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From: Shelby S <sheehan.shelby@gmail.com>
Sent: Wednesday, September 27, 2023 6:23 PM
To: City Clerk <CLERK@alamedaca.gov>
Subject: [EXTERNAL] Wrong one attached. Fwd: Public comment for upcoming HAB meeting 10/05/23 (final)

Hello clerk, the draft email that I inadvertently sent first to you is the one that is attached to the agenda meeting I had subsequently sent you an email that said it was a draft and to ignore it and then sent you the email below. Can you replace the comment that is there now with this one please? Thanks
please excuse errors...reading and sending via tiny screen and clumsy fingers

----- Forwarded message -----

From: Shelby S <sheehan.shelby@gmail.com>
Date: Mon, Sep 25, 2023, 8:33 AM
Subject: Public comment for upcoming HAB meeting 10/05/23 (final)
To: <historicalboard@alamedaca.gov>, City Clerk <clerk@alamedaca.gov>
Cc: Christopher Buckley <cbuckleyaicp@att.net>, Carmen Reid <carmereid@gmail.com>

City Clerk-

Please add this to the public comments for the next Historical Advisory Board meeting.

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Board Members-

Please do not cancel this meeting. I would like to ensure my public comments are heard.

As you know, I have several concerns about the Planning Department's control over this Board. There are many issues over which the HAB has authority and I am very concerned about the miscarriage of the Historic Preservation Codes and the undermining of the HAB's superseding authority.

Below are some major issues I would like to ensure the Board is aware of, and hopefully take action on--without being impeded by Planning Staff or other City Officials

1. Got Oversight?

HMMMM..welllll, when it comes to City-owned properties...

When I appeared at the July HAB meeting, I had already provided my recent communications with the City denying HAB oversight to require landlords to maintain Historic buildings in "good condition".

As you know, I was completely rebuffed by Henry Dong, who at the time was a HAB Board Member. He enlisted the support of City Attorney Celena Chen, who happily obliged.

When I asked for an explanation about the discrepancy between my interpretation of the Historical Preservation Code and their (obviously) erroneous one, City Attorney Celena Chen refused to provide one, despite her statutory duty to provide the public with accurate legal information.

But it gets worse--in my ongoing quest for enforcement of the Historic Preservation code, I then emailed Alan Tai, who just flat out ignored me--which he'd done for the prior 3 years as I realized when I looked through past emails. That prompted me to submit a PRA request for contact information ...and

After submitting a PRA, it took almost 4 weeks to get a response (thats strange right?)

-Guess who (supposedly) enforces the Historic Preservation Code?

Yep--the Planning Dept!--Currently it is apparently Steven Buckely. So where's this enforcement? Its not like they dont know about the poor condition of the Vets Building!

Oh, if only the HAB had some sort of authority.....

Worst of ALL why hasnt the Code Enforcement Dept issued a Notice of Violation? I'll give you a hint based on numerous publicly available documents ive

seen: the theme is the same-it's a City-owned property-and it ain't treated the same.

But isn't that illegal, you ask? If it is--whatta ya gonna do about it HMMMM?? Report the Planning Department to another part of the Planning Dept?

If only we had a separate, independent, superseding entity--like a "Historical Board "--that had the authority to take all necessary actions to protect historic resources.

(OK. Ok, you get where I'm going ...)

What I really can't handle is gaslighting and the dismissiveness, like they know they got it all dialed in. The problem is--they sure do.

But seriously: What are you going to do about it?

2. Improper subordination of the HAB to the Planning Board.

At the last HAB meeting (in July), I was surprised when I was informed that the HAB is not allowed to set their own agenda and they only review items at the Planning Dept's discretion.

Soon after, I made a PRA request for rules or bylaws or anything that supported this policy, but the clerk could find nothing to support the rule (PRA #23-399).

Given that the 2 Boards are independent, and really the HAB is supposed to be a check on the Planning Dept, I can see no legal basis for the Planning Staff to have control over the HAB, -but one can certainly see the potential for conflict of interest.

Remember: the HAB has the authority to take any action necessary to protect the historic character of Alameda. *(but they can't put items on their own Agenda?)*

If there is any written regulation, bylaw, procedure or policy that authorizes this type of authority by the dept are you supposed to keep in check, please provide it.

This policy cannot possibly be proper or enforceable, and I beg the HAB to rise up against their oppressors!

