

CC 5-31-2022

#1

The Rise (Vallco)

Supplemental Staff Report



COMMUNITY DEVELOPMENT DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA
95014-3255 TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333
CUPERTINO.ORG

SUPPLEMENTAL CITY COUNCIL STAFF REPORT

Meeting Date: May 31, 2022

Subject

City Manager Report regarding the Rise (Vallco) development - request for modification of approved SB 35 project pursuant to Government Code section 65913.4(g)

Recommended Action

Receive the report

This additional information is being provided to further clarify and provide additional information regarding the proposed modifications to the former Vallco Town Center pursuant to SB 35 project – now The Rise development.

Clarification regarding slope line: As determined in 2018, there are no height limits applicable to the original or modified project. However, the Community Form Diagram (Figure LU-2) in the Land Use Element of the 2018 General Plan identifies building planes that the project must meet. Figure LU-2 states as a foot note: “Maintain the primary building bulk below a 1:1 slope line drawn from the arterial/boulevard curb line or lines except for the Crossroads Area” and “For the North and South Vallco Park areas (except for the Vallco Shopping District Special Area): Maintain the primary building bulk below a 1.5:1 (i.e., 1.5 feet of setback for every 1 foot of building height) slope line drawn from the Stevens Creek Blvd. and Homestead Road curb lines and below 1:1 slope line drawn from Wolfe Road and Tantau Avenue curb line.” In 2018, it was determined that the original project met this standard. The 2022 modified project continues to meet this standard by maintaining the 1:1 slope line for all proposed buildings, including the green roof deck, from the arterial/boulevard curb line from Stevens Creek Boulevard. There are portions of the green roof deck that continue to encroach into the 1:1 slope line from Wolfe Road; however, the primary building bulk continues to remain outside of the 1:1 slope line. Slope line sections are indicated on Sheets P-0845 and P-0845.01.

Independent Analysis of Floor Area within the development by type of use: As mentioned in the prior staff report, an independent analysis of the square footages was initiated by the City.

The following table shows the square footage of various uses provided by the applicant and the square footage calculated by the City’s consultant, based on plans submitted by the applicant. Any methodological differences between the applicant’s calculation and the City’s review do not impact the project’s compliance with SB 35 criteria or applicable objective standards.

	Approved (2018)	% of Total	2022 Project Plans (SF)	% of Total	2022 Modification (SF)	% of Total
Residential	4,961,904	66.8	5,119,005	68.1	5,219,907	68.1
Retail	485,912	6.5	429,408	5.7	500,344	6.5
Office	1,981,447	26.7	1,973,494	26.2	1,949,797	25.4
Total	7,429,263	100	7,521,907	100.0	7,670,348	100.0

Next Steps

The City Manager will make a decision on the applicant’s modification request based on the criteria for ministerial approval set forth in Government Code section 65913.4(g). The 60-day review period under section 65913.4(g) expires on June 3, 2022.

Prepared by:

Piu Ghosh, Planning Manager

Reviewed by:

Benjamin Fu, Director of Community Development

Christopher Jensen, City Attorney

Approved for Submission:

Jim Throop, City Manager

CC 05-31-2022

Item No. 1

City Manager Report
regarding the Rise
(Vallco) development
modification of
approved SB 35
project pursuant to
Government code
section 65913.4

Written Communications

From: [Rose Grymes](#)
To: [City Council](#); [City Clerk](#)
Subject: City Council May 31, Agenda Item the Rise, request for modification
Date: Tuesday, May 31, 2022 3:55:38 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

My name is Rose Grymes and I have lived in Cupertino for 15 years. I am a member of the Audubon Society and previously have participated with city staff, commissions, and the City Council on a variety of issues, including advocating bird safe design and dark skies.

Tonight, I particularly wish to additionally address Reed Moulds, Managing Director of Sand Hill Properties. I'm on his mailing list and follow updates on The Rise. The development may well be a useful addition to Cupertino and a welcome resource of new housing availability. I appreciate the previous design modifications and the attention to using new approaches to design and construction. The landscaping solutions with native plants and green space are improvements, but don't pair well with the extensive utilization of glass in the surrounding buildings.

