LIST ADDITIONAL NAMES AND ADDRESSES

5. NAME ADDRESS CITY STATE ZIP
PETER PAU **267 ATHERTON AVENUE** **ATHERTON** **CA** **94027**

NAME

ADDRESS

CITY

STATE

ZIP

Registrant began transacting business under the fictitious business name(s) listed above on:

6. ☒ DATE: **MARCH 1, 2017** ☐ NOT APPLICABLE

This filing is a:

7. ☒ First Filing (Publication Required)
☐ Refile of previous file # _____ (check appropriate box, below)
☐ Refiled prior to expiration or within 40 days past expiration, with NO CHANGES
☐ With changes (Publication Required)
☐ After 40 days of expiration date (Publication Required)
☐ Due to publication requirement not met on previous filing (Publication Required)

I hereby certify that this copy is a correct copy of the original
Fictitious Business Name Statement on file in my office.

Regina Alcomendras, Santa Clara County Clerk-Recorder

By _____, Deputy

Dated: **OCT 30 2018** **VEE REED**

8. I declare that all information in this statement is true and correct. (A registrant who declares as true information which he or she knows to be false is guilty of a crime.)

SIGNED X _____

PRINTED NAME **PETER PAU**

If a CORPORATION, LIMITED LIABILITY COMPANY, LIMITED PARTNERSHIP or LIMITED LIABILITY PARTNERSHIP, the following must be completed:

ENTITY NAME _____

TITLE / CAPACITY OF SIGNER _____

ARTICLE / REG # _____ (from CA Sec of State's Office)

ABOVE ENTITY WAS FORMED IN THE STATE OF _____

NOTICE - IN ACCORDANCE WITH SUBDIVISION (a) OF SECTION 17920, A FICTITIOUS BUSINESS NAME STATEMENT GENERALLY EXPIRES AT THE END OF FIVE YEARS FROM THE DATE ON WHICH IT WAS FILED IN THE OFFICE OF THE COUNTY CLERK, EXCEPT, AS PROVIDED IN SUBDIVISION (b) OF SECTION 17920, WHERE IT EXPIRES 40 DAYS AFTER ANY CHANGE IN THE FACTS SET FORTH IN THE STATEMENT PURSUANT TO SECTION 17913 OTHER THAN A CHANGE IN THE RESIDENCE ADDRESS OF A REGISTERED OWNER. A NEW FICTITIOUS BUSINESS NAME STATEMENT MUST BE FILED BEFORE THE EXPIRATION. THE FILING OF THIS STATEMENT DOES NOT OF ITSELF AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS BUSINESS NAME IN VIOLATION OF THE RIGHTS OF ANOTHER UNDER FEDERAL, STATE, OR COMMON LAW (SEE SECTION 14411 ET SEQ., BUSINESS AND PROFESSIONS CODE).

cc 5/13/19
Closed session

From: James Moore cinco777@icloud.com
Subject: A Whopper of a Lie - the pre-bonus Vallco Town Center
Date: Feb 15, 2019, 3:27:27 PM
To: sscharf@cupertino.org, liangchao@cupertino.org,
dpaul@cupertino.org, jwilley@cupertino.org,
rsinks@cupertino.org, manager@cupertino.org

This past week, being a numbers person and inherently curious, I decided to quit procrastinating and investigate the Vallco/SHP/Peter Pau claim that their pre-bonus 1,779 unit Vallco Town Center project met the 2/3rds residential use eligibility requirement of Senate Bill 35. They made this claim in their 6/19/2018 letter to the City.

The input numbers and sources, the methodology, assumptions, calculations, and the results of my analysis are detailed in the following write-up.

*** A Whopper of a Lie - the pre-bonus Vallco Town Center

A Whopper of a Lie: The Vallco Town Center pre-bonus project was at least 550,000 square feet short of the Senate Bill 35 eligibility requirement that it be 2/3rds (66.7%) residential. View the following calculations for Proof. All the numbers used in these calculations are available in the Links listed below.

In his June 19, 2018, "Vallco Town Center SB35 Application - Updated Supplemental Information" letter to David Brandt, City Manager, Reed Moulds, representing developer Peter Pau who does business as "Sand Hill Property Company (SHP)", writes: "This "pre-bonus" project included the following program: 1,810,000 square feet of office, 600,000 square feet of retail, and 1,778 residential units within 4,820,000 residential square feet (including amenity and garage space). This program is consistent with the General Plan and still designates at least two-thirds of the square footage for residential uses". This quoted text is on page 4 of his unnumbered 6

page letter. He later corrected this number to 1,779 units.

With Vallco's claimed 4,820,000 square feet (SF) of residential uses, we can calculate the percent of residential uses space as follows:
 $4,820,000 / (1,810,000 + 600,000 + 4,820,000)$. We get 0.[6666667](#) (66.6666667%) which conveniently equals exactly 2/3rds to a zillion decimal places. Absent from his June 19th letter, and in any written Vallco communications (before or after) to the City or residents, are any site plans/drawings, number and sizes of each unit type, etc., that could shed light on the validity of this 4,820,000 square feet of "residential uses space" claimed by Peter Pau for this pre-bonus 1,779 units Vallco project. None the less, we can derive the pre-bonus numbers we need to determine its validity.

On this same page (Paragraph 4), Reed Moulds, representing Peter Pau, writes: "... we arrived at the final design that was included in the SB35 application: 1,810,000 square feet of office, 400,000 square feet of retail, and 4,700,000 square feet of residential uses (including 2,402 units)". This 2,402 unit number is calculated by applying the 35% Bonus Density: $1,779 * 1.35 = 2,402$.

Residents who read this June 19th letter will be surprised that the submitted Vallco Town Center (VTC) design with 2,402 residential units requires 120,000 square feet (SF) LESS floor space than the pre-bonus 1,779 residential units project with its 623 fewer units.

An explanation for this perplexing Vallco claim of "Less floor space with More units" appears to be given by Reed Moulds' later statement: "and ii) increasing the number of residential units without

meeting the identical design requirements in Cupertino's density bonus code". As background, a 35% Bonus Density requires three concessions by the City. One of these concessions allows Vallco/SHP/Peter Pau to build smaller Below Market Rate (BMR) studios and 1-BRs than the Market Rate (MR) studios and 1-BR units. Let's calculate what this concession provided in floor space savings and see if this amount of "savings" explains our "Less floor space with More units" perplexity.

We first need some numbers from the Vallco site plans, drawings, tables, reports, etc. These numbers are only available for the VTC project with its 2,402 residences. For this project, here is the breakdown of its 4.7M SF of "residential uses": 550,055 SF for amenities, 1,435,605 SF for residential parking, and 2,714,340 SF for the 2,402 units (50% BMR and 50% MR). These numbers are from the June 19, 2018 Supplement - Exhibit A: Supplemental Area Calculations, Table I, Floor Area Calculations.

