

Exhibit 2

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1	A.	I am a community development project	10:18:21
2		coordinator for the City of Berkeley Public Works	10:18:24
3		Department and Public Works, I am found under the	10:18:28
4		title of property management or real property	10:18:34
5		specifically for Public Works property, but I do	10:18:37
6		assist with facilitating the needs of other	10:18:41
7		departments have.	10:18:50
8	Q.	How long have you been in that role?	10:18:51
9	A.	I began working for the City of Berkeley	10:18:53
10		on March 3rd, 2016.	10:18:55
11	Q.	That was when you started with the City?	10:19:01
12	A.	I'm pretty sure 3/3/16. I think so.	10:19:03
13		Yes.	10:19:06
14	Q.	And where did you work prior to that?	10:19:07
15	A.	I worked for the City of Half Moon Bay as	10:19:08
16		a management analyst in the Community Development	10:19:11
17		Public Works Department.	10:19:14
18	Q.	And what was your role there?	10:19:17
19	A.	I was a senior management analyst.	10:19:19
20	Q.	And for how long were you in that	10:19:21
21		position approximately?	10:19:23
22	A.	A little -- I think a little over a year.	10:19:25
23	Q.	And prior to that?	10:19:34
24	A.	I was a management analyst for the City	10:19:36
25		of East Palo Alto for about a year also. And before	10:19:44

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1	Q.	How long has the City used that building	10:36:39
2		Old City Hall in the manner that you described	10:36:43
3		approximately?	10:36:45
4	A.	As long as I've worked for the City. I	10:36:46
5		don't -- I can't speak to you before that.	10:36:51
6	Q.	To the best of your knowledge, has the	10:36:53
7		use changed in the last several years, say, since	10:36:55
8		2013?	10:36:58
9	A.	I can only say the use since I've been	10:36:58
10		there. So. I'm not a citizen of Berkeley. So. Oh,	10:37:02
11		and it's the place where you vote. That's the only	10:37:10
12		other use.	10:37:15
13	Q.	To the best of your knowledge, does the	10:37:23
14		City's use of Old City Hall conform to the uses we	10:37:24
15		talked about earlier in the zoning overlay?	10:37:30
16		MR. SCHWARTZ: Objection. It calls for a	10:37:31
17		legal conclusion. It calls for an opinion. It's	10:37:33
18		beyond the scope of this deposition.	10:37:35
19		Don't answer the question.	10:37:37
20		THE WITNESS: Okay.	10:37:38
21		MS. BERMAN: Under Rule 30, I believe	10:37:39
22		it's C, 2, the bases for instructing a witness not to	10:37:44
23		answer are privilege, calling off a deposition to	10:37:49
24		seek a protective order on the basis of embarrassment	10:37:56
25		or harassment or to enforce an existing protective	10:38:00

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1	counsel as well.	11:00:54
2	BY MS. BERMAN:	11:00:54
3	Q. Miss Early, do you recognize Exhibit 97?	11:00:55
4	A. Yes.	11:00:58
5	Q. What is it?	11:00:59
6	A. It is a council report describing the	11:00:59
7	license agreements for the Veterans Memorial Building	11:01:10
8	from October 15, 2013.	11:01:16
9	Q. And I haven't included the six	11:01:20
10	attachments listed at the end. A part from those	11:01:24
11	attachments, is this a fair and accurate copy of the	11:01:29
12	resolution?	11:01:35
13	A. So, this isn't the resolution. This is	11:01:37
14	the staff report.	11:01:41
15	Q. Is this a fair and accurate copy of the	11:01:42
16	staff report?	11:01:44
17	MR. SCHWARTZ: I object. The question is	11:01:48
18	vague and ambiguous, and the document speaks for	11:01:49
19	itself. What do you mean, is it a fair and accurate	11:01:52
20	copy? Did someone alter it or what?	11:02:03
21	THE WITNESS: There is no signature.	11:02:07
22	MR. SCHWARTZ: Can you rephrase or	11:02:08
23	clarify your question?	11:02:11
24	BY MS. BERMAN:	11:02:11
25	Q. Miss Early, I'll represent to you that	11:02:14

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1	this is a document that was produced by the City. It	11:02:17
2	has the City's stamps at the bottom there. COB003563	11:02:21
3	is a stamp on the first page. Does this look like an	11:02:29
4	accurate copy of the staff report?	11:02:33
5	A. I don't know that document well enough to	11:02:35
6	know if it's an accurate copy or not. So.	11:02:38
7	Q. Okay. Do you have any reason to think	11:02:47
8	that it's not?	11:02:48
9	A. I don't know one way or the other.	11:02:49
10	Q. This staff report, it lists six	11:03:02
11	organizations. Are those organizations that are	11:03:07
12	current tenants in 1931 Center Street?	11:03:11
13	A. That's my understanding with one missing.	11:03:15
14	Q. What's missing?	11:03:28
15	A. The Disabled Veterans and American	11:03:29
16	Legion. Disabled Veterans, Number 7. American	11:03:36
17	Legion, Number 25. They are together, one -- the 7th	11:03:40
18	tenant.	11:03:46
19	Q. To clarify, are those one organization or	11:03:51
20	they share a space, what do you mean by that?	11:03:55
21	A. I have no idea. I just know that there	11:03:57
22	is a lease that has both of those names on it -- or a	11:03:59
23	license agreement that has both of those names on it.	11:04:02
24	Sorry.	11:04:05
25	Q. This recommendation, or this staff report	11:04:12

