



The Memorial Flagpole's Damage and Treatment

Background

In 2020 American Legion Palo Alto Post 375 noted that the Veteran Memorial Building's (aka Hostess House, Community House, and Julia Morgan Building) Memorial Flagpole was abruptly encased in a plywood enclosure. As this box persisted into 2022, Post 375 sought explanation, and finding the box was the erection of property owner Stanford University, we recommended to Stanford officials that the damage and treatment be submitted to the Historic Resources Board (HRB) for review.

This matter is now scheduled at the April 13th HRB meeting as a study session.

We seek here to brief the HRB on the Memorial Flagpole issue. Post 375 believes that the study session should result in a report on the Memorial Flagpole's damage and treatment, containing specific findings as to its conformance with Palo Alto Historic Preservation Code. These findings can be adapted as Motions at subsequent meetings.

Palo Alto Post 375 and the Veterans Memorial Building (VMB)

Post 375's first task on this HRB matter is to establish its standing in relation to the property's historical integrity.

[American Legion Palo Alto Post 375](#) is the sole surviving organization fulfilling the City of Palo Alto's to 1919 Community House dedication to public use.



Community House Dedication Plaque, 1919.

- The City of Palo Alto dedicated the Community House on Armistice Day, 1919 as a [World War One Memorial](#) whose public use will “[perpetuate these ideals of fellowship and service](#)”.
- The American Legion was integral to the Community House’s [inception](#), 1919 dedication and initial public use.
 - [Post 52 held meetings at the Community House in November 1919.](#)
 - In 1920, [Post 52 erected the VMB flagpole.](#)
- Founded in 1930, Post 375 was a 1937 organizer of the [United Veterans Council of Palo Alto](#) (UVCOPA).
- [In 1938 Palo Alto provided UVCOPA the Community House lease](#), and [renamed it the Veterans’ Building](#).
- In 1953, UVCOPA and Palo Alto [dedicated](#) the [Servicemen and Servicewomen Memorial](#) on the Memorial Flagpole platform.
- At its 1976 dedication as [California Historical Landmark No. 895](#), the property was renamed the [Veterans Memorial Building](#), which remains its [official name](#).
- [In 1981, Palo Alto provided UVCOPA the use of the 2,500 square foot Veterans Area.](#)
- In 1999, [Stanford assumed the VMB lease from Palo Alto](#), with “all of its obligations”, and continued provision of the Veterans Area.

- Post 375 has enjoyed the use of the Veterans Area for our monthly meetings to the present day, thereby fulfilling 104 continuous years of the building's dedicatory public use.
- Whether or not the City of Palo Alto still proudly upholds the Community House's 1919 Dedication, or has revoked it by neglect, the founding dedication is integral to the property's history, to which Post 375's continued use is living testament.

Post 375's use of the VMB in its Veterans Area is intrinsic to the VMB's historical integrity, as ours is the property's original, dedicatory and historic public use, fulfilling both Palo Alto and national historic property criteria.

- [Palo Alto's Criteria for Designation in the Historical Inventory.](#)
 - The structure or site is particularly representative of... a way of life important to the city, state or nation.
 - The structure or site is connected with a business or use which was once common, but is now rare.
- [The Secretary of the Interior's Standards for the Treatment of Historic Properties: Standards for Preservation.](#)
 - "A property will be used as it was historically".

Without the Veterans Area and Post 375's use, the VMB becomes merely a commercial property with an assortment of plaques.

As the sole public civic organization invested in the Veterans Memorial Building (VMB), Post 375's considers the VMB's preservation and protection to be its special mission.

So too, as a patriotic Veterans association, Post 375 has a particular interest in the sanctity of VMB's many monuments and memorials.

Post 375 demonstrated this interest by [researching the VMB's memorial dedications](#), and at its [March 2022 HRB Oral Communication](#) inquiring if the HRB considered the VMB's memorial dedications to constitute Criteria for Historical Inventory designation. Post 375 [eagerly anticipates HRB's](#) looking into it and trying to get to us with what they know.

History of the Memorial Flagpole

[27 University Avenue](#) boasts two separate historic structures, the VMB and the [Memorial Flagpole](#). Both are [included on the VMB's Historical Inventory Detail](#).



Veterans Memorial Building



Memorial Flagpole

The Memorial Flagpole was originally located on “The Circle”, representing Palo Alto to all that passed through or exited from Palo Alto Station.

The exact origins of the large bronze base have remained obscure.

The earliest definite photograph we’ve found is from the visit of [President Theodore Roosevelt in 1903](#).



President Theodore Roosevelt speech at Palo Alto Depot, May 12, 1903. Note Memorial Flagpole on the right.



University Circle with Memorial Flagpole; undated but early.

[Another photograph is undated](#), but car free, and thus early. Seen here also in [1905](#) and [1906](#).



University Circle 1905

From Palo Alto's 1894 founding, [it had a tall flagpole](#). The Town Flag of Palo Alto is often referenced in 1890's newspapers, e.g., the 1898 [The Palo Alto Times reported](#) that "the ... the beautiful flag that is the Pride of Palo Alto, floated to the breeze on Admission Day".

A frustratingly low resolution [1898 photograph](#) appears to show the Memorial Flagpole base behind a carriage.





Outline of Memorial Flagpole?



Outline appears to match

Ultimately, I failed to find the founding origins of the Memorial Flagpole's bronze base. That's left as a prize for later researchers.

Palo Alto had a [Memorial Flagpole dedication ceremony](#) in 1906.