3. Did you get my emails?

Also at the July HAB meeting, I complained that the public cannot directly contact the Board--all communications were filtered by....you guessed it!--the Planning Dept. sigh. Soon thereafter, I emailed Alan Tai requesting a direct email address that all Board Members could all access without interference, and that they are regularly notified of

communications. I was happy when I was provided their new email address "historicalboard@alamedaca.gov", and then in response to my request, that email address was also added to the HAB's webpage.

I am wondering if the Board members have accessed the emails or even know about it. I would appreciate knowing this information.

4. When it comes to City Projects----You want examples? *Oh, I got examples.*

Among other things I found through PRAs is significant interference by Planning Staff to evade the historic preservation protections mentioned above. It is pervasive and constant. I continue to be amazed at the breadth and depth of interference.

But you don't have to take my word for it--Read on!

All of the examples below are "City Projects"--either by lease or as an interested/benefitting party. Worse, the City is also the lead regulatory agency in most if not all of them.

Who is gonna check that? Its supposed to be the City Attorney, but when the City is a project proponent: the City Planning Dept controls whether or not the HAB gets an application, and the City Planning Dept issues the permits--AND the City Attorney refers matters of the zoning laws back to the very Officials whose conduct is in question. (So..."Houston, we have a problem".)

Below are but a few recent examples--and I could go on and on.

A. Why are Veterans appearing before the Council begging for the City to maintain the City-owned Historic Building?

If you've been watching the City Council meetings, or even if you just walked past it, you would know about the awful dilapidated condition of the City-owned Historic Vets Building, and it is obvious that these conditions actually make the building substandard.

Yeah well, The City makes a lot of noise about Historic Preservation,...but... when it comes to City-owned properties... I think you've noticed by now, that's all it is--noise. Looks good from a distance..

There oughta be a law...

B. New Hangar 39 lease allows fences around entire parcel- no permit needed! How did *that* happen?

Has the HAB even heard of the Pyka lease? It was just approved at the last City Council meeting. This lease goes into effect 30-days after the 09/19/23 approval, so please read below and see if what you think--maybe you could make it an agenda item for the upcoming meeting. Ask your captors nicely, K?

For the record: The proposed Pyka lease is for approximately 106,000 SF of Rentable Space on a 4-acre parcel, which equates to 90,000 SF of building area, and additional cost for exclusive use rights of the equivalent of 15,000 SF of "fair-share" use of common/public land area.

Here's the sneaky part though: Among other things, the lease provides **irrevocable** rights to fence the entire parcel with tall construction fencing.

"So What", you ask?

The building is Hangar 39--You know, the Historic Hangar between the major character-defining vista between Saratoga and Lexington to Seaplane Lagoon?

The one that is subject to the Tidelands Trust? ...Where you absolutely are not allowed to block public access?

No--never heard of the fencing? Even though it's in the Historic District? ...and use-permits need a Certificate of Approval? No?

Well guess what: you never will if Planning staff have anything to say about it.

Andrew Thomas snuck an illegal irrevocable provision into the lease that gives the tenant rights to exclusive possession of the whole parcel and fence the entire thing---bypassing the legally-mandated use-permit process and unilaterally excluding the public from their rightful public benefits- in the TIDELANDS TRUST NO LESS.

Even stranger, the lease space includes only about 10% of the exterior parcel---so how is it the City could allow them to fence the whole thing? Well, they can't (legally that is), but that hasn't stopped them. The City Council, despite the knowledge that the Building is part of the Tidelands Trust--approved the lease 4 to 1. Trish Spencer voted "No".

If you want to see how the lease got approved despite these violations, watch the last two Council meetings. They are very informative--and I make a guest appearance or two via Zoom audio. You could even look at my very long and educational written public comment (attached to the Agenda). You might want to pay particular attention to what the City Attorney says at the 09/19 meeting about no Historic Protection at NAS.

No surprises on the Council votes. But VERY enlightening that all but Councilmember Spencer sat silently complicit. Take note.

The HAB still has the ability to deny the fence even though the Planning Department tried to sneak it past you: Remember: "Take **all** steps necessary..."

C. Speaking of Seaplane Lagoon fencing...Can you handle the truth?

I think we can all agree that tall ugly construction-type fencing that blocks the view of Seaplane Lagoon between the Hangars from the West Tower should be prohibited by every applicable land use law that comes to mind. I mean, the Historic Preservation Ordinance prohibits it-- it's a named Historic view corridor. The Town Center and Waterfront Plan prohibits it--it promises to maximize public views etc and the Tidelands Trust prohibits it. etc. so..