To start, let's give this 1,779 residential unit pre-bonus VTC project a Huge advantage in reaching its claimed 4.82M SF for "residential uses" by allowing it to use the same amount of parking space (1,435,605 SF) and the same amount of amenity space (550,055 SF) as the larger 2,402 units VTC project with its 623 additional residences.

We can calculate the amount of residential floor space used by 1,779 units by assuming (realistically) that it will have the same mix of units (studios, 1-BR, 2-BR, etc.) as the 2,402 units VTC project. Here is that calculation: $1779/2402 * 2,714,340 \text{ SF} = 2,010,329 \text{ SF}$. We'll do

the same to determine the number of BMR studios and BMR 1-BR units prior to the 35% bonus density. Here are these calculations: $1779/2402 * 898$ (BMR studios after) = 665 (BMR studios before), and $1779/2402 * 303$ (BMR 1-BRs after) = 225 (BMR 1-BRs before).

The number of BMR studios and BMR 1-BRs after is shown in the Affordability Summary Table on Site Plans / Sheet P-0102 in the March 27, 2018 Application.

Next, we need to add back the floor space for the BMR studios and 1-BR units downsized by the "bonus density" concession. Following this concession, per Vallco, BMR studios are 398 SF and BMR 1-BRs are 542 SF (9/7/18), Market Rate (MR) Studios are 652 SF (7/31/18 derived), and MR 1-BRs are 863 SF (6/1/18). The amount of floor space we need to add back is the following: 665 (studios before) * $(652 - 398)$ or 168,910 SF, plus 225 (1-BRs before) * $(863 - 542)$ or 72,225 SF, which sum to 241,135 SF. When this 241,135 SF is added back, all pre-bonus Studios will be 652 SF and all pre-bonus 1-BRs will be 863 SF - that is, these BMR and MR unit sizes will be the same.

We can now add the parking space (1,435,605 SF) plus the residential amenities (550,055 SF) plus an equal mix of residential units for the 1,779 units project (2,010,329 SF) and the BMR floor space downsized by the concession (241,135 SF). This totals 4,237,124 SF, far short of the Vallco/SHP/Peter Pau claimed 4,820,000 SF for this smaller 1,779 unit project. This shortfall is 582,876 SF, equivalent to over 675 1-BRs, 890 Studios, or 1000 BMR bonus-density sized residential units. This monstrous shortfall proves that the pre-bonus VTC takes much Less space with its fewer

units (1779) than its larger 2,401 units follow-on project.

With this realistic, and very conservative number of 4,237,124 SF (remember we used the same parking and amenity space as the 2,402 units VTC project), we can calculate the pre-bonus Percent of Residential space (1,779 units including parking and amenities) compared to the Total Project Space (not including Office and Retail parking). Here is that calculation:

$4,237,124 / (4,237,124 + 600,000 \text{ Retail} + 1,810,000 \text{ Office}) = 63.7\%$
(not 2/3rds which is 66.7%). This pre-bonus Vallco project with 1,779 residential units, which is a required SB35 pre-req to the 2,402 units VTC project, was never eligible for SB35 fast-track ministerial approval, yet City Managers declared its follow-on 35% bonus density 2,402 unit VTC project SB35 eligible on June 25, 2018, and approved it on September 22, 2018.

These calculations show that SHP/Vallco/Peter Pau/Reed Moulds told a Whopper of a Lie when they provided their "made-up" number of 4,820,000 SF residential uses purporting to show that their pre-bonus 1,779 unit project met the 2/3rds (66.7%) residential eligibility requirement for SB35 ministerial fast-tracking. It missed the 2/3rds SB35 residential requirement by more than 550,000 SF, equivalent to more than 1,000 density-bonus sized BMR units.

March 27, 2018 Application, P-0102

<https://www.cupertino.org/home/showdocument?id=19614>

June 1, 2018 Supplement, page 2 of 37

<https://www.cupertino.org/home/showdocument?id=21185>

June 19, 2018 Supplement, page 4 of 6

<https://www.cupertino.org/home/showdocument?id=21184>

July 31, 2018 Updated Site Plans, Part I, P-0102

<https://www.cupertino.org/home/showdocument?id=21836>

September 7, 2018 Fiscal Analysis, Table 1 (page 3)

<https://www.cupertino.org/home/showdocument?id=22554>

Cyrah Caburian

From: Liana Crabtree <lianacrabtree@yahoo.com>
Sent: Thursday, May 09, 2019 9:48 PM
To: Steven Scharf; Liang Chao; Darcy Paul; Rod Sinks; Jon Robert Willey
Cc: City Clerk; City Attorney's Office; Cupertino City Manager's Office; R Wang; Vikram Saxena; David Fung; Kitty Moore; Alan Takahashi; lorenzo.perez@sccfd.org; mickey.pierce@cep.sccgov.org
Subject: Agenda Item 2, Pending Litigation: FoBC v the City of Cupertino (Vallco SB 35 Project), 5/13/2019

Resending to correct an address error included in the previous message.

Honorable Mayor Scharf, Vice Mayor Chao, and Council Members Paul, Sinks, and Willey:

Please include this letter as part of the public record for the City of Cupertino's eligibility determination and approval of the Vallco Town Center SB 35 application (5/13/2019 City Council meeting, Agenda Item 2, Re: Pending Litigation; Friends of Better Cupertino, et al. v. City of Cupertino, Santa Clara County Superior Court, Case No. 18CV330190 [SB 35 Vallco Project]).

Note: See the REFERENCES section below for links and paths to the documents referenced in this letter.

In a newsletter to "Neighbors" dated 4/23/2019 and entitled "Vallco Spring 2019 Construction Update," a Managing Director for the Property Owner, Peter Pau's real estate business interests (doing business as "Sand Hill Property Company"), asserts the following statements that warrant review:

(Specifically, will the City of Cupertino hold itself accountable to disclose overarching conditions and significant impacts to the community as a direct result of the streamlined, ministerial approval of the Vallco Town Center SB 35 application?)

(1) PROPERTY OWNER'S ASSERTION

"Environmental Clearance

Last week we received an exhaustive, 1,234-page report on the environmental condition of the Vallco site from WSP USA, a leading environmental construction and engineering management firm. The report gave the Vallco site a clean bill of health...." (REFERENCE file name 06_PO_newsletter_20190423.pdf)

(1) RESPONSE

The text of Senate Bill 35 (SB 35) includes Government Code 65913.4, which states in part:

"65913.4. (a) A development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (b) and not subject to a conditional use permit if the development satisfies all of the following objective planning standards:

...

(6) The development is not located on a site that is any of the following:

...

(E) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the

Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses."