In [1908, the Native Sons of the Golden West funded](#) and [erected](#) an [enormous 205 foot redwood flagpole](#), which the City of Palo Alto [dedicated](#) (thus the "Memorial Flagpole, 1908").



[Native Sons of the Golden West at the dedication of the flag pole, 1908.](#)



[Flag Pole Dedication at the Circle, 1908](#)

The Memorial Flagpole can be seen at The Circle [here in 1918](#), [1930](#), [1938](#), [1939](#) and [1940](#).



The Circle, featuring Memorial Flagpole, 1930s.

With the 1939-41 construction of the University Avenue Underpass, the Memorial Flagpole was moved [in 1941](#), as [seen here](#), to the VMB grounds. Palo Alto's massive 1941 parade for the Underpass opening culminated in front of the [Memorial Flagpole](#) on the VMB grounds.



University Ave Underpass Opening Celebration, 1941

There it supplanted the VMB's original flagpole, [erected in 1920 by the American Legion](#).



Caretaker Charles Olaine poses in front of Community House, 1920s. Flagpole erected by American Legion Post 52.

The Memorial Flagpole at the Veterans Building, [seen here in 1941](#), was monumental in height, and has been shortened several times, [such as in 1957](#).



Monumental Memorial Flagpole, 1941.

It contributed to [Palo Alto's civic life](#).



Flag Raising at the Veterans Building

With its former lease holders, the City of Palo Alto and UVCOPA, the Memorial Flagpole [was professionally maintained.](#)



VMB Custodian and Palo Alto Public Works employee performing work on the Memorial Flagpole (1978)

Prior to conducting this research, we did not know the Memorial Flagpole's proud Palo Alto history as a civic shrine and landmark, its historical towering height a similitude of El Palo Alto. There's no explanatory placards onsite, and it's barely mentioned on [local history websites.](#) To the many who pass it while hurrying to transit it's merely a hunk of

bronze. Properly treated, the Memorial Flagpole has great potential to again adorn and edify.

It's important to note that one of the base's four plaques commemorates [Grand Army of the Republic Veterans of the Civil War](#).

1861 – 1865

McKinley Post

Number 187

Dept. of Calif. And Nev. Grand Army of the Republic Veterans of the Civil War

Organized in Palo Alto

January 21st 1905

There are at this date fourteen living members whose average age is seventy-five years.

This plaque was dedicated and placed

in position on Decoration Day

May 30th 1918



[GAR plaque, dismounted](#)

Damage to the Memorial Flagpole, mid-2020.

Post 375 maintains the Memorial Flagpole's flag display, [as seen here](#) on Google Street view, January 2020, prior to its damage.



[Google Street View prior to damage](#)

Post 375 noted that at some point in mid-2020 the Memorial Flagpole developed a plywood enclosure. There was neither public or private notice, and the signage was anonymous.



[Note commercial signage on a Veterans Memorial](#)



Plywood box enclosing Memorial Flagpole

Post 375 [inquired](#) with public officials, including the HRB, as to the unlabeled box's provenance.

[Chair Willis replied](#) that it is not the kind of thing the HRB was used to dealing with.

Palo Alto Historian Steve Staiger directed us to Director of Stanford Heritage Services, [Professor Laura Jones](#), who we [wrote](#). She [replied](#):

Laura Jones <ljones@stanford.edu>

Date: Saturday, March 19, 2022 at 7:58 PM

To: Ray Powell <rayrich90@yahoo.com>, Ramsey F. Shuayto <rshuayto@stanford.edu>, Steve.Staiger@cityofpaloalto.org <Steve.Staiger@cityofpaloalto.org>

Subject: Re: The Hostess House War and Veterans Memorial

Good evening

The base of the flagpole was repeatedly damaged by copper thieves and the plaques were in danger of loss as well. We had the plaques carefully dismounted, and the base secured, and I have the plaques secured at my archaeology lab on campus. Stanford's Real Estate office manages the property now, having recently received it back from the City of Palo Alto. I've copied Ramsey Shuayto here - he is the real estate manager.

Ramsey and I understand and respect the significance of the flagpole and the memorial plaques. It is very helpful to have a connection to the Veterans Council to consult with regarding repairs. I'm sure Ramsey will follow up about this — in the meantime my staff and I would be happy to show you the plaques if you'd like to see them.

Laura

Post 375 was relieved to find the Memorial Flagpole was receiving professional treatment, and [took Stanford up](#) on a chance to inspect the plaques. [We assured HRB Chair Willis](#) that Post 375 was engaged with Stanford on this issue.

Stanford provided Post 375 with photographs of the damaged flagpole prior to its enclosure. Unfortunately, the date and time are removed from the EXIF files. It shows the strip around the plaque perimeter has been pried(?) off. Damage is on the side of the Daughters of the Golden West plaque, away from the street, facing the VMB.



Undated crime scene photograph, prior to construction of enclosure. Damage on side facing VMB.



Detail of damage to copper trim



Damaged Sheet in the Stanford Archeology Lab

Post 375 Engagement with Stanford and Palo Alto.

Subsequently, Post 375 [engaged with the HRB on VMB memorials](#), with both [Stanford and Palo Alto officials](#) on the successful [Palo Alto-Stanford Veterans Recognition Event](#) at the Veterans Memorial Building, where we read a [VMB Preservation Resolution](#).



Veterans Day Recognition Event flyer



Veterans Day Recognition Event at the VMB



National coverage from the American Legion

Post 375 strove to prove the VMB's value to Stanford, with various initiatives:

- Researching the Community House's origins, to [find that Stanford played a predominant role](#).
- Pitched a VMB restoration as a project attractive for [Stanford Development](#).
- Engaged with Stanford [student](#) Veteran and [alumni](#) groups, offering the Veterans Area as a Stanford resource.
- Touted the VMB as a common interest and nexus between Palo Alto and Stanford (see Veterans Day Recognition Event above).
- Post 375 participated in [Stanford Veterans commemorations](#).