Please rethink this design; it is old school. Modern and environmentally sensitive/sustainable architecture demands solutions that integrate organically with the surroundings. Cupertino is not a glass and steel metropolis, but a community of neighborhoods and parks. Don't let The Rise become an obsolete design statement or an eyesore; and save the birds we hope to attract with the green sward.

Rose Grymes

Sent from my iPhone

From: [Rashi Sharma](#)
To: [City Council](#); [City Clerk](#)
Subject: City Council May 31, Agenda Item the Rise, request for modification
Date: Tuesday, May 31, 2022 3:05:56 PM

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Good afternoon,

I'd like to have a public comment read into the record at today's City Council meeting. It is written below. Please let me know if you have any questions or concerns.

Thank you,
Rashi Sharma

Good evening Mayor Paul, Vice-Mayor Chao, Councilmembers, and City Manager. My name is Rashi, and I am a local high school student and intern with the Santa Clara Valley Audubon Society. I am concerned with our climate and biodiversity crises, and a significant part of my advocacy has been for bird-safe design and dark skies.

In addressing The Rise, we are concerned that the developer may have abandoned previously stated commitments to bird safety. We hope that The Rise will abide by Cupertino's Bird Safe and Dark Sky Ordinance.

First, North America has lost over $\frac{1}{4}$ of its birds since 1974, and window strikes are one of the primary causes. For Cupertino, this is an especially significant issue, as it has a lot of biodiversity to lose, especially birds. Also, since 2012, LED lighting has become ubiquitous, as they are cost and energy efficient. However, they are harmful for ecosystems and humans. Research has shown that they disorient animals during migrations, and can cause insomnia, mental health problems, and even cancer in humans. These are just a few of the many negative effects of pervasive LED lighting. Cupertino leads the region with its Dark Sky ordinance, and this development should, too.

Finally, steel and glass buildings are unsustainable. They are not energy efficient, as glass is not a good insulator. Professor David Coley from the University of Bath found that triple-glazed windows release 10 times the heat of a well insulated wall of the same area. This means that for the life of the project, air-conditioning and heating costs, and use of energy will be higher than is good for residents and for the environment.

Please consider complying with the City's Bird Safety and Dark Sky Ordinance and block internal lighting from being visible from the outside at night in The Rise.

Thank you,
Rashi Sharma
Intern

Santa Clara Valley Audubon Society

From: [Peggy Griffin](#)
To: [City Council](#); [Jim Throop](#); [Piu Ghosh \(she/her\)](#)
Cc: [City Clerk](#)
Subject: 2022-05-31 CC Special Mtg - Agenda Item #1 City Manager's Report on the Rise
Date: Tuesday, May 31, 2022 2:54:50 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor Paul, Vice Mayor Chao, Council Members, City Manager Troop and Staff,

Thank you for presenting information as to the Staff's review of the 2022 Vallco "The Rise" SB-35 Modification plan.

I have the following questions/requests regarding the Staff Report:

1. Hazardous Waste Site –
 - a. **REQUEST: ADDRESS THE ELEPHANT IN THE ROOM – HAZARDOUS WASTE!!!**
 - b. As part of the application form, Supplemental Responses, the applicant is supposed to provide "evidence that the site has received the required clearance...for development as a residential use or residential mixed-use"
 - i. REQUEST: Where is this evidence? If it does not exist, then how can this modification be approved?
 - c. There is NO discussion of the EXTENSIVE hazardous waste that was/is present!
 - d. There is NO discussion of the GeoTracker information.
 - e. There is NO mention that the latest letter from DEH has stated that with all the soil samples they've obtained, the developer has not yet determined the depth of this contamination AND if not determined, the DEH may put a deed restriction on the land! This would prevent residential!
 - f. There is NO explanation as to why this site has not been added to the "lists". Why not after all this?
1. Parking –
 - a. There's a loss of almost 3,000 spaces! Who takes the hit (Office workers? BMR residents? Market rate residential? Retail shoppers?)
 - b. REQUEST: Discuss who lost the parking.
2. Tentative Map – the Staff Report neglects to describe what these changes.
 - a. REQUEST: Please describe the changes.
3. Prevailing Wages and Skilled/Trained workforce – this is a key requirement
 - a. REQUEST:
 - i. What procedures are in place to ensure this occurs during the entire life of the project?
 - ii. What are the consequences if they don't comply, especially AFTER construction starts?
5. Fiscal Impact –
 - a. There's NO mention of the expenses the city will incur, one time and ongoing year to year, as a result of more people!