Per SB 35 and Government Code 65962.5 (Cortese List), only the Certified Unified Program Agency (CUPA) and its Partner Agency (PA) can approve the hazardous material closure plan and clear the site for residential use. The CUPA for the Vallco Shopping District site is the Santa Clara County Fire Department, Hazmat Division (County Fire) and the PA is the County of Santa Clara, Dept of Environmental Health Hazardous Material Compliance Division (HMCD). (REFERENCE file name: 07_text_of_SB_35_20170SB35_87.pdf)

On 5/7/2019, HMCD issued a letter to the Property Owner acknowledging its receipt of the Property Owner's self-directed site characterization report conducted by its preferred environmental construction firm, WSP USA, Inc (WSP). Following the review of the materials provided by the Property Owner, HMCD has determined it has sufficient information to close complaint #CO0145652 filed with HMCD. HMCD recognizes the Property Owner has filed a closure plan with County Fire. County Fire has accepted the closure plan, which is apparently now in progress as of 2019. As the site closure plan is active today, the site was apparently not cleared for residential use at the time of the SB 35 application eligibility determination (June 2018) and approval (September 2018). If the site is not cleared for residential use, then it is apparently subject to Government Code 65962.5 (Cortese List) and the California Environmental Quality Act (CEQA) review process and, therefore, apparently not eligible for streamlined, ministerial project approval in 2018. (REFERENCE file name: 08_scan_Pierce_Mickey_07_40_08-05-2019.pdf)

(1) FOR YOUR CONSIDERATION

(a) The Property Owner filed the Vallco Town Center SB 35 application, 90 days later the City determined the SB 35 application was eligible for streamlined, ministerial approval, and 90 days after that the City approved the SB 35 application. However, during the filing and application review window and continuing through today, the site is apparently ineligible for the streamlined, ministerial approval it received from City staff because the site remains listed as a hazardous waste site pursuant to Government Code 65913.4(a)(6)(E). The closure plan was opened in 2019 and remains active until County Fire determines that the closure criteria are resolved to the applicable standards.

(b) Initiate a public records request with County Fire to receive the closure plans for the Vallco Shopping District site to identify the scope of investigation and remediation that may be required to clear the site for residential use.

(c) Conduct a public records request within the City for communication and documentation addressing the City's use of objective standards to determine that the site was eligible for streamlined ministerial approval despite its apparent exempt status pursuant to 65913.4(a)(6)(E).

(2) PROPERTY OWNER'S ASSERTION

"WSP analyzed a total of 87 soil samples, conducted a series of test pits, and even performed a geophysical ground-penetrating radar survey, all to confirm there is no evidence of contamination above human health and safety levels or naturally-occurring background levels, nor any evidence of any underground structures, such as tanks. We're pleased to share that the results are clear, confirm that the site is appropriate for residential use, and conclude that no further investigation or clean-up is necessary." (REFERENCE file name 06_PO_newsletter_20190423.pdf)

(2) RESPONSE

In its 5/7/2019 letter to the Property Owner, HMCD states:

"...please recognize that closure of the complaint does not end the responsibilities of Sand Hill Construction Management LLC (Sand Hill) or Vallco Property Owner LLC at the former Sears Automotive building. Sand Hill has submitted a closure plan to Santa Clara County Fire Department, Hazmat Division (County Fire) which was approved and which sets forth conditions to be met for adequate closure of the former Sears site. Activities undertaken in investigation of the complaint, such as pot-hole excavation and soil sampling, may not conform with the scope of sampling required by the approved closure plan, and may be required to be repeated as necessary to satisfy County Fire. Additionally, Sand Hill continues to be legally responsible to ensure that the former Sears Automotive site is closed in a manner that is compliant with California Code of Regulations, Title 22, sections 66265.111 and 66265.114 as referenced in section 66262.34(a)(1)(A)." (REFERENCE file name: 08_scan_Pierce_Mickey_07_40_08-05-2019)

County Fire provided an architectural drawing of the Sears automotive services building showing 7 underground storage tanks (USTs). However, later environmental reports, including those shared by the Property Owner in the 2019 WSP report record that 6 tanks were removed from the site and the the disposition of the 1,000 gallon waste oil tank shown in the architectural drawing but omitted from later reports is unknown. (REFERENCE file names: 09_Sears_Auto_Center_Cupertino, 10_CLOS_L_1999-12-06_pg_3.jpg, 11_0001_sears_clos_site_plan_pg_29)

The Property Owner apparently minimizes and misrepresents the unresolved environmental concerns associated with the site.

(2) FOR YOUR CONSIDERATION

Initiate a public records request with County Fire to receive the closure plans for the Vallco Shopping District site to identify the scope of investigation and remediation that may be required--including the final disposition of the 7th UST located on the former Sears site--in order to clear the site for residential use.

(3) PROPERTY OWNER'S ASSERTION

"We're pleased to share that the results are clear, confirm that the site is appropriate for residential use, and conclude that no further investigation or clean-up is necessary." (REFERENCE file name 06_PO_newsletter_20190423.pdf)

(3) RESPONSE

While the Department of Environmental has determined as of 5/7/2019 that its investigation of the 1,000 gallon waste oil UST referenced in an architectural drawing of the Sears automotive services building from 1969 is now closed, the Property Owner must still comply with investigation and closure requirements for the site as specified in the active closure plan that is now filed with County Fire.

As the project site for the Vallco Town Center SB 35 application is and has been subject to Government Code 65962.5 (Cortese List) and is, therefore, apparently not eligible for streamlined, ministerial approval under Government Code 659134.4(a)(6)(E), then the project would seem to be subject to a full CEQA review.

However, Resolution 18-084 which enacted the Final Environmental Impact Report (Final EIR) of record for the site identifies (Exhibit EA-1, PDF p 6) :

"Pursuant to Public Resources Code Section 21093 and CEQA Guidelines Section 15152, this Final EIR tiers from the City's certified 2014 General Plan Amendment, Housing Element Update, and Associated Rezoning EIR (State Clearinghouse No. 2014032007) ("General Plan EIR"). CEQA Section 21093(b) states that environmental impact reports shall be tiered whenever feasible, as determined by the lead agency. "Tiering" refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) in subsequent EIRs or Initial Studies/negative declarations on narrower projects; and

concentrating the later environmental review on the issues specific to the later project. CEQA Guidelines §15152(a). The General Plan EIR evaluated, at a program-level and limited project-level, the environmental impacts of developing the project."

From the Property Owner's summary of the project supported by the Vallco Town Center SB 35 application, the project will include the following office and housing allocations:

1.81 MILLION square feet of office
2,402 housing units
(REFERENCE file name 12_ProjectOverviewandImages.pdf)

From the Final EIR of record for the General Plan (approved 12/4/2014, Resolution 14-210) the Vallco Shopping District site includes the following office and housing allocations:

2 MILLION square feet office
389 housing units
(REFERENCE file name 13_Res_14-210_Final_EIR.pdf)

(3) FOR YOUR CONSIDERATION

(a) Is it a ministerial decision to determine that the Final EIR of record that studied the addition of 389 housing units on a 50 acre site can be "tiered" to apply to a project that would add 2,402 housing units to the same site? What statutes inform an "administrative" decision that 389 housing units have a substantially equivalent environmental impact as 2,402 housing units on the same 50 acre site?