Our efforts to generate any VMB preservation interest among Stanford officials fell flat. We were advised not to bother, Stanford had no development interest, and was instead waiting for the VMB's fate to be determined by regional land use initiatives.

Post 375's Concerns

As Post 375 became more deeply involved with the Memorial Flagpole damage and treatment, our concern for its historical integrity mounted.

We will seek here to provide the basis for this view.

Stanford officials have never provided evidence, forensics, rationale or expert opinion to attribute the flagpole's damage to "copper thieves". These officials' professional

expertise is in anthropology and property management, not forensics or law enforcement. The credibility of their assertions rests entirely on institutional authority.

Common sense calls the copper theft explanation into question.

- The copper theft explanation was never offered publicly at the time, but only when asked, privately, two years later.
- The Memorial Flagpole had perdured outside for 117 years without copper theft.
- Bronze/copper [abounds nearby unmolested](#), as well as about Palo Alto and Stanford.
- Web searches reveal few nationwide incidences of memorial copper theft.
- Scrap copper isn't lucrative. Even a heavy bronze plaque would return less than \$30. The copper trim section that's missing would yield much less.
- The [price of copper in mid-2020](#) was at four-year lows.
- The photographs of the damage hardly prove the criminal intent was extraction.
- Laws protecting public monuments are severe, exactly to fend against such petty larceny.

In the context of what we found to be an unconvincing copper theft explanation, Post 375 had growing concerns that the vaguely described undocumented damage incident was not reported to the Santa Clara County Sheriff's Office.

We asked on different occasions about the failure to report the Memorial Flagpole's costly physical damage, but no official even attempted to explain to us why this was not done. It seemed circular: Since officials deemed the damage was due to petty larceny copper theft, law enforcement involvement wasn't warranted. But it's law enforcement that determines the crime, not the property owner. And the ramifications were hardly petty.

Here's the basis for Post 375's concern.

- Although the Memorial Flagpole was "repeatedly" damaged, sufficient for repair estimates of \$60,000, Stanford's [property managers](#) never *once* reported the crime.
- Stanford officials, whose expertise isn't crime, volunteered it was pointless to even investigate, citing that "the flagpole has no cameras".
 - Cameras [can be seen trained on the flagpole atop the VMB](#), the damage was on the side facing the VMB, and all three cameras have a clear view.



Cameras atop VMB



Cameras with clear view of Memorial Flagpole

- Responses to Post 375 requests for basic information such as the crime dates(s) have been unforthcoming.
 - EXIF Date and Time stripped from the crime scene photograph files.
- Stanford officials' inexpert assertions that copper theft is unsolvable, unpreventable and rampant are used as justification for the proposal (to Post 375, not the HRB) of a lower standard repair treatment using ersatz material. This seemed to apply a property owner's private interest to a public matter.
- Stanford officials reportedly recommended to Palo Alto officials that the Memorial Flagpole's repair treatment should include the removal of its four (undamaged) plaques from their historic public display, and their relegation to a museum.
 - To Post 375, it appeared inconsistent with historical preservation standards to treat the copper trim damage on *one* side with *four* undamaged plaques' removal.

- Nowhere in historic preservation codes are such historic integrity determinations left to the judgment of the land title holder.
- Stanford officials suggested to Post 375 that the Memorial Flagpole's repair treatment was conditional on the outcome of regional land usage initiatives.
 - [Palo Alto Historic Preservation Code](#) does not cite regional land usage initiatives.

To Post 375, it does not make sense for a property owner to minimize its legal remedies for criminal property damage. Asserting that the Memorial Flagpole's damage was copper theft brings it below the level of prosecution. By simply reporting to law enforcement, the property owner avails itself of protection and possible compensation.

The damage appears to meet the standard for [California Penal Code § 594: Vandalism](#), punishable by a one year imprisonment, and, as the damage is estimated at \$60,000, compensable by a \$50,000 fine.

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PENAL CODE - PEN

PART 1. OF CRIMES AND PUNISHMENTS [25 - 680.4] (Part 1 enacted 1872.)

TITLE 14. MALICIOUS MISCHIEF [594 - 625c] (Title 14 enacted 1872.)

594. (a) Every person who maliciously commits any of the following acts with respect to any real or personal property not his or her own, in cases other than those specified by state law, is guilty of vandalism:

(1) Defaces with graffiti or other inscribed material.

(2) Damages.

(3) Destroys.

Whenever a person violates this subdivision with respect to real property, vehicles, signs, fixtures, furnishings, or property belonging to any public entity, as defined by Section 811.2 of the Government Code, or the federal government, it shall be a permissive inference that the person neither owned the property nor had the permission of the owner to deface, damage, or destroy the property.

(b) (1) If the amount of defacement, damage, or destruction is four hundred dollars (\$400) or more, vandalism is punishable by imprisonment pursuant to subdivision (h) of Section 1170 or in a county jail not exceeding one year, or by a fine of not more than ten thousand dollars (\$10,000), or if the amount of defacement, damage, or destruction is ten thousand dollars (\$10,000) or more, by a fine of not more than fifty thousand dollars (\$50,000), or by both that fine and imprisonment.

To Post 375, a public report of the crime would seem indispensable for a property owner's insurance, tax, and public reporting purposes. It made no sense that [professional property managers](#) would fail to report the Memorial Flagpole's serious damage to law enforcement.