So---if a tenant (other than Pyka!) wants to build a fence, they would have to apply for a use-permit and get a Certificate of Approval from you guys ---right? Yeah no.

Unless someone can show me otherwise: **EVERY BUILDING HAS IMPROPER FENCING and not even one has a COA.**

You want specifics? OK, but: Hold on to your hat!

But first, a recap of the land use regulations for the NAS Historic District, just to have the information handy...

Hangar Row Historic Vistas Land Use Protections

Hangar Row is part of the protected Navy Historic District, consisting of 4 (or 5) Hangars south of West Tower Ave. The protected character-defining Historic vistas between the Hangars to Seaplane Lagoon are described per Mikesell 1997 as follows: *"The buildings help define these axes, framing all views along the edges of these buildings and from the buildings to the Bay"*.

Three of the Hangars--(from east to west)--41, 40, and 39 are considered "contributing" buildings. However, since Building 400 was built between Hangars 11 and 12, these westernmost Hangars are not considered "contributing"--mostly due to alteration of views--but they do in fact still retain all other form and historical integrity and are important in other aspects, including the remaining views to Seaplane Lagoon on either side.

The views adjacent to Hangar 39 enjoy an even higher protection due to being uniquely situated between the north-to-south vistas at the end of Lexington and Saratoga streets. This Hangar and the adjacent view corridors are included in the Tidelands Trust, and public access in these lands--including the views of Seaplane Lagoon along West Tower--must not be obstructed.

Also as you know, various other local land use regulations--including the Historic Preservation Ordinance and zoning Ordinances, and including those described in the Alameda Town Center and Waterfront Plan--also provide mechanisms to protect the Historic vistas for the public's enjoyment.

For example, the entire Historic District is #28 on the City's Historic Monument List (1999).

The above regulations restrict use of the Hangars to the "Rentable Space" which restricts tenants use to the interior of the Buildings, and usually include an additional amount of SF in the lease to account for an exclusive use of a percent of the parcel's common/public exterior land area for parking. As such, each Hangar lease includes an amount of "Rentable Space" consisting about 90,000 SF for the building area plus an amount of additional exterior square footage (of the public common area) for tenant parking.

The lease provides conditions under which the tenant may request part of their leased parcel to be used for outdoor storage, which must be done by written request and must have prior approval of "the landlord"--and must be properly screened. As follows: *"...If the Tenant desires storage rights, or other such uses of the Parking Areas, Tenant shall provide a narrative written description and plans showing such uses for landlords review and approval."*

As part of any legal reviews of fencing, the decision-making process would also need to address issues of temporal necessity, appropriateness, size and location, design aesthetics, and public rights and access.

One more thing, all leases state tenants must comply with all applicable land use regulations. Make no mistake though, the ones at fault for use violations are not the tenants.

Seems like that works right? ...So lets take a little look-see at how that's working, under the category of: Laws are Only as Good as Those Who Enforce Them.

Hangar 41 (650 West Tower): Wrightspeed Inc

Wrightspeed Inc has been leasing approximately 109,000 SF of Rentable Space on the 5+ acre parcel since 2015. The 2015 Lease Exhibits show 90,000 SF of interior Rentable Space and parking allowed on the whole parcel (=218,000 SF), making 20,000 SF available for the additional fair-share apportionment of the exterior land area for the Tenants use for parking.

In April 2016 (Google Earth historical imagery), Wrightspeed put up fencing that extends 350 feet out from the building and actually encroaches on the public right of way to Bladium's entrance, and extends south and encroaching on the Naval Museum's parcel.

It wasn't until four years later--in late 2020--that a seriously defective application for "outdoor storage" was submitted (#Pln-20-0500).

After the usual farce of a public hearing was held on March 15, 2021-- in yet another questionable decision-- outdoor storage of hazardous waste drums (!!) was permitted in the "existing fenced-in yard" signed by Alan Tai, Zoning Administrator. - *-but the fenced-in yard was never actually permitted.* (and: Hazardous Waste? Outside? Seems like not a very good idea. Sooooo many questions...)

The fence still exists today, blocking a massive 350 foot wide portion of the public viewscape across Seaplane Lagoon--for what? private parking? Only about 10% of the enclosed 1.5 acre area within the fencing is utilized, mostly as their personal (80 car?) parking lot. About 1% of the lot is inappropriately used

for long-term storage--which should be inside the building where there is ample room for it (their permit application reports they use 70% of the building).

