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Interior changes at Burde building raising hackles

By MARY SCHLEY

HISTORIC PRESERVATIONISTS don't like the interior changes made to a modern-style former bank building — which was the subject of debate, controversy and court battles for more than a decade — but permits approved for its transformation into an event center contained no restrictions on what its new owners could do to the inside, only to the outside, planning director Rob Mullane confirmed this week.

"The approval never went to the interior," he said of the application for work on the building at Dolores and Eighth that was designed by modern architect Walter Burde and built in the early 1970s. "For a building with a lot of windows, the city could have conditioned protection of the inside," but it didn't.

"The conditions are a tiny bit ambiguous, but the way I read it is they pertain to exterior changes," Mullane said.

The downtown building has not been declared historic, though the city labeled it "architecturally significant" during one of its many hearings regarding former owner John Mandurrigo's proposal to raze it and build apartments, condos, offices, retail space and underground parking in its place. (After he lost the bid to do that, and after taking his fight to court and losing in July 2010, Mandurrigo gave up and sold the building in the summer of 2011 to an LLC called CPines7.)

Last year, owner Jeffrey Peterson received permission to turn the former savings and loan into an event center, as long as the outside was preserved. At the time, the planning commission "received the concept enthusiastically."

See **HACKLES** page 23A

The garbage man is here ... and he's in a kayak!



PHOTO/COURTESY MONTEREY BAY KAYAKS

Hikers wanted to remove unsightly trash from the rocky Soberanes Point shoreline, but they couldn't reach it. So they turned to another group of park users for help. See page 7A

City mistakenly hikes business license tax

■ Errors being corrected, new bills issued

By MARY SCHLEY

IF IT weren't for an eagle-eyed landlord asking questions, nearly 2,000 business owners might have blithely paid more business license taxes to the City of Carmel than legally required. Fortunately for them, Jody LeTowt's inquiries revealed that someone at city hall raised the tax to \$1.03 per \$1,000 of gross income from the straight \$1 per \$1,000 required by the Carmel Municipal Code since the ordinance was adopted in 1998.

When LeTowt, who owns several commercial buildings in Carmel, received his business license tax bill from the City of Carmel last month, he noticed a few things had changed: The tax rate was now \$1.03 per \$1,000 of gross revenues, the administrative fee increased from \$50 to \$51.65, and a new \$1 ADA charge was added.

Wondering how that combined 5.3 percent increase could have come about without his noticing, he inquired at city hall, where an employee told him "that the increases were included in the annual city budget that was approved by the

See **TAX** page 24A

New city clerk fired

By MARY SCHLEY

AFTER JUST 45 days, Catherine Raynor was released from her job as city clerk Tuesday afternoon. She said her dismissal was due to "irreconcilable differences," and that it was "not the right fit."

At least, those were evidently the opinions of city administrator Jason Stilwell and administrative services director Susan Paul, according to Raynor, who said she found working in the office difficult and unwelcoming, though she enjoyed communicating and collaborating with the city council and Mayor Jason Burnett.

"Working with the council was quite nice, and quite pleasant," said Raynor, whose first day on the job was the June 3 council meeting. She was told at 5:01 p.m. July 15 that her employment with the city was at an end. She had an at-will contract with the city.

Raynor, who is certified as a "master municipal clerk," has a B.S. in liberal studies and is a retired U.S. Army military intelligence officer, worked for the City of Monterey as

See **CLERK** page 21A

Serious injuries claimed from metal in Mini-Wheats

By KELLY NIX

A CARMEL man who alleges he became gravely ill and almost died after eating a bowl of Frosted Mini-Wheats that was tainted with metal fragments is suing the Kellogg Company and two supermarkets for negligence and product liability.

According to a lawsuit filed July 14 in Monterey County Superior Court, Roger Scott ate a bowl of the Kellogg's cereal in July 2012 before suffering severe abdominal pain and vomiting later that evening. Believing he had food poisoning, Scott went to Community Hospital of Monterey Peninsula's emergency room, where doctors diagnosed him with a stomach virus.

But after 10 days of constant severe pain and having lost

22 pounds, Scott returned to the hospital where he underwent a CT Scan that revealed "he had a large hole in his colon and another in his small intestine." In between the organs, doctors found he had peritonitis — inflammation of the lining of the abdominal cavity — and they operated on him.

"Without the surgery," Scott's lawsuit alleges, "his doctor advised that he would have died within 24 to 48 hours."

Kellogg Company spokesperson Kris Charles said "As a company policy, we don't comment on pending litigation."

The lawsuit also names Safeway and Save Mart as defendants, alleging the supermarkets were also at fault for him becoming ill because they distributed the cereal, although Scott does not indicate where he purchased the Mini-Wheats.

See **WHEATS** page 25A

SHOWDOWN OVER ACCESS TO A PRIVATE BEACH NEAR HALF MOON BAY

By PAUL MILLER

Redwood City — **C**AN THE government require the owner of a private business to get a permit to shut the business down, hang a "closed" sign in the front window and lock the door — a permit that could be denied, forcing him to stay open to the public when he doesn't want to?

Or is closing a business and securing the premises a constitutional right, regardless of what government bureaucrats say?

These fundamental questions don't seem to have arisen before in all the decades of California land-use battles, but they were hotly debated this week in a San Mateo County courtroom, where the owner of a private beach near Half Moon Bay argued that he has a constitutional right to close his beach-access business and lock the entrance gate without asking anyone's permission, while land-use activists claimed that, because sacred public access to a beach was at stake, he needs a permit from the California Coastal Commission to shut it down.

On one side was Vinod Khosla, the wealthy Silicon

Valley entrepreneur and co-founder of Sun Microsystems who purchased the 89-acre Martins Beach in 2008 for \$32.5 million.

And on the other was the Surfrider Foundation, which says its goal is "protection and enjoyment of oceans, waves and beaches through a powerful activist network." When Khosla closed Martins Beach a few years after acquiring it, Surfrider raised the alarm among the public, the media and environmentalists over the loss of what it called "an irreplaceable public treasure" at the isolated beach, about seven miles south of Half Moon Bay on Highway 1.

Khosla already won one lawsuit over public access to Martins Beach in May, when San Mateo County Superior Court Judge Gerald Buchwald ruled that Khosla owned Martins Beach fair and square, and that Surfrider had "no cognizable legal theory which gives it the right to access [Khosla's] private property."

Buchwald also ruled that requiring him to offer his property for public use "would constitute an unlawful taking" of

See **ACCESS** page 21A



PHOTO/PAUL MILLER

The team for the Surfrider Foundation — including plaintiff Mark Massara (with pink shirt) and lead counsel Joe Cotchett (red tie) addressing the media after closing arguments in Redwood City Wednesday.