Even more troubling to Post 375 has been its impression that the VMB's listing in the [National Register of Historic Places](#) subjects the property owner and the local historic

agency to [Federal Historic Preservation Laws](#) and U.S. Criminal Code protecting veterans memorials.

Perhaps our American Legion perspective lends us greater cognizance of the Federal interest in providing legal protections for National Register of Historic Places properties, as these are the public good not just of the municipality, but the nation. Similarly, veterans memorials are protected by severe U.S. Criminal Law penalties because honoring veterans' service is inherently a national interest.

The Federal Government stands ready to potentially provide justice for the injury the Memorial Flagpole's damage did to the national public good, but that justice was denied by the crime's failure to be reported.

That said, Post 375 is no Federal law expert, except to know that compliance is the determination of public authorities and not the property owner.

The Federal laws of concern here are:

- The failure to report the Memorial Flagpole's willful defacement to any public agency denied the VMB the justice of [18 U.S. Code § 1865 - National Park Service](#).

"§ 1865. National Park Service

"(a) VIOLATION OF REGULATIONS RELATING TO USE AND MANAGEMENT OF NATIONAL PARK SYSTEM UNITS.—A person that violates any regulation authorized by section 100751(a) of title 54 shall be imprisoned not more than 6 months, fined under this title, or both, and be adjudged to pay all cost of the proceedings.

"(b) FINANCIAL DISCLOSURE BY OFFICERS OR EMPLOYEES PERFORMING FUNCTIONS OR DUTIES UNDER SUBCHAPTER III OF CHAPTER 1007 OF TITLE 54.—An officer or employee of the Department of the Interior who is subject to, and knowingly violates, section 100737 of title 54 or any regulation prescribed under that section shall be imprisoned not more than one year, fined under this title, or both.

"(c) OFFENSES RELATING TO STRUCTURES AND VEGETATION.—A person that willfully destroys, mutilates, defaces, injures, or removes any monument, statue, marker, guidepost, or other structure, or that willfully destroys, cuts, breaks, injures, or removes any tree, shrub, or plant within a national military park shall be imprisoned not less than 15 days nor more than one year, fined under this title but not less than \$10 for each monument,

statue, marker, guidepost, or other structure, tree, shrub, or plant that is destroyed, defaced, injured, cut, or removed, or both.

- Failure to report the Monument's original criminal injury, delaying repairs, and constructing an unauthorized structure removing the monument from public

display for three years might be viewed as compounding the monument's injury without obtaining permission from any government agency, and a possible violation of [18 U.S. Code § 1866 - Historic, archeologic, or prehistoric items and antiquities](#).

§ 1866. Historic, archeologic, or prehistoric items and antiquities

(a) VIOLATION OF REGULATIONS AUTHORIZED BY CHAPTER 3201 OF TITLE 54.—A person that violates any of the regulations authorized by chapter 3201 of title 54 shall be fined under this title and be adjudged to pay all cost of the proceedings.

(b) APPROPRIATION OF, INJURY TO, OR DESTRUCTION OF HISTORIC OR PREHISTORIC RUIN OR MONUMENT OR OBJECT OF ANTIQUITY.—A person that appropriates, excavates, injures, or destroys any historic or prehistoric ruin or monument or any other object of antiquity that is situated on land owned or controlled by the Federal Government without the permission of the head of the Federal agency having jurisdiction over the land on which the object is situated, shall be imprisoned not more than 90 days, fined under this title, or both.

(Added Pub. L. 113-287, § 4(a)(1), Dec. 19, 2014, 128 Stat. 3261.)

- Failing to report to any public agency the willful injury of the Memorial Flagpole which commemorates the service of persons in the U.S. armed forces potentially denies veterans the rigorous justice of [18 U.S. Code § 1369 - Destruction of Veterans' Memorials](#).

§ 1369. Destruction of veterans' memorials

(a) Whoever, in a circumstance described in subsection (b), willfully injures or destroys, or attempts to injure or destroy, any structure, plaque, statue, or other monument on public property commemorating the service of any person or persons in the armed forces of the United States shall be fined under this title, imprisoned not more than 10 years, or both.

(b) A circumstance described in this subsection is that—

(1) in committing the offense described in subsection (a), the defendant travels or causes another to travel in interstate or foreign commerce, or uses the mail or an instrumentality of interstate or foreign commerce; or

(2) the structure, plaque, statue, or other monument described in subsection (a) is located on property owned by, or under the jurisdiction of, the Federal Government.

(Added Pub. L. 108-29, §2(a), May 29, 2003, 117 Stat. 772.)

The difference with 18 U.S. Code § 1369 is that it's a Federal felony, which under [§ 4. Misprision of felony](#) obligates those aware of its commission to report to law enforcement.

§ 4. Misprision of felony

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 684; Pub. L. 103-322, title XXXIII, §330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

While Misprision of felony [is rarely prosecuted](#), and only under very specific conditions, its existence as a law is enough to inform any discussion of whether the damage to the Memorial Flagpole veteran's monument should have been reported.

Post 375 has no legal expertise, we can only research the laws and see what might apply. Maybe we are way off base. To us, however, it seems that the injury to the Memorial Flagpole ought to definitely have been reported. The easy and only way to

allay legitimate concerns is to publicly report the 2020 injury and unauthorized treatment is for the HRB to retrospectively review the Memorial Flagpole's damage and treatment.

This is necessary now, because it never was submitted to the HRB.