(b) As the lead agency for the CEQA EIR process, consider initiating the Environmental Site Assessment, Phase II that residents called for in the Final EIR of record under consideration in 2018. At the time of the site-specific environmental review in 2018, the City was told by its environmental consultants and residents of recognized environmental concerns affecting public health and safety but made a discretionary choice not to investigate further.

(c) Consider the City Council's options to respond to lingering questions regarding the suitability of the Vallco Shopping District site for massive office complex development and high-density housing, including but not limited to:

- The status of an unresolved UST at the JC Penney's automotive services site.

From GeoTracker, report for J.C. PENNEY (T0608500770), 10150 N Wolfe Rd, Cupertino, CA, 95014, Compliance Report doc 0003.pdf, PDF pp 1-2, document page numbers 4-5":

"The waste oil tank excavation was deepened to 10-12 feet bgs at the center of the excavation; a total of 225 tons of material was excavated and disposed of at an offsite location. Subsequent sampling and analysis of soils from the floor and walls of the excavation was performed. With one exception, waste oil concentrations were below 110 TRPH. The soil sample collected along the south wall of the excavation at a depth of 8 feet bus contained 3,800 ppm waste oil (as analyzed by SM503e). EXCAVATION WAS STOPPED IN THIS AREA BECAUSE ADDITIONAL EXCAVATION WAS JUDGED TO HAVE THE POTENTIAL OF CAUSING DAMAGE TO THE BUILDING FOUNDATION [emphasis added]...."

Path to the statement above: [GeoTracker](#) > "Regulatory Activities" > Response Requested - Other
"[VIEW DOCS]"

- Freon 22 is expected at the ice rink location. How much Freon 22? What is the plan to investigate and mitigate concerns related to Freon 22 detection?
- Given the age of the buildings, lead paint, asbestos, and PCBs are expected to be found in the building materials for the shopping mall. How will demolition debris be handled to ensure nearby residents will not be exposed beyond lawful levels of particulate matter that may or may not also contain known toxins?
- It is expected that excavation required to build the project will result in the removal of 2.2 Million Cubic Yards of soil that will need to be hauled somewhere. Where will the soil go? What landfill will accept the soil and what are the environmental factors that will need to be mitigated from excavation, to loading, to hauling, and to relocation at "willing recipient" site?

Finally, I ask City Council to:

(1) Withdraw its opposition to the residents' lawsuit that challenges the eligibility determination and approval of the Vallco Town Center SB 35 application on the grounds that the evidence provided by residents does not support the application's compliance with the law.

(2) Launch an investigation to understand how an apparently flawed and non-compliant SB 35 application was determined to be eligible for streamlined approval and ultimately approved despite 100s of pages of evidence provided to the City by residents identifying the many instances where the SB 35 application was apparently not compliant with State law, the General Plan, and the Municipal Code.

(3) Consider any and all lawful options that are available to the City to suspend its release of demolition and construction permits to the Property Owner for the Vallco Town Center SB 35 project while the Court determines if the approved project is compliant with the law.

Sincerely,

Liana Crabtree
Cupertino resident
representing myself only

REFERENCES

(A) Link to the text of the Property Owner's letter, dated 4/23/2019 and distributed to "neighbors" via email: http://bit.ly/BCAC_Wins2019a, select file name 06_PO_newsletter_20190423.pdf.

(B) Link to text of Senate Bill SB 35: http://bit.ly/BCAC_Wins2019a, select file name 07_text_of_SB_35_20170SB35_87.pdf.

(C) Link to the 5/7/2019 letter to the Property Owner from the HMCD: http://bit.ly/BCAC_Wins2019a, select file name 08_scan_Pierce_Mickey_07_40_08-05-2019.pdf

(D) Link to the 1969 architectural drawing of the Sears automotive service center with annotations: http://bit.ly/BCAC_Wins2019a, select file name 09_sears_tanks_annotated.jpg

Note: the waste oil tank that is unaccounted for is the eastern most tank that is circled on the drawing.

(E) Link to the page from the 1999 closure report for the Sears automotive services site that identifies 6 tanks

have been remove from the site:

http://bit.ly/BCAC_Wins2019a, select file name 10_CLOS_L_1999-12-06_pg_3.jpg

(F) Link to the page from the 1999 closure report for the Sears automotive services site that identifies the location where 6 tanks were removed, but omits the status of the 1,000 gallon waste oil tank:

http://bit.ly/BCAC_Wins2019a, select file name 11_0001_sears_clos_site_plan_pg_29

(G) Link to the Vallco Town Center SB 25 application item, Project Description Part 1, submitted to the City on 3/27/2019:

http://bit.ly/BCAC_Wins2019a, select file name 12_ProjectOverviewandImages.pdf

(H) Link to the Final EIR resolution that was approved on 12/4/2014 to support the General Plan amendment that established the parameters for the Specific Plan for the Vallco Shopping District site:

http://bit.ly/BCAC_Wins2019a, select file name 13_Res_14-210_Final_EIR.pdf



Sensible_Growth - Google Drive

Total Control Panel

[Login](#)

To: cityclerk@cupertino.org

[Remove](#) this sender from my allow list

From: lianacrabtree@yahoo.com

You received this message because the sender is on your allow list.

Cyrah Caburian

From: Caryl Gorska <gorska@gorska.com>
Sent: Sunday, May 12, 2019 10:27 PM
To: Steven Scharf; Liang Chao; Rod Sinks; Darcy Paul; Jon Robert Willey
Cc: City Clerk; Grace Schmidt, MMC; City Attorney's Office
Subject: Please act against SB 35 Vallco plan on Monday!

Mayor Scharf, Vice Mayor Chao, and Council Members Paul, Sinks, and Willey:

Please include this communication for the record at tomorrow's (March 13) City Council closed session, agenda item No. 2, regarding the Friends of Better Cupertino lawsuit asking the Court to declare the SB 35 Vallco project incompatible with the criteria the SB 35 law demands, and therefore illegal. (Note: while I am the secretary for FoBC, I speak for myself only.)

I know the majority of City Council opposes not only the Vallco Special Plan it rescinded last Tuesday, but also the SB 35 Vallco proposal — and that is precisely why I voted for our two new council members.

Unfortunately, even though the Vallco Special Plan has now been defeated, *there is nothing stopping the Vallco property owner from acting on demolition / construction permits currently in process (and soon to be issued)* for its SB 35 project, despite the fact that the project's approval is being contested in court.

I am pleading for City Council to consult with legal counsel to find out what Council can do to delay permits being issued, so that residents may finally have a chance to have meaningful input on what happens at Vallco with a fair and inclusive process.