- b. There's NO mention of people generation i.e. # of students, # of residents, # of office workers, # of retail employees (2018 vs 2022)
 - c. All these people will impact the city's expenses but there's no mention of this AT ALL!!!
 - i. REQUEST: Discuss the expenses the city will incur.
6. Parkland and Open Space – no discussion
- a. REQUEST: What are the changes?
7. Requirement of 2/3rds of total SF for residential use
- a. REQUEST: What were the exact SF numbers for 2018 and for this 2022 modification?

Sincerely,
Peggy Griffin

From: [Lowenthal Postmaster](#)
To: [City Clerk](#); [City Council](#)
Subject: The Rise
Date: Tuesday, May 31, 2022 2:47:21 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please read my comments for the public record at tonight's City Council meeting.

Honorable Mayor Paul and the Cupertino City Council,

I hope that tonight you'll approve the modifications as requested for The Rise. The residents of our City are just itching to see something happen in the middle of town and you're the key to make that happen.

I think you'll agree that the modifications just make the project better plus they get the show on the road so that our city can move forward.

This no longer has anything to do with the developer; instead this is your chance to give our residents a place for new goods and services.

With respect,

Richard Lowenthal

From: [Donna Austin](#)
To: [City Council](#); [City Clerk](#); [Kirsten Squarcia](#); [Hung Wei](#)
Subject: Agenda Item 22-11041 Please read
Date: Tuesday, May 31, 2022 1:39:55 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mayor Darcy Paul and City Council Members:

The RISE formerly called Vallco Hills, is a wonderful project that brings critically needed housing to Cupertino. I love the blend and synergy this project brings to housing, retail and open space. The modifications proposed, fine tunes the housing element, and brings Cupertino into compliance with the State's mandates to alleviate the severe housing shortages throughout California. I whole heartedly urge you to accept this report and streamline the process for completing this wonderful project, The RISE.

Donna Austin
47 year Resident of Cupertino
22283 N. De Anza Circle
Cupertino, CA 95014
408-499-9031
primadona1@comcast.net

Sent from [Mail](#) for Windows

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To: [City Council](#); [City Clerk](#); [Kirsten Squarcia](#); [Hung Wei](#)
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47 year Resident of Cupertino
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Cupertino, CA 95014
408-499-9031
primadona1@comcast.net

Sent from [Mail](#) for Windows

From: [Liana Crabtree](#)
To: [City Council](#); [City Clerk](#)
Cc: [Cupertino City Manager's Office](#)
Subject: written comment, 5/31/2022, Council meeting, Agenda Item 1, report regarding the Rise (Vallco) development
Date: Tuesday, May 31, 2022 11:47:29 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Honorable Mayor Paul, Vice Mayor Chao, Council Members Moore, Wei, and Willey, and City Clerk Squarcia:

Please include my letter as written communication for the 5/31/2022 meeting of the City Council, Agenda Item 1 "City Manager Report regarding the Rise (Vallco) development - request for modification of approved SB 35 project pursuant to Government Code section 65913.4(g)"

It is unlikely that I will be able to attend tonight's Council meeting, If I am able to view the live recording of tonight's meeting, I will send my comments below to the City Clerk at the beginning of public comment and request that the comments are read aloud during public comment.

~ + ~ + ~ + ~

I have 3 items for Council's consideration regarding the on-going care and handling of the development site located north of Stevens Creek Blvd and north of Vallco Parkway on both sides of Wolfe Rd (Stevens Creek/Wolfe project):

Ask 1) If land in Cupertino, independent of special district entitlements, is valued by investors at \$10 Million per acre, then the 52-acre Stevens Creek/Wolfe site would be valued at approximately \$500 Million. Development under the 2022 project submission would include underground parking, 7.5 Million square feet of above-ground office, residential, and retail use construction, and a complex, interconnected roof canopy. ***Through an independent study conducted by the City of nation-wide projects of comparable size and scale to the Stevens Creek/Wolfe project, approximately how many years would it be before the site is 25% complete and occupied? 50% complete and occupied? 75% complete and occupied? 95%+ complete and occupied?***