Conformance with Palo Alto Historic Preservation Code

The original damage to the Memorial Flagpole was not reported to law enforcement. In lieu of repairs, the subsequent treatment consisted of erection of an expedient plywood enclosure, which has persisted for at least 2-1/2 years. During this time, Post 375 was privately advised of repair plans, which to our knowledge consisted only of obtaining repair estimates to Department of Interior standards that were deemed too costly. No repair work has been performed, and no application made for Historic Project Review.

The [Historic Preservation Code](#) intends to thwart [demolition by neglect](#), and for this reason requires property owners to keep exterior features free of structural defects through *prompt corrections*. *Prompt* isn't specified, but 2-1/2 years likely isn't.

16.49.080 Maintenance of historic structures in the downtown area.

The owner, lessee or other person legally in possession of a historic structure ... shall comply with all applicable codes, laws and regulations governing the maintenance of property. Additionally, it is the intent of this section to **preserve from deliberate or inadvertent neglect the exterior features of buildings designated as significant**. All such buildings shall be preserved against such decay and deterioration, and **shall remain free from structural defects through prompt corrections...**

Regulatory delay cannot be the reason for dilatory repairs. The treatment was not submitted for Historic Project Review, as the Preservation Code would seem to require.

16.49.050 Exterior alteration of historic structures.

(a) Review Process. All applications for a building permit for exterior alteration to any... significant building...shall be reviewed as follows:

(2) ... the proposed alterations should not adversely affect:

(A) The exterior architectural characteristics nor the historical, architectural or aesthetic value of the building and its site...

To Post 375 it appears that the lack of prompt repairs and failure to obtain Historic Project Review is askance the Palo Alto Historical Preservation Code. If Post 375 thinks this, others might too, and if this impression is mistaken it would be unfair to the parties involved. It is imperative that HRB make a retrospective determination as to

whether the Memorial Flagpole's treatment was in accordance with the Palo Alto Historic Preservation Code.

Post 375 urges the Memorial Flagpole repair to undergo Historic Project Review.

The more deeply Post 375 engaged with Memorial Flagpole issues, the more convinced we became of the need for public HRB oversight.

Accordingly, Post 375 [urged Stanford officials to report](#) the Memorial Flagpole's damage and Stanford's repair plan to the Palo Alto Historical Resources Board (HRB), as per requirements of the [Palo Alto Historic Preservation Code](#). [In reply](#), mention is made of Secretary of the Interior standards, but of not the Palo Alto HRB.

[We replied, returning to the HRB issue](#), and relating that the VMB had been discussed at the HRB as being in Palo Alto's jurisdiction.

A further reminder in January elicited [a brief reply not mentioning the HRB](#), however, soon a Zoom meeting with Post 375 and Stanford's VMB property manager was arranged.

In advance of the Zoom meeting, [Post 375 offered to inform the HRB](#) of the Memorial Flagpole issue, inviting Stanford's participation.

At our friendly, cordial and candid Zoom meeting Post 375 discussed many of the issues in this paper.

Happily, [Stanford responded](#), informing us that they'll bring the Memorial Flagpole issue to the HRB, which is now scheduled for April 13 as a study session, which this paper addresses.

Post 375 ponders Stanford's VMB strategy.

Post 375 started its engagement of the Memorial Flagpole issue optimistic that it would be resolved in a manner consistent with an august institution's ownership of a National Register of Historic Places property.

This optimism faded, however, and Post 375 officers, some of whom are Stanford alumni, were perplexed as to Stanford's seeming indifference to its own property's condition and historical integrity.

What first necessitated Post 375's plumbing of Stanford's VMB motivations was the existential threat posed by Stanford's peremptory 2021 action of [awarding the Veterans' Area lease to the restaurant](#). This resulted in the stripping of Post 375's and East Palo Alto Post 472's [decorations from the Veterans Area](#), limiting its use to the pleasure of the restaurant, and essentially ending the VMB's 102-year history of dedicatory public use. All this to the unequivocal detriment of the public good, the VMB's historical integrity, and to Post 375

The VMB's preservation may be a priority for many in the community, but for Post 375 it is a matter of survival. We *had* to gain a clear-eyed understanding our landlord's motivation, and fight to protect every element of the VMB's historical integrity, which includes our VMB heritage.



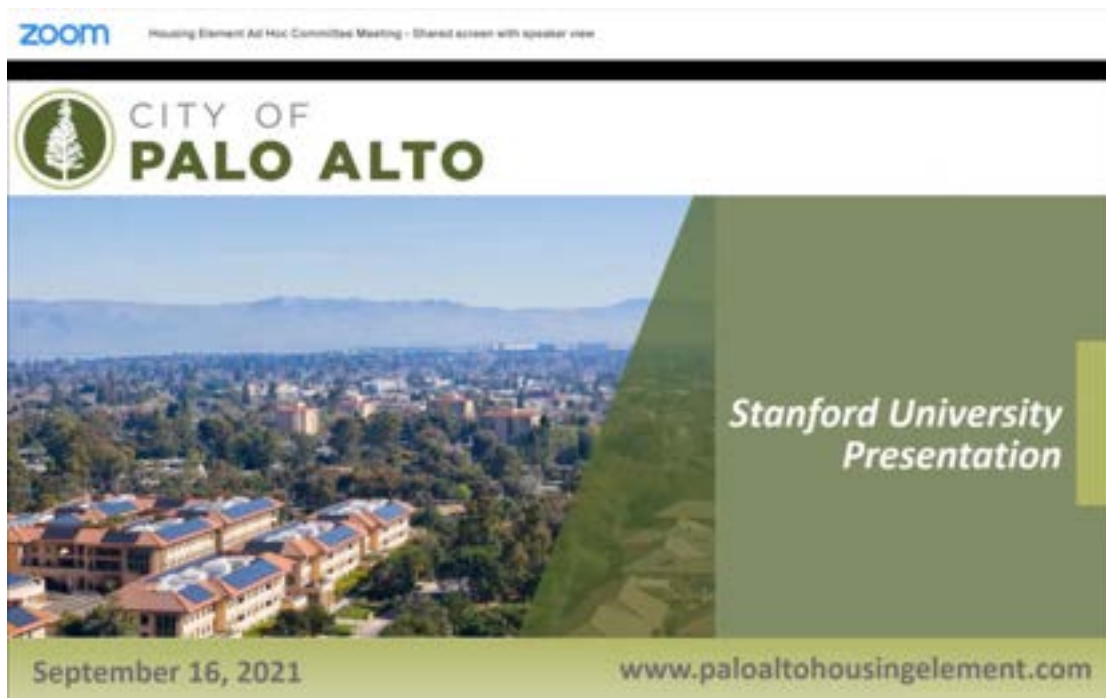
Post 375 dedicating the Serviceman and Servicewomen Memorial, 1953.