I also ask Council to pass a resolution declaring its lack of willingness to actively defend the decision made by city staff to approve the SB 35 project proposal. Although symbolic, *such a resolution would let the Court know where our elected officials stand.*

Clearly, I have a lot of skin and sweat in this game, but so do the thousands who signed referenda petitions and voted for new leadership in Cupertino. We have worked so hard, and overcome so many hurdles to get where we are. And if we don't win this one, all hope of a reasonable Vallco plan will be lost. We need your help NOW!

Thank you,

Caryl Gorska
10103 Senate Way

Total Control Panel

[Login](#)

To: cityclerk@cupertino.org
From: gorska@gorska.com

Message Score: 1
My Spam Blocking Level: Custom

[Block](#) this sender
[Block](#) gorska.com

High (60): **Pass**
Medium (75): **Pass**
Low (90): **Pass**
Custom (55): **Pass**

This message was delivered because the content filter score did not exceed your filter level.

Cyrah Caburian

From: Danessa Techmanski <danessa@pacbell.net>
Sent: Monday, May 13, 2019 3:38 PM
To: Darcy Paul; Steven Scharf; Liang Chao; Jon Robert Willey; Kitty Moore; R Wang; Vikram Saxena; Alan Takahashi; David Fung
Subject: SB 35; Vallco LUSTs; Possible Vanadium Contamination Above Acceptable Levels; HHistory of Manufacturing On/Near Vallco Property
Attachments: ATT00001.htm

Follow Up Flag: Follow up
Flag Status: Completed

Dear Council and Planning Commission,

If you don't have time to read this before tonight's May 13, 2019 Special Meeting, Item 2: Pending Litigation: Friends of Better Cupertino v. City of Cupertino, please at least read the parts in bold or red. Thanks!

I have put a lot of love and energy into the following, and I hope that you find the information herein useful as well as interesting....

As a huge proponent of market rate and BMR housing at the Vallco site, it is extremely disappointing to find that their **may be** unhealthy contamination within it's boundaries and I wish that we knew more for certain. This is exactly one of the reasons why the elimination of CEQA in the new housing bills is a horrible idea.

If there is indeed any unhealthy contamination at the Vallco site, SB-35 is not eligible.

I would like to add some background as to why this is so important to me even though I live about as far from Vallco as you can get within the Cupertino boundaries. The beach below my house where I played as a child (Palos Verdes Estates, CA) was found to be a dump site for decades by a chemical company almost 20 miles away (Montrose Chemical Company, Torrance). I have five childhood friends who developed brain cancer as well as my own only sister who has only months to live. No one every suspected anything or thought to test that beautiful and pristine beach until fish and birds seemed to be dying in large amounts.

Let's face it, there is always a potential risk of chemical exposure most everywhere in this valley, but what if it was your family? If I had to chose between a vacant lot and one person losing their loved one because of a contamination over-site I would take the vacant lot hands down. Not trying to run around like Erin Brochovich here, but **if** the levels of vanadium in the soil do impose a health hazard then we need to make sure that residents and workers won't be exposed to in the tons of dust resulting from demolition, excavation and construction at Vallco. Sand Hill will have to clean it up and I am sure that will be both time consuming and expensive. It may be that some parts of the property are more suitable for housing than others, or that extreme precaution with need to be taken in moving and excavating the soil in particular areas.

Please keep in mind that the most common point of entry for vanadium exposure is through the lungs so just having it below the soil isn't necessarily a hazard. It is dredging it up and blowing it through the air that makes it a problem. One exposure here and there might not be problem, but over months to years of soil disturbance you can have quite a different scenario with erratic and varying amounts of particulate.

It is disappointing that Staff and Planning did not pay attention to, or advise Council on vanadium and cobalt contamination as presented in the 2016 soil report. We still have no definitive information about the status of a missing Sears waste oil UST and it appears from records that there was some sort of drainage and oil/water separator near the foundation of Penney's Automotive that contained TPH diesel fuel at 14 ppm. Attempts at removal of that separator and the soil were abandoned because of the danger of damage to the foundation of Penney's:

https://geotracker.waterboards.ca.gov/regulators/deliverable_documents/8727142155/0003%2Epdf (see case: J.C. Penney's, doc 0003. pdf pp1-2, document page numbers 4-5):

Why didn't the City insist on a Phase II ESA when they received the inconclusive results of the Phase I ESA in 2018?

Vallco is currently listed on the California Department of Toxic Substances Control and has NOT been cleared by the State even though the tank is considered "closed," therefore I don't see how it would be eligible for SB 35 so I'm at a loss as to how it was deemed compliant by our former Temporary City Attorney, Council and Staff.

Considering the above, I would like to voice my disappointment with Sand Hill's April 23, 2019 email from Reed Moulds assuring Cupertino residents that the Vallco property has been examined and that it is completely clear and safe for demolition and construction.

I read the geophysical ground penetrating radar survey in the City records and was surprised to find that SHP had spent only \$350. to a utility locator company with a P.O.Box in Scotts Valley to do the job. The receipt notes that the **sites to be explored were determined by SHP and only done around Sear's Automotive. One of the actual areas of contamination in question is next to Penney's and it was NOT explored by California Utility Locators.**

It seems quite a stretch for SHP to claim that they had determined the absence of LUSTs on the ENTIRE Vallco property by only checking one chosen area! (see below).

Excerpt from Reed Mould's Letter to Cupertino residents on April 23, 2019:

"Environmental Clearance

*Last week we received an exhaustive, 1,234-page report on the environmental condition of the Vallco site from WSP USA, a leading environmental construction and engineering management firm. The report gave the Vallco site a clean bill of health. The analysis assessed site conditions, historical data, and data obtained through three phases of soil investigations in 2018 and 2019. WSP analyzed a total of 87 soil samples, conducted a series of test pits, **and even performed a geophysical ground-penetrating radar survey, all to confirm there is no evidence of contamination above human health and safety levels or naturally-occurring background levels, nor any evidence of any underground structures, such as tanks.** We're pleased to share that the results are clear, confirm that the site is appropriate for residential use, and conclude that no further investigation or clean-up is necessary."*

Below From Site Characterization Report filed with the City, Part 2 of 2, Appendix F, GPR Survey Report:
<https://www.cupertino.org/Home/ShowDocument?id=24170>

California Utility Locators
PO Box 67066
Scotts Valley, CA 95067
831-239-6057

SOLD TO

Sand Hill Prop.