Ask 2) The financial analysis provided by the property owner as part of the 2022 submission for the Stevens Creek/Wolfe project estimates net annual general fund revenue of \$4.3 Million from the site. ***Through independent financial analysis conducted by the City, what are the estimated revenues and costs received and borne by City when the site is 25% complete and occupied? 50% complete and occupied? 75% complete and occupied? 95%+ complete and occupied?***

Ask 3) Local residents have been consistent in their skepticism of the narrative that

adding high-density office development and market-rate homes to a region with insufficient safe, affordable housing would improve long-term, housing outcomes for residents with moderate and low incomes. Meanwhile, the State (through legislation) and the County (through Court decisions) assert that massive mixed-use developments like the one proposed under the Stevens Creek/Wolfe project are necessary for the greater good of the region. ***If the results of Asks 1 and 2 above indicate the greater good of the region comes at costs that are unreasonable for a city of 57,000 people to bear alone, for Ask 3, I request the City to consider Detachment, where the Stevens Creek/Wolfe project moves forward as now, protected by State law, but under the jurisdiction of the County of Santa Clara, where the entire County shares in the costs and benefits of the Stevens Creek/Wolfe project.***

Sincerely,

Liana Crabtree
Cupertino resident

REFERENCES

2022 Fiscal Impact Analysis, "Fiscal Impacts of Vallco Project", dated 3/23/2022:
https://apps.cupertino.org/pdf/Vallco/2022_0324%20SB-35%20Modification%20Application/1_Modification%20Documents/Appendix%20VI%20-%20Updated%20Fiscal%20Impact%20Analysis.pdf

Cupertino, California Population 2022: <https://worldpopulationreview.com/us-cities/cupertino-ca-population>

Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, "Chapter 3: Effect of Detachment," PDF pp 182-183:
<https://calafco.org/sites/default/files/documents/CKH%20Guide%20Update%202021.pdf>

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For assistance in Español, Tiếng Việt, 中文 or Tagalog, please call the Advice Line at 1-866-870-7725.

◦ ◦ ◦ ◦ [County of Santa Clara COVID-19 Updates and Quick Links](#) ◦ ◦ ◦ ◦

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Sincerely,

Liana Crabtree
Cupertino resident

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<https://calafco.org/sites/default/files/documents/CKH%20Guide%20Update%202021.pdf>

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◦ ◦ ◦ ◦ [County of Santa Clara COVID-19 Updates and Quick Links](#) ◦ ◦ ◦ ◦

From: [Connie Cunningham](#)
To: [City Council](#); [City Clerk](#)
Subject: City Council May 31, Agenda Item the Rise, request for modification
Date: Tuesday, May 31, 2022 4:24:50 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good evening, Mayor, Vice-Mayor, Councilmembers and City Manager:

My name is Connie Cunningham. I have lived in Cupertino for 34 years. I currently serve on the Housing Commission. I am speaking for myself only. I am also a member of the Audubon Society and have advocated for the Cupertino bird-safe design and dark skies ordinance.

Tonight, I am addressing the Council, City Staff, all people who have joined us on line or in the room. Particularly I want to address Reed Moulds, Managing Director, Sand Hill Property Company.

Reed Moulds, I have met you in these same chambers early in the SB35 process. I have shaken your hand and congratulated you on the work you were undertaking to build homes in our community. I particularly have been interested in the Below-Market Rate homes since they fill a niche that is desperately needed for thousands of people who work in our City.

I have read the modifications and think you made good changes to improve on your original proposal. Housing. Retail. Businesses. Traffic. Green Roof. The Green Roof is creative thinking to add native plants to a large area of open space that is so needed in the city. You have told us that it has received international awards. That increases your company's reputation and will leave you with a long-lasting legacy.

There are 3 important issues. Thinking about the drawings that depict how The Rise will look I have thought about the open space and discussed it with friends. We have realized that the open space being created is not consistent with the multi-storied glass and steel buildings that have been depicted.

First, Bird Safety. Although biodiversity will be served by open space, sadly, many of the birds that will be attracted to the open space, will die upon impact with the glass walls that will be built adjacent to the open space.