The Palo Alto Transit Center pitch to relocate the VMB.

In Post 375's struggle to preserve veterans' VMB access, we noticed Stanford's repeated and determined attempts to densely develop the entire 4.5 acre [Palo Alto Transit Center](#) (PATC) parcel (requiring the [VMB's relocation](#)) with high-rise buildings.

- In 2012, Stanford obtained preliminary approval for a [high-rise project](#), but it was [defeated](#), assisted by [objections from the Historical Resources Board](#).
- In 2014, Stanford proposed a [research park](#).
- In 2021 Stanford [offered regional](#) and [municipal agencies](#) the [4.5 acre parcel](#) to accommodate a [137-foot, 530-unit block tower apartment](#).

Post 375 began to suspect that Stanford's VMB historical integrity indifference served a larger strategic design. These suspicions found further support in our viewing a [Zoom video](#) of Stanford's September 16, 2021 presentation to the Palo Alto Housing Element ad hoc Committee.



Stanford [Lands, Buildings & Real Estate](#) (LBRE) officials waxed enthusiastic over the development potential of the 4.5 acre Palo Alto Transit Center (PATC), 1.08 acres of which is the VMB parcel.



LBRE officials limited mention of PATC harboring an *Historic building (MacArthur Park)* to a bullet point, and thus left implicit that this option requires relocation of a National Register of Historic Places building.

Palo Alto Transit Center: Overview

SOUND & SUSTAINABLE PLANNING

ACCESSIBLE & AFFORDABLE

COLLABORATIVE PARTNERSHIP

ECONOMIC VITALITY

- ~4.5 acres
- Critical multi-modal transit center use (many transit agency stakeholders)
- Historic building (MacArthur Park)
- No existing long-term leases
- Includes small area of underutilized, underimproved park area

LBRE presenters lauded PATC as the ideal location for a parking-deprived, height-restriction-shattering 137 foot, 530 unit [tower block apartment](#).

Palo Alto Transit Center: Capacity Analysis

Capacity Ranges

| Options | Unit Count |
|--|------------|
| Minimum 5-story over 2-story at-grade parking (75-85') | 180 - 270 |
| At height of Hoover Pavilion (105') | 360 - 425 |
| At height of Alma Tower (137') | 465 - 530 |

Key Considerations

- ✓ Minimum 5 stories of housing over 2-story at-grade parking
- ✓ "Transit first" perspective
 - **Historic Preservation, zero**
- ✓ Investment in transit resources and mobility enabled by addition of other uses, including some new commercial and office
- ✓ Optimal location for height and density
- ✓ Reduction in parking requirements could enable higher unit count (appropriate location for lower parking ratios due to transit location and walkability to jobs, retail and services)
- ✓ Opportunity to create a vibrant mix of uses and grander public connection through site between Downtown Palo Alto and Stanford Shopping and Medical Center
- ⊘ **Requires relocation of National Register of Historic Places building.**

Stanford University

LBRE officials touted Stanford's *Four Foundational Pillars*, which support 17 *Guiding Principles*. Historical Preservation not included.

Stanford University

Overview

8.5.21 Working Group Stanford Presentation

- Overview of Stanford endowed land
 - 8,180 acres located across 7 jurisdictions.
- Stanford's perspective about housing on its Palo Alto lands
 - Anchored by Comprehensive Plan policies
 - Guided by Stanford's four key "foundational pillars"
- Ground lease complexity
 - 93% of Palo Alto lands ground leased
 - HCD compliance requirements
- Mayfield Development Agreement Case Study
 - Past success





Stanford's Guiding Principles: Housing on Stanford's Palo Alto Lands

| SOUND & SUSTAINABLE PLANNING | ACCESSIBLE & AFFORDABLE | COLLABORATIVE PARTNERSHIP | ECONOMIC VITALITY |
|--|---|---|---|
| <ul style="list-style-type: none"> • Proximate to basic services, jobs, and amenities • Mobility rich - near transit centers/corridors, ped/bike friendly • Contextually appropriate - community connection & neighborhood integration • Creates "place" - establishes network of experiences • Greater height - resource efficiency & compact design | <ul style="list-style-type: none"> • Greater density - leverage economies of scale • Feasible design standards • Streamlined review process • Creates opportunities for future generations - expansion of housing choices | <ul style="list-style-type: none"> • Viewed as beneficial by existing lessee(s) • Lessee is motivated and incentivized to build • Aligned vision • Economically feasible - barriers removed | <ul style="list-style-type: none"> • Meets Comp Plan principle of additive housing • Enhances City's economic health • Synergistic with existing uses • Preserves existing retail and commercial square footage |