965 Page Mill R.

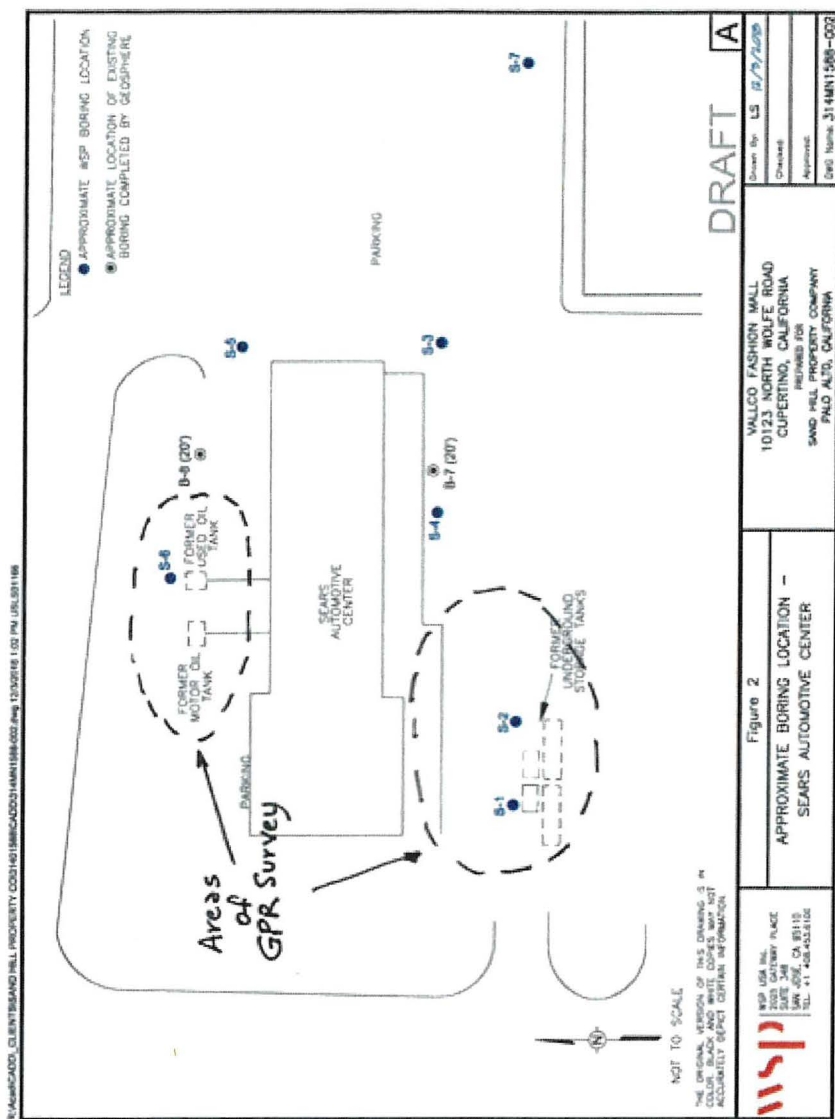
Palo Alto, CA 943

Rick Freudenber

QTY.

MATERIAL

Drawn By: LS 12/19/2019



I would also like to note that at the April 23, 2019 Cupertino Planning Commission Meeting Sand Hill's attending geophysical expert claimed that Vallco was not toxic despite reports of known vanadium. She also claimed that the property had been nothing but farmland before Vallco Shopping Mall was built. That is also summarized in Part 1 of 2 in the WSP Vallco Site Characterization Report under Background 2.1 on p. 5. <https://www.cupertino.org/Home/ShowDocument?id=24169>

Excerpt:

"The area surrounding the Site is residential and commercial. Prior to construction of the Mall, the Site contained orchards since at least 1939. Based on review of historical aerial photographs, the southeastern portion of the Site included buildings that appear to have been associated with the former agricultural activities (Figure 1). The Site was used as a retail shopping mall since at least 1979."

But the buildings surrounding the current shopping mall were much more than just "agricultural" outbuildings, and that is not the full story of Vallco's history.

In the 60's 470 acres of the land that Vallco now sits on was sold off to Varian Associates from local farmers who also, by the way, used underground storage tanks. In 1963 Varian Associates (and others) who's initials make up the "VA" in "Vallco" began to build Vallco Business park which covered the south- eastern side of that acreage.

Coincidentally, one of the largest users of the heavy metal vanadium in early Silicon Valley was Varian Associates. It was, and is used in Klystron technology, the manufacture of clean vacuum tubes, getters, and super electromagnets used in resonance imaging, linear accelerators, and nuclear reactors. **I am not saying that they used the Vallco property as a manufacturing waste dump**, but there really is no way to be certain that nothing was ever "tossed out." It was not at all uncommon back in the 60's and even the 70's to just dump all kinds of hazardous substances right out the back door, down the drain, or into a nearby field. Keep in mind though that Russell and Sigurd Varian were remarkable brothers who literally changed the course of computers, aviation, medical diagnostics and helped us win WWII. They both loved nature, the outdoors, and were champions of public park space. They were the ones who created Castle Rock State Park. They also invented the fuse for the atomic bomb which they both horribly regretted later.

Vanadium is found in association with fossil fuels which were used and stored on the site. It was also used in vacuum tubes for early computers (likely used and manufactured in the larger Vallco area), and in photo processing chemicals (there were two to three such business in the property's history). It was used extensively in hollow cathode lamps made by both Varian Associates and Agilent Technologies. **Adjacent companies predating the Vallco mall included Intersil Inc., General Precision Inc. (also makers of vacuum tubes), Mark Systems Inc., Multi-Access Systems, a Vallco Park, Ltd. light industrial building(?), and Varian Associates which was later sold to Hewlett Packard.**

Vanadium is a rare heavy metal that binds to soil and is not normally present in the soil in high concentrations other than near coal, fossil fuel, or volcanic fumaroles. 98% of it is mined and imported from Russia, South Africa and China. It is mostly imported for use in strengthening steel for building materials, cars, planes and tools, however, none of that type of manufacturing ever took place at Vallco to my knowledge. That is why its presence at Vallco seems a bit off. I did not see it mentioned in the soil reports for Apple II which might indicate that vanadium is not indigenous to the soil in the greater area. I will continue to look into any other soil reports in the adjacent areas that I can find.

I would like to make it clear that **the vanadium and cobalt presence at Vallco could be a geologic anomaly and I'm not looking for someone to blame here.** Vanadium pentoxide is the most common form found naturally in soils, but **it has also been classified on the California Government Occupational and Environmental Health Hazards Prop 65 list to cause cancer:**

<https://oehha.ca.gov/proposition-65/chemicals/vanadium-pentoxide-orthorhombic-crystalline-form>

I researched the possibility of the contamination being from earlier farming fertilizers but read that vanadium is detrimental to fruit production and tomatoes (also a fruit) so I'm thinking that is not likely since that farm land was used extensively to grow prunes and apricots for Gerber baby food as well as dried fruit shipped across the country. Deeper core soil samples show high levels of vanadium and cobalt around Penney's, but it is possible that It could have been dredged into the soil during construction of the mall, or it might have been there naturally. Without knowing more details about excavation or dirt that was brought in it would be hard to say.