Second, Light Pollution. LED lighting has transformed our nights. As energy efficient and inexpensive lighting became accessible, light pollution has become pervasive and inescapable. The list of harmful effects is long and frightening.

Third, the lifetime carbon impact and sustainability of these glass and steel buildings goes in the wrong direction, increasing rather than decreasing carbon impact. In California, which is leading the fight to reduce carbon use, this is a critical issue.

I quote David Coley, Professor of Zero Carbon Design at the University of Bath is a leading design and climate expert. He points to research showing that even triple-glazed windows lose 10 times the heat a well-insulated wall of the same area does. He estimates a large

building walled entirely with double-glazed windows could 'leak' as much energy overnight, when not even in use, as the average daily consumption of 1,500 UK homes.

<https://phys.org/news/2021-10-steel-and-glass-fuel-global-climate-injustice.html>

Why I care:

<!--[if !supportLists]-->1. <!--[endif]--> Bird Safety

It is estimated that over a billion birds are killed by human impacts every year.

Window strikes are one of the primary factors contributing to the carnage, and bird numbers and populations are declining. Indeed, in the past 48 years, North America has lost 29% of its birds. In Cupertino, many of the loveliest birds are frequent victims: Rufus, Allen's and Anna's hummingbirds, Cedar waxwings, American robins, Yellow-rumped warblers, crowned sparrows, Ruby-crowned kinglet, and others. At night, we've even recorded reports of owls striking lit windows as they tried to fly through the glass.

Saving our birds will also benefit our community. Studies have shown that exposure to healthy ecosystems has a variety of positive physical and mental health benefits for humans, particularly for developing children.

In recent years, where for months people were restricted to their homes, more and more people have told us how they took comfort in their backyards, watching and listening to birds. The bird feeders at the Audubon store at McClellan Ranch are selling at an unprecedented rate!

Why I care:

<!--[if !supportLists]-->2. <!--[endif]--> Light pollution

LED lighting has transformed our nights. We have lost our view of the stars.

The impact of light pollution extends to our health and the health of our ecosystems, because artificial light at night - especially blue wavelength - interferes with biological functions in all living beings. It affects growth, physical and mental health in humans and has been shown to cause mood disorders and cancer.

Because migratory birds fly at night, and are often attracted to light, artificial light at night attracts them to areas where they are likely to collide with buildings.

Artificial light at night is also implicated as one of the primary drivers of the "insect apocalypse" which is depriving our landscapes from pollinators and beauty.

Why I care:

<!--[if !supportLists]-->3. <!--[endif]--> Lifetime carbon impact and sustainability.

<https://phys.org/news/2021-10-steel-and-glass-fuel-global-climate-injustice.html>

Architects, contractors, planners and construction clients must consider building projects based on their lifetime carbon impact.

"... rather than seeing low-energy design as an engineering issue, we need to focus on the truth—it is a moral issue. If we can do this, architects will naturally design sustainable

buildings and developers will insist on them, in part to protect their investment.

Once energy use and carbon emissions are linked to morality and aesthetics, they become reputational and legacy issues, not engineering ones."

Reed Moulds, You have done much to help our community, here in Cupertino, and our region, with your vision of what The Rise can be.

I urge you to think much bigger. Focus on the world that is so often unseen, but which is impacted with deadly force by buildings we design. Today we think they are beautiful. Glass and light are like sugar. A little is delicious and harmless. A lot makes us sick. It is hard to resist.

When we focus on the birds, the insects, the plants, and the internal harm done to human bodies, we change what we see as beautiful. Not too far in the future we will wonder why glass and steel buildings that harm us were ever before seen as beautiful.

In this hugely successful, Bay Area, and home to Apple, what better place to show local, state, US and International builders what can be done.

Reed Moulds, I urge you to take another creative leap. Building far less glass into your design will save birds' lives, save energy, and reduce light pollution. You will be creating a living and working city center that is vibrant and sustainable. It will burnish your international reputation and create your legacy.

I urge you to support our community and our ecosystems.

Thank you, Connie Cunningham

From: [Connie Cunningham](#)
To: [City Clerk](#)
Subject: Slide for Public Comment Agenda Item 1, Connie Cunningham
Date: Tuesday, May 31, 2022 4:31:07 PM
Attachments: [2022-5-31 City Council, Bird Safety, The Rise.docx](#)

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