Historic Preservation





LBRE presenters averred that *there are many levers to development that can be pushed or pulled along the way to encourage housing. ...Overarching development requirements and processes will be an impediment to getting housing built.*

zoom Housing Element Ad Hoc Committee Meeting - Shared screen with speaker view

Stanford's Guiding Principles: Housing on Stanford's Palo Alto Lands

| SOUND & SUSTAINABLE PLANNING | ACCESSIBLE & AFFORDABLE | COLLABORATIVE PARTNERSHIP | ECONOMIC VITALITY |
|---|---|--|---|
| <ul style="list-style-type: none"> Proximate to basic services, jobs, and amenities Mobility rich - near transit centers/corridors, ped/bike friendly Contextually appropriate - community connection & neighborhood integration | <ul style="list-style-type: none"> Greater density - leverage economies of scale Feasible design standards Streamlined review process Creates opportunities for future generations - expansion of housing choices | <ul style="list-style-type: none"> Viewed as beneficial by existing lessee(s) Lessee is motivated and incentivized to build Aligned vision Economically feasible - barriers removed | <ul style="list-style-type: none"> Meets Comp Plan principle of additive housing Enhances City's economic health Synergistic with existing uses Preserves existing retail and commercial square footage |

Second, there are many levers to development that can be pushed and pulled along the way to encourage housing. In other words, extra costs and overarching development requirements and processes will be an impediment to getting housing built all things

Stanford University

Post 375's interpretation is that:

- The Stanford Board of Trustees has decided that development of the PATC takes priority over preservation of the National Register of Historic Places VMB.
 - LBRE officials dutifully implement Trustees' policy.
- PATC development requires vigorous Stanford initiatives (*levers to development that can be pushed and pulled*).
- Historic Preservation is an *overarching development requirement and process* that exemplifies an *impediment to getting housing built*.
- The Palo Alto Historic Preservation Code and National Register of Historic Places regulations that protect the VMB impede the PATC development's *economic feasibility*, and are thus *barriers to be removed*.

In Post 375's view, the reduction of Historic Preservation to a *barrier* and *impediment* to the State-prioritized good of *housing* is an invitation for officials to extend the *push and pull* of *development levers* past conventional boundaries.

In other words, historic preservation is a speed bump on the road to *housing* to either drive *over* or *around*.

With the Memorial Flagpole's unexpected 2020 damage, LBRE officials were abruptly confronted with an imposing HRB oversight speed bump, forcing a decision to either report damage to the Sheriff's, and drive *over* the speed bump, or not report, and drive *around* it. Fatefully, the latter was chosen.

HRB and the National Register of Historic Places.

The Veterans Memorial Building is listed in the National Register of Historic Places.

Stanford's holds the fee simple title to 27 University Avenue, and its role is the [Owner](#), to which I will often refer to it here.

(k) **Owner or owners.** The term owner or owners means those individuals, partnerships, corporations or public agencies holding fee simple title to property. Owner or owners does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests (including leaseholds) of any nature.

Properties shall not be included in the National Register over the objection of the property owner.

[§302105. Owner participation in nomination process](#)

b) **When Property Shall Not Be Included on National Register or Designated as National Historic Landmark.**—*If the owner of any privately owned property... object to inclusion or designation, the property shall not be included on the National Register or designated as a National Historic Landmark until the objection is withdrawn.*

§302105. Owner participation in nomination process

(k) **Resolutions.**—The Secretary shall promulgate regulations requiring that before any property may be included on the National Register or designated as a National Historic Landmark, the owner of the property or a majority of the owners of the individual properties within a district in the case of a historic district, shall be given the opportunity (including a reasonable period of time) to concur in, or object to, the nomination of the property for inclusion or designation. The regulations shall include provisions to carry out this section in the case of multiple ownership of a single property.

(l) **When Property Shall Not Be Included on National Register or Designated as National Historic Landmark.**—If the owner of any privately owned property, or a majority of the owners of privately owned properties within the district in the case of a historic district, object to inclusion or designation, the property shall not be included on the National Register or designated as a National Historic Landmark until the objection is withdrawn.

(m) **Review or Suspension.**—The Secretary shall review the nomination of the property when an objection has been made and shall determine whether or not the property is eligible for inclusion or designation. If the Secretary determines that the property is eligible for inclusion or designation, the Secretary shall inform the Advisory Council on Historic Preservation, the appropriate State Historic Preservation Officer, the appropriate chief elected local official, and the owner or owners of the property of the Secretary's determination.

(Pub. L. 113-267, §3, Dec. 19, 2014, 128 Stat. 3193.)

In 1976 [when the VMB was listed](#), the owner Stanford lodged no objection. In 1999 Stanford freely obtained [the VMB Lease from Palo Alto](#), with “all of its obligations”.

If 47 years later, the Owner now finds being a National Register property owner inconvenient, that's a problem entirely of its own making. In 1976 Stanford committed itself as a National Register Owner; changed circumstances now are no license to use its institutional power as a lever to spoil the building's historical integrity while lobbying for its relocation and National Register deletion.

The VMB's Owner explicitly seeks its property's relocation, which is antithetical to the National Register's purpose.

(b) *Relocating properties listed in the National Register.*

- (1) Properties listed in the National Register should be moved only when there is no feasible alternative for preservation. When a property is moved, every effort should be made to reestablish its historic orientation, immediate setting, and general environment.