Anyhow, long story short, I find it disappointing, but not surprising, that SHP omitted this part of Vallco's history.

It is my understanding that the Vallco soil was considered unsuitable for dumping at Treasure Island, but that may be because vanadium levels there are already at their EPA threshold. I could not say without more information.

https://gallery.mailchimp.com/103717661a2bc55a2d1de9d6b/files/84cd8b57-40d2-44bd-9b2b-394dc1f98f4c/SiteCharacterizationReportTables1_9.pdf?mc_cid=12bb78d7cd&mc_eid=39ab1acc6d

So here is some information about the early days of the original larger Vallco property:

The Early Days of Vallco

A major milestone in Cupertino's development came in the early 1960s with the creation of VALLCO Business and Industrial Park by some of the city's largest landowners. **Of the 25 property owners impacted, 17 pooled their land to form VALLCO Park, six sold to Varian Associates, a thriving electronic firm founded by Russell Varian, and two opted for transplanting to farms elsewhere.** The name VALLCO was derived from the names of the principal developers: Varian Associates and the Leonard, Lester, Craft and Orlando families. **Originally a business park, VALLCO later evolved into a retail shopping center.**

Source: <https://www.cupertino.org/our-city/about-cupertino/history>

Vallco Business and Industrial Park, Varian Associates, Manufacturing Facility, Cupertino, CA (1968)

Structure Type: built works - industrial buildings - factories

Designers: [Rockrise and Watson, Architects](#) (firm); [George Thomas Rockrise](#) (architect); [William Joseph Watson](#) (architect)

Dates: constructed 1968

Vallco
Vallco Park, Cupertino, CA

Overview

This Varian Associates factory was one of the first built at the VALLCO Business and Industrial Park in Cupertino. "VALLCO" was an acronym containing the first letters of the landowners' last names who owned the 470-acre property, including Varian Associates and the Leonard, Lester, Craft and Orlando Families. (See City of Cupertino, "[History](#)," accessed 06/16/2016.) **Varian announced in 1965 that it would be building manufacturing facilities at this location.** (See Glenna Matthews, *Silicon Valley, Women, and the California Dream: Gender, Class, and Opportunity in the Twentieth Century*, [Stanford, CA: Stanford University Press, 2003], p. 149.)

PCAD id: 20243

<http://pcad.lib.washington.edu/building/20243/>

Varian was located at the former HP site. In 1966 Varian Associates got a use permit. The Varian building was built in 1968 on the HP site.

PC Minutes March 28, 1966, page 1

Correction to the Minutes of March 16th:

Mr. Bob Worcester, of Varian Associates, corrected the last sentence of the second paragraph of page two to read as follows: "Varian's industrial complex will have their main access only onto Homestead and Pruneridge, and the Wolfe Road entrance will be the visitor access."

Moved by Comm. Traeumer, seconded by Comm. Horgan, to approve as corrected the Minutes of March 16th.

Motion carried, 5-0

-1-

Pacific Coast Architecture Database (PCAD)

LINK: <http://pcad.lib.washington.edu/building/20243/>

The screenshot shows a web browser window with the URL <http://pcad.lib.washington.edu/building/20243/>. The page features a search bar with the text "search for person, firm, or building" and navigation links for "People", "Buildings", "Firms", and "More". The main heading is "Valco Business and Industrial Park, Varian Associates, Manufacturing Facility, Cupertino, CA (1968)". Below this, it lists "Structure Type: built works - industrial buildings - factories", "Designers: Rockrise and Watson, Architects (firm); George Thomas Rockrise (architect); William Joseph Watson (architect)", and "Dates: constructed 1968". A section titled "Overview" provides a detailed description of the facility, noting it was one of the first built at the VALLCO Business and Industrial Park in Cupertino. The page also includes a "PCAD id: 20243" and a footer stating "Pacific Coast Architecture Database (PCAD) — © 2005-2018 Alan Michelson".

History of Businesses on the Larger Valco Property Adjacent to the Current Mall

From archived Cupertino City Council Records:

1. 1965

- a. 04-05-65 CC Minutes, p7, p12
- b. 07-26-65 CC Minutes, p 3-4, "Valco Water Distribution"
Valco needed water.
- c. 10-19-65 CC Minutes, p1-2, Water Quality for manufacturing
- d. 11-16-65 Use Permit #18 Valco Park, Mr. Walter Ward

- e. 12-06-65 CC Minutes, p3, Vallco Park Admin building at Pruneridge Ave and Wolfe Rd. Currently, surrounded by orchards.
2. 1966
- a. Use Permit 2-U-66, Vallco Park
 - b. Use Permit 7-U-66, Vallco Park
 - c. Use Permit 14-U-66, Gen'l Precision, Inc. (Vallco Park)
 - d. Tentative Map 3-TM-66, Vallco Park (Walter Ward)
 - e. Tentative Map 4-TM-66, Vallco Park
 - f. Rezoning, 4-Z-66 Vallco Park
3. 1967
- a. Use Permit 16-U-67, VALLCO PARK (Intersil Inc. electronics facility)
 - b. Use Permit 24-U-67, VALLCO PARK (Mark Systems, Inc.)
 - c. Use Permit 25-U-67, VALLCO PARK (Will W. Lester – re tower and antenna)
4. 1968
- a. 7-TM-68 Vallco Park
 - b. 26-TM-68 Varian Associates
 - c. 18-U-78 VALLCO PARK (ISS, Inc, International Storage Services) (SEE 20-U-69)
 - d. 22-U-68 VALLCO PARK
5. 1969
- a. Use Permit 13-U-69 VALLCO PARK
 - b. Use Permit 15-U-69 VALLCO PARK – INTERSIL, INC. (expansion)
 - c. Use Permit 17-U-69 VALLCO PARK – MULTI-ACCESS SYSTEMS
 - d. Use Permit 20-U-69 VALLCO PARK (Expansion of ISS, Inc.) Trailer Storage, See also 18-U-68
 - e. Use Permit 23-U-69 VALLCO PARK (Pet Shop)
 - f. 22-TM-69 VALLCO PARK
6. 1970
- a. Use Permit 8-U-70 VALLCO PARK – Mark Systems, Inc. P(Zone)
 - b. Use Permit 25-U-70 Fotomat Corporation P(Zone)...maybe not at Vallco
 - c. Rezoning 10-Z-70 VALLCO PARK
7. 1971
- a. Use Permit 5-U-71 VALLCO PARK LTD, 2-story 58,000 sq ft office industrial bldg. and 3-story 50,000 sf office building south side of Pruneridge Avenue between Wolfe and Tantau
 - b. Use Permit 6-U-71 VALLCO PARK LTD, Hilton Inn Hotel, SE corner of Wolfe Road and Pruneridge Avenue

