RE: 9/15/2020 Agenda Item 5-H North Housing Lot Map Approval

Dear Mayor Marilyn Ezzy Ashcraft and members of the City Council,

I believe that your approval today of the lot map, and also the approval at the previous meeting of the subdivision map, are premature actions. It has come to my attention only recently that you have been removed from the decision-making process. Please consider my remarks before moving forward.

It is my understanding that the City Council must first approve the development plan that was approved by the Planning Board in August in order to comply with both the intent and the prescribed procedures for military base reuse approved by Congress for the following reasons:

The North Housing amendment to the 1996 Community Reuse Plan for NAS-Alameda described the use for which 13 acres would be transferred to the Local Reuse Authority (LRA)/City Council. It was to comply with the McKinney Act homeless assistance requirement. That is the sum total of what HUD approved this transfer for.

It is certainly within your authority as LRA to expand the uses of this parcel. So far, however, the City Council has not been in the loop to do so.

Events that have transpired since the North Housing amendment was approved in 2009 (such as the zoning overlay allowing for 586 units of housing, community meetings to craft a development plan) are all valid and meritorious processes. But they do not individually or collectively subordinate the City Council in the planning and implementation process.

The heart of the Base Realignment and Closure Act was to give community control via publicly accountable elected representatives. The Act was created because up until then, surplus military land disposal lacked accountability and were susceptible to backroom deals.

Therefore, the Act made clear that adoption of plans, or changes to them, were to be made by the elected Local Reuse Authority body, not an appointed body. This is exactly how the process worked on more than one occasion with the FISC (Alameda Landing) parcel. On two separate occasions housing was authorized and commercial reduced – by the City Council – where before there was only going to be commercial.

Likewise, multiple changes were approved for the Northwest Territories. Boards and commissions did not authorize these changes. The City Council did.

The changes to the approved plan of 90 units of supportive housing for the homeless, as described in the Notice of Intent, are major. And the required Legally Binding Agreement between the parties signed on June 20, 2012, with the City, as LRA, being one of the parties, has an Exhibit C titled “Major Decisions Requiring Written Consent of All Parties.” These decisions requiring City Council/LRA approval include, “Change in the project description from the

description in the NOI [Notice of Intent]," "Final Project Design," "RFP for Developer and Selection of Developer," and "Formation of Project Ownership Entity and addition of entities as partners, limited partners, or members, as applicable."

Changes from the NOI that have been made without City Council approval include:

- Addition of up to 496 units of housing;
- The potential addition of market rate units;
- The ratio of market rate to affordable;
- Potential sale of property to a private developer, something that AHA has never done before;
- Materially changing the living conditions of the formerly homeless individuals to be accommodated at the North Housing site, namely, reducing the grounds for their living space by roughly 75 percent. Instead of the entire 13 acres, they will be crammed onto a single block. According to the LBA, it's even possible that the 90 units could be located somewhere else in Alameda. Is this a decision that should only be left to the housing board because a state law has deemed that the City Council is powerless to decide how this former military property is to be used?

The imprint of the intent of Congress on the North Housing amendment and the required Legally Binding Agreement is unmistakable. The local publicly accountable elected body must approve and be accountable for how our public lands, in this case military property, are utilized after the federal government no longer needs them.

Lastly, I do not believe Senate Bill No. 35 (SB35) can be applied to a military base reuse plan. The application of SB35 to this base reuse parcel seeks to place state law above federal law. While SB35 certainly applies to many project sites, its mandatory streamlining has the de facto effect of subordinating the LRA to an appointed commission, namely, the Housing Authority Board of Commissioners. You have lost control over City property. This is clearly thwarting the will and intent of Congress. This isn't "dealers choice."

I urge you to **table** this item and direct the City Manager to agendize the development plan that was reviewed and heard by the Planning Board.

I also urge you to **declassify** the discussion between the City Attorney's office and the Housing Authority's Chief Counsel and/or Management Analyst regarding the applicability of SB35. It is relevant and in the public interest to know how the decision was arrived at to apply SB35.

Minutes from the June 24, 2020, AHA Board of Commissioners stated, "Ms. Danielle Thoe, Management Analyst, provided an update and explained that AHA has been in conversation with the City for over a year regarding how the SB35 process would be handled. The City Attorney's Office took a deeper look into SB35 and decided they were not comfortable moving forward." How or why did the City Attorney's office go from "not comfortable moving forward" to comfortable? This is not a private land deal negotiation. It is the management and use of City property.

The public deserves to know why the City Council has no decision-making authority over this property when the federal government says otherwise.

Thank you,
Richard Bangert