There's no strong rationale for relocation. There are a multitude of *feasible alternatives* to the VMB's relocation; for example, develop 3.5 acres of the PATC, and leave the VMB's one acre alone.

Without successful application to the National Park Service (NPS) *prior* to the move, relocation of the VMB would result in its automatic deletion from the National Register.

- (4) In the event that a property is moved, deletion from the National Register will be automatic unless the above procedures are followed prior to the move. If the property has

The pre-approval process for National Register retention upon relocation is arduous, and in the VMB's case the prospects are poor. It's probable that the VMB would lose its National Register listing, an outcome authored entirely by the Owner.

(2) If it is proposed that a property listed in the National Register be moved and the State Historic Preservation Officer, Federal agency for a property under Federal ownership or control, or person or local government where there is no approved State Historic Preservation Program, wishes the property to remain in the National Register during and after the move, the State Historic Preservation Officer or Federal Preservation Officer having ownership or control or person or local government where there is no approved State Historic Preservation Program, shall submit documentation to NPS prior to the move. The documentation shall discuss:

- (i) The reasons for the move;
- (ii) The effect on the property's historical integrity;
- (iii) The new setting and general environment of the proposed site, including evidence that the proposed site does not possess historical or archeological significance that would be adversely affected by the intrusion of the property; and
- (iv) Photographs showing the proposed location.

Stanford's leveraging of its owner role to achieve Register deletion isn't limited to lobbying for Relocation; it at best expends no effort to preserve the VMB's historical integrity, instead acting at every opportunity as if seeking to achieve the Grounds for National Register removal.

§ 60.15 Removing properties from the National Register.

- (a) Grounds for removing properties from the National Register are as follows:
 - (1) The property has ceased to meet the criteria for listing in the National Register because the qualities which caused it to be originally listed have been lost or destroyed, or such qualities were lost subsequent to nomination and prior to listing;

The Owner's diffidence to the VMB's historical integrity is seen in the Memorial Flagpole damage incident, which is the Owner's manifest (and perhaps legal) duty, first to report to law enforcement, and then submit for HRB review.

The Provisions of the National Historic Preservation Act (NHPA) are carried out not by the NPS, but by the State Historic Preservation Program, delegated by California to the Palo Alto Historic Resources Board.

(n) **State Historic Preservation Program.** The State Historic Preservation Program is the program established by each State and approved by the Secretary of Interior for the purpose of carrying out the provisions of the National Historic Preservation Act of 1966, as amended, and related laws and regulations. Such program shall be approved by the Secretary before the State may nominate properties to the National Register. Any State Historic Preservation Program in effect under prior authority of law before December 12, 1980, shall be treated as an approved program until the Secretary approves a program submitted by the State for purposes of the Amendments or December 12, 1983, unless the Secretary chooses to rescind such approval because of program deficiencies.

It's the HRB's duty to determine if its National Register property owners are acting within the NHPA's provisions. Failure to report to local authorities thereby also eludes National Register review.

Should the potentially flaunted Federal laws cited above ever draw NPS's scrutiny to the Memorial Flagpole matter, the HRB's proceedings will figure in the probe. It would seem prudent for the HRB's proceedings to document that for three years the Owner's Flagpole treatment was unreported and unauthorized, lest the HRB share in adverse Federal findings.

The April 13th Study Session.

The 2020 damage to the Memorial Flagpole will first enter HRB proceedings April 13th as a Study Session, which presumably may lead to becoming a regular agenda item with motions.

This is a complex case, with much to consider. The important aspects for HRB's consideration, however, are simple:

- Post 375 has strong standing in matters of the VMB's historical integrity.
 - Unique among the involved parties, to Post 375 the VMB's preservation is existential.
- The Memorial Flagpole has its own historic significance, is included on the VMB's Historical Inventory Detail, and enjoys the property's historic protections.
- In 2020 the Memorial Flagpole sustained criminal damage estimated to exceed \$10,000, that the Owner did not report to the Santa Clara County Sheriff's Department.
 - While not a legal duty, the reporting of serious vandalism of a National Register listed property to law enforcement is strongly advisable.

- If [18 U.S. Code § 1369 - Destruction of Veterans' Memorials](#) applies, reporting may have been a legal duty.
- Neither the Memorial Flagpole's damage nor its irregular treatment was submitted to the HRB.
 - Palo Alto Historic Preservation Code requires that owners submit treatment plans for Historical Project Review.
- The Memorial Flagpole did not receive prompt correction of structural defects the Palo Alto Historic Preservation Code requires of Category One owners.
- The VMB's listing in the National Register of Historic Places renders the Memorial Flagpole's damage a Federal matter, which introduces the HRB, and the City of Palo Alto, to Federal liability.
- Active lobbying for VMB relocation (triggering National Register deletion), calls into question the Owner's commitment to fulfillment of the National Register duties that it freely undertook.

The VMB and Stanford are the Historic Inventory's most prominent property and property owner, respectively. Stakeholders will note well and long remember what the HRB does here. Closure of the Flagpole issue with an off-record study session will constitute the HRB's retrospective endorsement of the Memorial Flagpole's damage having been kept a private matter. The dubitable aspects of its treatment detailed above will be established as new HRB standards, and pose Federal oversight liabilities.

Post 375 recommends that the Study Session include a report that retrospectively reviews the conformance of the Memorial Flagpole's damage, reporting and treatment to the Palo Alto Historic Preservation Code. At a subsequent HRB meeting, the report's findings can be adapted as motions, so that the HRB proceedings will not be silent on such a momentous issue.