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Sent: Monday, July 22, 2024 8:55 AM

To: Planning <Planning@alamedaca.gov>; City Clerk <CLERK@alamedaca.gov>

Subject: [EXTERNAL] comment for Planning Board 5A tonight : Alameda Food Bank

Planning Board Members,

I would like to call your attention to the Alameda Municipal Code Section 30-4.24 Alameda Point District. This portion of the Zoning Code is relevant to item 5A “Food Bank project” (PLN24-0279) on the Board’s Agenda tonight.

My ongoing and oft-repeated concern is that this Board apparently is not familiar with or is blatantly ignoring the very Zoning Codes you are charged with enforcing. Despite apparently being appropriately credentialed, you blindly accept City staffs claims of compliance without hesitation even though you all have the backgrounds to look into and dispute their claims yourselves.

Sadly, this Board is not performing the required due diligence regarding CEQA and enforcement of the applicable and use regulations, resulting in approval of Projects that violate CEQA and the law.

I don’t know why that is—you are a citizen oversight Board, and you are entrusted with a duty that requires you at a minimum to know and enforce the applicable land use regulations according to the law.

I have sent this Board a number of emails reciting the Zoning Code and CEQA Guidelines, and I’m just going to do it again in hopes that you read it and follow it this time. I hope you can find the time to review these regulations.

PROJECT UNDER REVIEW

The Food Bank Project is overall a well-designed and much welcome Project and it is my opinion the applicant has proceeded in good faith, even without adequate direction. On the other hand, it has yet to be seen if the Project complies with CEQA and the Alameda Point zoning regulations.

To that end, this document lists the applicable zoning and CEQA regulations for Projects in the Historic District where the Alameda Food Bank Project is located and provides the Planning Board with the framework under which to review this Project properly pursuant to AMC Section 30-4.24 and the Alameda Point EIR.

àIf you haven’t done this review yet, you can’t approve the Project (well, not according to the law at least, but my guess is it will get approved tonight anyway)

For your edification, AMC Section 30-4.24 can be read in full ([here](#)) Tasty bits are provided below but PLEASE fact check me and read for yourselves and start following the law. All you have to do is go down the list.

#1. ALAMEDA ZONING CODE: 30-4.24 Alameda Point District.

AMC Section 30-4.24 provides all the guidance the Planning Board (and Historical Advisory Board) needs to adequately evaluate projects at the Alameda Point Zoning District.

It provides regulations to facilitate and guide future development at Alameda Point consistent with the goals and objectives of the “**1996 Naval Air Station (NAS) Alameda Community Reuse Plan**” [*this plan is THE most important document regarding redevelopment at Alameda Point*] to:

- ü Replace jobs and foster new economic development
- ü Increase public access to the waterfront
- ü support **maritime** commercial and industrial use of the waterfront.
- ü Create mixed-use transit oriented walkable districts that maximize protection of the natural environment that
- ü support alternative modes of transportation, minimize greenhouse gas emissions

All (and I mean ALL) projects within the Alameda Point Zoning District must comply with these permit requirements, including all new construction, alterations, and land uses [and conditional use permits] within the Alameda Point Zoning District. When the content of this section conflicts with another part of the AMC, this section shall govern.

1. **NAS Alameda Historic District Guidelines.** All new construction and modifications to existing buildings within the NAS Alameda Historic District should be consistent with the “**Guide to Preserving the Character of the Naval Air Station Alameda Historic District, as amended, and AMC Section 13-21 Historical Preservation.**”
2. **Biological Regulations and On-site Lighting.** All new construction projects, alterations to existing buildings and new uses shall comply with the conditions set forth in the “**2012 USFWS Biological Opinion**” and Exhibit C (Alameda Point Lighting Mitigation Measures)
3. **Public Trust Exchange Act and Agreement.** All use of land and existing buildings and new construction shall be reviewed for consistency with Naval Air Station Alameda Public Trust Exchange Act Agreement regarding Public Trust Lands at Alameda Point,
4. **Alameda Point Environmental Impact Report Mitigation Monitoring Program.** All new development and uses shall be reviewed for consistency with the 2014 Alameda Point Environmental Impact Report adopted Mitigation Monitoring and Reporting Program.
5. **Alameda Point Master Infrastructure Plan.** All new development and uses shall be reviewed for consistency with the Alameda Point Master Infrastructure Plan.
6. **Alameda Point Master Transportation Demand Management Plan.** All new development and uses shall be reviewed for consistency with the Alameda Point Transportation Demand Management Plan.
7. The **Adaptive Reuse (AR)** sub-district: Development standards are intended to create a pedestrian, bicycle, and transit supportive urban environment that is compatible with the character-defining features of the NAS Alameda Historic District.

8. **NAS Alameda Historic District.** Within the NAS Alameda Historic District areas within the adaptive reuse sub-district, new building design and architectural detailing shall be compatible with adjacent structures and complement the historic character of the NAS Alameda Historic District. = need for a Certificate of Approval.

1. *Front Setback.* In the adaptive reuse sub-district, the building front setback should be consistent with the setback of the other NAS Alameda Historic District contributing buildings on the block or the adjacent blocks to maintain the character defining features of the NAS Alameda Historic District.

2. *Side Setback.* In the adaptive reuse sub-district, the side street facing setback should be consistent with adjacent contributing NAS Alameda Historic District structures on the side street, unless a finding can be made that the proposed setback is consistent with the character defining features of the NAS Alameda Historic District.

3. *Setback Landscaping.* In the adaptive reuse sub-district, the landscape plan shall be consistent with the Cultural Landscape Guidelines.