- c. Use Permit 7-U-71 VALLCO PARK LTD, Two 3-story and three 2-story office bldgs.. Northeast corner of Wolfe Road and Stevens Creek Blvd.
 - d. Use Permit 38-U-71 VALLCO PARK LTD, Light Industrial Building
8. 1972
- a. Nothing found
9. 1973
- a. Use Permit 2-U-73 Vallco Park (Four Phase)
 - b. Use Permit 6-U-73 Vallco Park, Ltd. (Regional Shopping Center)
 - c. Use Permit 9-U-73 Union Carbide Company (Vallco Park)
 - i. Notice of determination needed
 - d. Use Permit 10-U-73 The Westfield Company (was this Vallco?)
 - i. Notice of determination needed
 - e. Use Permit 11-U-73 Hewlett Packard (Vallco Park)
 - f. Use Permit 15-U-73 Vallco Park (Internal Parking Lot Addition)
 - g. Use Permit 17-U-73 Will W. Lester (maybe Vallco?)
 - h. Use Permit 20-U-73 The Westfield Co. (Pruneridge & Tantau) (25-EA-73) (1-EIR-74)
 - i. Use Permit 21-U-73 Vallco Park (Wolfe & Pruneridge), 2 Commercial & 3 Recreational
 - j. 4-TM-73 VALLCO PARK (Four Phase)
 - k. 11-TM-73 HEWLETT-PACKARD
 - l. 12-TM-73 VALLCO PARK (HILTON INN)
 - m. 1-EIR-73 Hewlett-Packard
 - i. Notice of determination needed
 - n. 2-EIR-73 City of Cupertino General Plan
 - o. 3-EIR-73 Vallco Park – Regional Shopping Center
 - i. Notice of determination needed
 - p. 4-EA-73 Vallco Park, Ltd. (Regional Shopping Center)(6-U-73)
 - q. 9-EA-73 The Westfield Company
 - i. Notice of determination needed
 - r. 10-EA-73 Royaden E. Stark (Union Carbide Company, Vallco Park)
 - i. Notice of determination needed
 - s. 11-EA-73 Hewlet-Packard
 - t. 25-EA-73 The Westfield Co. (SE corner Pruneridge & Tantau Ave.) Westfield
 - u. 27-EA-73 Vallco Park
 - v. See list of items that need “Notice of determination”
10. 1974

Additional Research on the Health Effects of Vanadium Exposure in Humans :

Please note that I am absolutely no expert on vanadium exposure. Studies are extremely poor and varied. One thing is consistent Exposure to high levels of vanadium pentoxide in air can result in lung damage.

"Nausea, mild diarrhea, and stomach cramps have been reported in people some vanadium compounds. A number of effects have been found in animals ingesting vanadium compounds including decreases in the number of red blood cells, increased blood pressure, and mild neurological effects.

The International Agency for Research on Cancer (IARC) has classified vanadium pentoxide as possibly carcinogenic to humans based on evidence of lung cancer in exposed mice.

Studies in animals exposed during pregnancy have shown that vanadium can cause decreases in growth and increases in the occurrence of birth defects. These effects are usually observed at levels which cause effects in the mother.

The Occupational Safety and Health Administration (OSHA) has set a legal limit of 0.5 milligrams per cubic meter (0.5 mg/m³) for vanadium pentoxide dust as a ceiling limit not to be exceeded during the workday. A ceiling limit of 0.1 mg/m³ for vanadium pentoxide fumes has also been established."

1 cubic meter of soil = 1602.8 kg.= 1.6 tons

There are up to 60mg./kg of vanadium in the Vallco soil tests. That would translate to 96mg.of vanadium per cubic meter of soil at Vallco (60mg/kg. x 1.602). Compare that with the daily airborne acceptable level of .5 mg.

From the U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Public Health Service Agency for Toxic Substances and Disease Registry (ATSDR):

"Workers exposed to a range of vanadium pentoxide dust levels for as little as 1 day (Levy et al. 1984; Musk and Tees 1982; Thomas and Stiebris 1956; Zenz et al. 1962) or as long as ≥6 years (Irsigler et al. 1999; Lewis 1959; NIOSH 1983; Sjöberg 1956; Vintinner et al. 1955; Wyers 1946), show mild respiratory distress, such as cough, wheezing, chest pain, runny nose, or sore throat. One study of chronically-exposed workers showed increased neutrophils in the nasal mucosa (Kiviluoto 1980; Kiviluoto et al. 1979b, 1981a). More severe pathology has not been reported. Symptoms are reversible within days or weeks after exposure ceases. Data were not located to assess the relationship of exposure level or duration to severity of response.

The mean urine vanadium level (assessed via spot urine samples) in the hyperresponsive group was 52.7 µg/g creatinine compared to 30.7 µg/g creatinine in 12 matched subjects with persistent respiratory symptoms and without bronchial hyperreactivity; statistical comparisons of the two groups were not made. Five to 23 months after removal from exposure, bronchial hyperreactivity was still present in nine of the subjects, although the response was less severe in five of them and more severe in one subject."

Source: <https://www.atsdr.cdc.gov/toxprofiles/tp58.pdf>

"Vanadium can enter the body either by inhalation of air containing vanadium, ingestion of food or water containing vanadium, or by dermal contact with vanadium. Inhalation of air containing vanadium can cause lung irritation, sore throat, wheezing, chest pain, runny nose, and asthma. Exposure to vanadium may affect the central nervous system with symptoms including headache and tremors. There is little evidence for the full effects of ingestion of vanadium on human health, however some studies indicate that symptoms include abdominal cramps, diarrhoea and a green colour

to the tongue. Dermal contact with vanadium compounds can cause skin irritation and dermatitis. The International Agency for Research on Cancer has not designated vanadium in terms of its carcinogenicity. The International Agency for Research on Cancer has designated vanadium pentoxide as a possible carcinogen. However, exposure to vanadium at normal background levels is unlikely to have any adverse effect on human health."

Source: <http://apps.sepa.org.uk/spria/Pages/SubstanceInformation.aspx?pid=110>

Thank you so much for your patience in reading the above.

My ask is that the City do an independent soil test and hire an expert independent consultant to determine whether the levels of vanadium at Valco will pose a health risk to workers and the surrounding community during the prolonged disturbance of tons of soil on the property during construction.

Please also have an independent geophysical ground radar survey done around the perimeter of Penney's site as well as more thorough soil testing for both vanadium and TPH diesel fuel.

I pray that this does not effect the housing at Valco and I hope that a professional assessment will show that the property is safe or that something can be done to mitigate the situation and limit exposure **if** it is indeed a problem.

Please enter this into the public record.

Thank you ,
Danessa Techmanski

Total Control Panel

[Login](#)

To: sscharf@cupertino.org

[Remove](#) this sender from my allow list

From: danessa@pacbell.net

You received this message because the sender is on your allow list.