

## 25th September **Don't Fall for the Bluff - Vallco SB 35 Plan is NOT Compliant to State Laws and General Plan**

By Liang Chao

Sand Hill Supporters Threaten with SB 35. Don't fall for their bluff. There are the many reasons:

1.

### **Vallco SB 35 Plan does not comply with the requirements of SB 35:**

a.

**Housing is not 2/3 of project.** Under SB35, at least two-thirds (2/3) of the development must be residential (thus the Vallco application fails to fulfill the very criterion SB35 was meant for: more housing). Documents filed with the petition show that the developer attempts to make the application *appear* to consist of 2/3 housing by counting garage space for housing, *but not for* commercial/office areas. There are as also other substantive irregularities.

b.

**The Vallco site is on the statewide listing of hazardous waste sites.** SB35 requires that a site *not* be on the list. The Vallco site has been found to be contaminated by earlier uses as a gas station and a vehicle repair facility, and the site *does* appear on the statewide listing, indicating a complicated environmental history.

c.

**The application doesn't meet parkland requirements.** Residential projects are required to include three acres of parkland per 1,000 residents. The developer has not done so, and tries to argue that its "green roof" amounts to parkland.

d.

Many more violations detailed in [Friends of Better Cupertino's lawsuit against the City of Cupertino](http://bettercupertino.blogspot.com/2018/08/FBC-vs-city-sb35-not-compliant.html) [<http://bettercupertino.blogspot.com/2018/08/FBC-vs-city-sb35-not-compliant.html>] .

2.

### **Vallco SB 35 Plan does not comply with the Dec. 2014 General Plan:**

a.

The City Council specifically said the office and residential allocation will expire in 3 years, by May 31, 2018 if the Vallco Specific Plan is NOT approved by then.

b.

The office and residential allocation is contingent upon the approval of a Specific Plan (with agreed upon community benefits). Otherwise, the allocation does NOT apply.

c.

The Housing Element has Scenario A with 389 housing units at Vallco and Scenario B with 0

housing units at Vallco. This is further proof that the residential allocation for Vallco is NOT an entitlement.

### 3.

**Absent City Attorney [<http://bettercupertino.blogspot.com/2018/09/what-happened-to-city-attorney-why.html?q=city+attorney>] : Suspicious process for the ministerial approval of Vallco SB 35 plan.**

a.

City Attorney Randoll Hom, the only person who can give legal decision when there is any confusion on whether SB 35 complies with the law, was mysteriously silenced since May 11th, 2018.

b.

Four Sand Hill supporters sent letters to the City Council right before the May 11th closed session called with only a 24-hour notice. Who notified these people to write letters criticizing City Attorney all of a sudden?

c.

As it turns out, City Attorney Mr. Hom was not fired and the City of Cupertino has been paying his salaries from May to September as he still has a contract. Apparently, there is no justifiable cause to fire Mr. Hom. But some people want to keep him away from any city business. Why?

### 4.

**City Manager David Brandt retired soon after issuing the 90-day letter of compliance for SB 35 plan.**

a.

The compliance letter includes an Indemnification Clause, where Sand Hill will pay for all attorney fees for any legal challenges of the SB 35 plan.

b.

As a result, the retired former City Manager is free to declare the SB 35 plan compliant even when it is NOT since Sand Hill will pay all attorney fees. What a smart arrangement?

c. The City of Berkeley rejected their SB 35 application over some minor violations; yet the City of Cupertino would not reject Vallco SB 35 Plan even when there are multiple major violations. Why did the Cupertino City Staff refuse to protect the City from noncompliant SB 35 Plan?

- **City Council is ultimately responsible for any potential misconduct of the former City Manager David Brandt in his handling of Vallco SB 35 Plan.**

The Vallco SB 35 Plan is NOT compliant with the General Plan and NOT compliant with the State Law. There are many suspicious handlings for the Vallco SB 35 plan.

### What should Cupertino citizens do?

- Support the lawsuit of Friends of Better Cupertino v.s. The City of Cupertino to put SB 35 on hold.
- Elect Pro-Resident City Council Candidates Who Will Investigate and Challenge the Handling of Vallco SB 35 Plan.
- **Do not fall for the bluff of Sand Hill supporters.**

### What Went Wrong?

- Prior to Dec. 2014 - Vallco was a Shopping Mall. It was zoned for Shopping Mall and the Developer bought it as a shopping mall
- Dec. 2014 - **Savita Vaidhyanathan, Rod Sinks, Barry Chang** and Gilbert Wang approved the Dec. 2014 General Plan to give Vallco provisional allocation for 2 million sqft office space and 289 residential units, pending an approved Vallco Specific Plan. Darcy Paul voted no.
- Nov. 2016 - Voters rejected Measure D with 2 million sqft office space, 0.6 million sqft retail space and 800 housing units.
- Sept. 2017 - SB 35 and other housing bills passed.
- Oct. 2017 - Darcy Paul and Steven Scharf requested to amend the General Plan to prevent exploitation by developers due to SB 35. City staff quickly scheduled meetings to amend the General Plan.
- Nov. 2017 - **Savita Vaidhyanathan, Rod Sinks and Barry Chang forced to remove** all scheduled meetings to amend the General Plan. They say Sand Hill won't use SB 35.
- Feb. 2018 - Notice of Preparation for Environment Impact Report for Vallco Shopping District indicates that the proposed project would comply with the General Plan.
- March 2018 - Sand Hill submitted SB 35 Plan with 2 millions sqft office space, 0.4 million sqft retail space and 2400 housing units.
- April 2018 - Consultants for Vallco Specific Plan only consider options with similar density to the SB 35 Plan or bigger, which go beyond the General Plan allocations.
- May 2018-Aug 2018 - Vallco Specific Plan was conceived behind closed doors.
- Aug. 2018 - Vallco Specific Plan revealed: parkland almost zero, retail space reduced, the plan is even bigger than the Vallco SB 35 Plan and Measure D.
- **Savita Vaidhyanathan, Rod Sinks and Barry Chang rushed to rubber-stamp Tier 2 of Vallco Specific Plan** with 1.75 million sqft office space, 0.4 million sqft retail space, 2668 housing units.

**Savita Vaidhyanathan, Rod Sinks and Barry Chang led the way to give developers more and more, while reducing the benefits to residents.**

**What went wrong?**



[https://1.bp.blogspot.com/-

XgvPKFQit\_M/W6sckrSevyl/AAAAAAAAGws/2ag4tw9Hy7wF4KdFi\_nbvN6plehzGKDrQCLcBGAs/s1600/Dont-fall-for-a-bluff.jpg]

**REFERENCE:**

- What happened to our City Attorney? Why? (<http://bettercupertino.blogspot.com/2018/09/what-happened-to-city-attorney-why.html?q=city+attorney>)

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