Irregularities abound in this filing. For example, in the Supplemental Form the surrounding land use is reported as...wait for it...."parking" (psst: that's not a land use category), There's no schematic, there's no necessity for it, and it's not used!

And no, there is no Certificate of approval, which appears to be intentional, for a couple reasons:

- (1) the Item description reports there's no proposed changes to the exterior of the building (because no one is permitting the fence, just the use---see what they did there?), and

- (2) The Application signed by Nanette Mocanu had the building checked as a NON-Historic

Worst of all: the fence encroaches on the Public Right of Way. What exactly is the deal here?

This one's just a straight up Land Grab.

Hangar 40: (800 West Tower): Bladium

Let's call this one: "*close but no cigar*". The Bladium was sold to Bladium's private owner in 2017. The same land use restrictions still apply, but this fencing is the least of our worries. The uses and chain-link fencing on the west side were permitted back in 2002 and the views are not blocked (DR02-1056). I did not find a COA, but it looks like this area would be approved if requested. On the east side, there is a 100-foot fence around a not-really-permitted outdoor gym with construction fence screening that blocks the views--that was somehow only an over the counter permit (B14-0923).

A Certificate of Approval would likely require relocation of the Crossfit outdoor gym farther back toward the rear of the building

Hangar 39: (950 West Tower): newly-approved for Pyka

The proposed lease described above was approved at the last City Council Meeting. The approval has a lag-time of 30 days in which any Councilmember who voted for approval (that's everyone except Trish Spencer) can "call it back" for review at any time during those 30 days. This would allow the City Council to reconsider the highly ill-advised "irrevocable" rights to fencing. Maybe they'll listen to members of the Board--either as individuals separately, or as an official HAB action. It could happen! It just takes the will to do it. Remember: "Take all actions necessary..."

Two words: Tideland Trust

Hangar 12 (1050 West Tower): Saildrone

The Saildrone lease of 110,000 SF of the 5-acre parcel commenced in 2017, and parking is allowed on the whole parcel--which obviously doesn't mean they can park all the cars on every available space, but it does mean they are allowed to use about 20,000 SF of the parcel for parking willy-nilly if they so choose. So how is it that a fence just appeared out of nowhere in early 2023 that encloses the entire parcel off from the public? I don't know, because there is exactly zero public documentation about it. This fencing stretches across 200 feet of the viewscape and as with the other fencing, the City doesn't even have the authority to permit any fencing of the parcel, and certainly not in excess of the square footage of the leasehold.

Seriously, how did this happen?

Hangar 11 (1190 West Tower): Google

Google started leasing 110,000+ SF of the property in 2006, which means in addition to the building, rights to use 20,000 SF of the exterior land is included in the cost. I first thought that the fence did not have any sort of permit or legal status, and it took some digging to find out that this one underwent the same sneaky process as Wrightspeed's fence.

The January 2016 Record #PLN-0624 includes a long list of "improvements" including "providing screening on an existing equipment enclosure" ...*but but but where is the permit for the existing fencing?*

The design review approval letter signed by Andrew Thomas is the last straw though--see if you can spot the lies:

"The proposed design of the exterior materials and landscaping <theres no landscaping!> are visually compatible with the surrounding development, and design elements have been incorporated to ensure the compatibility of the structure with the character and uses of adjacent development. The exterior improvements include window glazing repairs, removal of abandoned flues, painting, providing screening on an existing equipment enclosure <its a whole parcel chain link fence>...that will collectively improve and restore the overall appearance of the building <by adding opaque construction screening?>... The proposed project is designed to match the existing building and it will utilize the same materials of the building which are also compatible with the design elements found on buildings in the area <you mean the Historical elements? ya, no.>."

Now I get how they do it. Illegal--but I get it.

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End Note:

Hangar Row is a half mile stretch along the southside of West Tower Ave with vast public viewsapes and open space between the Hangars and Seaplane Lagoon. The public's right to access and views is protected by numerous regulations, but the City has obstructed those views with east-west fencing permits that now block 80% of public access to the viewscape.

In my opinion, given the published regulations, the fraudulent and misleading actions by City Officials to approve or allow tall construction-screen fencing along Seaplane Lagoon is intentional.

But it still begs the question--*What are they getting out of it and why isnt the City Attorney stopping it??*

Seriously: What are you going to do about it?