4. *Building Height Requirements.* The maximum building height in the adaptive reuse sub-district shall be determined by the height of the adjacent NAS Alameda Historic District contributor buildings. In cases where the adjacent buildings differ in height, the tallest adjacent contributing building shall be the determining building height. The height of the new building shall not exceed the height of the adjacent contributor buildings. *[Note that doesn't mean automatic approval for any or all buildings at Maximum height—its conditional on compatibility and other factors]*

9. *Building Orientation generally.* All new buildings shall be oriented toward the main adjacent public right-of-way (i.e., public street or public park) and shall provide a main public entrance with direct access to the public right-of-way.

10. *Pedestrian Orientation generally.* To support the pedestrian environment and de-emphasize the automobile:

(a) Surface parking lots or parking structures shall be minimized in size and placed behind or beside the building.

(b) Parking lots shall not be placed between buildings and streets. When placed adjacent to a building, the lot shall provide a landscaped twenty-five (25') foot setback from the public right-of-way.

(b) Drive through lanes are prohibited.

(c) Site improvements shall include bicycle racks, pedestrian pathways through parking areas, pedestrian lighting, and sidewalks and street trees on all streets adjacent to the property.

(d) Public and commercial service facilities such as automated teller machines shall be conveniently located adjacent to the pedestrian public right-of-way.

(e) Ground floor windows adjacent to the public pedestrian right-of-way shall provide an unobstructed view into the building for a distance of at least five feet to animate the pedestrian experience.

- As part of COA review, the City needs to commission and review a historical report from an outside independent architectural Historian like **VerPlanck Historical Consultants**. [4.D-1a(1) as summarized here and described in detail in Section 4 of the AP EIR].
- The City previously used **VerPlanck** for Building 8 and Building 11 and Site A, and even the Del Monte Project.
- The VerPlanck reports were commissioned by none other than former Base Reuse Manager and now City Manager Ott and submitted to the Historical Advisory Board c. 2016.
- If the Project doesn't get COA approval, it can't move forward to design review.
- The Planning Board doesn't have jurisdiction for "design" review unless and until AFTER the Project undergoes CEQA review.
- *Note MM 4.D-1b requires development of infill guidelines before any new building can be approved within the Historic District.*
 - o *The City already has these guidelines but City staff is instead developing *new* ones that are directly contradictory to the AP EIR and the zoning code.*
 - o *For example, Planning staff keep repeating to the Planning Board and HAB that no COA is needed for "noncontributing buildings".*
 - o *As you can see from above, that is false for at least because the District itself is a Historical Monument. In any case, an independent review is still needed.*
 - o *On this, the VerPlanck reports are informative.*

So lets take a look at PLN24-0279 for consistency with AMC Section 30-4.24 and CEQA, shall we?

*DESCRIPTION: Public hearing **ignoring** for construction of a 10,000 square foot pre-engineered metal warehouse attached to an existing building, which is a Non-Contributing building within the NAS Alameda Historic District.*

The project will provide new on-site landscaping, including a landscape buffer between the public sidewalk and redesigned parking lot and planters with shade trees in the parking lot.

General Plan designation: Mixed Use Zoning Designation: AP-AR, Alameda Point Adaptive Reuse Zoning District.

*No further environmental review of the Design Review is required under the California Environmental Quality Act (CEQA) pursuant to the streamlining provisions of **CEQA Guidelines Section 15183***

Q. Does AMC Section 30-4.24 apply to the Food Bank Project?

YES. The project is located in the Historic District of Alameda Point, therefore even though the building itself is not a “contributor”, the District is a monument and this Project is an “alteration” and must comply with the applicable stipulations of the Zoning Code and the AP EIR as noted above.

However, as stated earlier, the Planning Board doesn’t even have jurisdiction yet. It must first undergo the COA process.

Additionally, this statement from the staff summary report is just complete reach that is a total fabrication:

*“...Building 607 is a non-contributor to the Historic District. Additionally, the entire project site is a non-contributing space to the Historic District’s original base layout and landscaping. Therefore, per the NAS Alameda Historic District’s NRHP Registration Form, **the project is not a part of the Historic District and the pending design guidelines do not formally apply.**”*

Q. How about that CEQA Determination?

The first thing a regulator or member of a quasi-judiciary body should notice is the erroneous CEQA determination. Mr Tsou, who is a “CEQA expert” knows that CEQA Section 15183 is not applicable pursuant to AMC Section 30.4-24 and should be raising the alarm at this obvious fraudulent CEQA determination.

In particular, this determination is an improper unsubstantiated claim, and to invoke Section 15183, the City would still have to:

1. conduct a CEQA “initial study” and
2. have existing transparent streamlining guidelines pursuant to Section 15022
3. provide supporting documentation for public review demonstrating the Project’s eligibility for streamlining; and
4. besides that, the Zoning Code and the AP EIR require the evaluations above and it defies logic, facts and the law to blithely claim this Project does not need to undergo further environmental review.

I urge the Planning Board to proceed according to the law going forward and ensure this Project meets the standards required.

Overall, it is a well-designed Project that I support. However, that does not alleviate the need for CEQA review and compliance with the AP EIR MMP. Because of the thoughtful Project design, compliance with CEQA should be easily demonstrable but may require some very do-able changes to the Project configuration. I am most concerned about the spatial elements of the landscaping and parking lot layouts, and compliance with the Traffic Management Demand mitigation compliance.

A thorough review that includes comparison of the Plan with the regulations above would assure the public that this first infill Project is exemplary.

Further the Planning Board should require the staff to provide proper CEQA determinations, even if that means (gasp!), providing accurate and sufficient documentation to the public for review.

Thank you.

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