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1	refers to agreements with six organizations. Can you	11:04:17
2	find the -- sorry. I'll rephrase the question. Are	11:04:24
3	these organizations all current tenants within Center	11:04:30
4	Street -- or within 1931 Center Street?	11:04:35
5	A. To my knowledge, yes.	11:04:38
6	Q. And is there anyone at the City who would	11:04:43
7	have better knowledge on this subject?	11:04:46
8	A. As I mentioned before, these are	11:04:50
9	associated with Health, Housing and Community	11:04:53
10	Services. Their director is named Paul Buddenhagen.	11:04:56
11	Q. Would you mind spelling that if you know?	11:05:03
12	A. B-U-D-D-E-N-H-A-G-A-N. That would be my	11:05:04
13	guess.	11:05:18
14	Q. But, to the best of your knowledge, these	11:05:23
15	are the tenants besides the ones you mentioned?	11:05:24
16	A. Yes.	11:05:27
17	Q. And these tenants have been in the	11:05:28
18	building since 2013?	11:05:31
19	A. Yes.	11:05:34
20	Q. Do you know how long they have been in	11:05:37
21	the building approximately?	11:05:39
22	A. No. There was a previous set of leases	11:05:40
23	that were dated 2008. So.	11:05:45
24	Q. So they have been present in the building	11:05:48
25	since 2008, at least?	11:05:50

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1	testimony that the City has not?	11:07:43
2	A. So I don't know. That's what I'm saying.	11:07:45
3	Q. Now, I would like to ask you about the	11:08:12
4	City's agreements with those organizations	11:08:14
5	specifically.	11:08:17
6	A. Okay.	11:08:18
7	MS. BERMAN: I would like to ask the	11:08:30
8	court reporter to mark Exhibit 98, please.	11:08:32
9	(Whereupon, Deposition Exhibit 98 was	11:08:32
10	marked for identification.)	11:08:32
11	MS. BERMAN: I have a copy for counsel.	11:08:32
12	BY MS. BERMAN:	11:08:32
13	Q. Do you recognize Exhibit 98, Miss Early?	11:09:13
14	A. One second, please.	11:09:19
15	Q. Please take your time and review the	11:09:26
16	document.	11:09:31
17	A. I have seen it before.	11:09:35
18	Q. What is it?	11:09:39
19	A. It is a copy of the -- actually, no. I	11:09:40
20	take that back. I don't think I've seen this	11:09:53
21	specific document, I think, beyond the cover page.	11:09:58
22	Q. What is the cover page?	11:10:05
23	A. It's the cover page is what we used to	11:10:06
24	track and make sure that signatures, that documents	11:10:12
25	are properly signed and packaged for delivery for	11:10:17

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1	of the property since 2013, the date of this	11:14:00
2	document?	11:14:04
3	A. Not to my knowledge.	11:14:04
4	Q. Are you aware of any steps that they --	11:14:07
5	that Dorothy Day House took in response to the	11:14:13
6	overlay in terms of making arrangements for further	11:14:19
7	use of the property?	11:14:24
8	A. I am not aware of any response.	11:14:24
9	Q. And would somebody at the City be aware	11:14:26
10	of that if it had occurred?	11:14:29
11	A. That would be a program level question.	11:14:31
12	So you would have to talk to Mr. Buddenhagen.	11:14:38
13	Q. So to make sure I understood correctly	11:15:04
14	for information about whether Dorothy Day House	11:15:09
15	changed its use of 1931 Center Street, we would need	11:15:13
16	to talk to -- I'm afraid I'm going to get his name --	11:15:19
17	A. Paul Buddenhagen.	11:15:24
18	Q. Paul Buddenhagen; is that correct?	11:15:26
19	A. Yes.	11:15:30
20	MS. BERMAN: Can we take another brief	11:15:38
21	break please.	11:15:39
22	(Whereupon, a break was taken from	11:15:40
23	11:15 a.m. to 11:21 a.m.)	11:15:41
24	MS. BERMAN: We will go back on the	11:21:48
25	record.	11:21:51

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1	witness has personal knowledge of licenses and leases	11:24:26
2	in the overlay district, so you can ask the witness	11:24:30
3	questions about the leases and licenses in the	11:24:33
4	overlay district.	11:24:38
5	BY MS. BERMAN:	11:24:38
6	Q. To the extent that a use within the	11:24:49
7	overlay district changed, would that require	11:24:53
8	licensing from the City?	11:24:59
9	MR. SCHWARTZ: Objection. No foundation.	11:25:02
10	You know, you haven't established a foundation that	11:25:09
11	any use has changed, and also, it calls for a legal	11:25:11
12	conclusion.	11:25:16
13	Go ahead and answer.	11:25:17
14	THE WITNESS: Can you ask the question	11:25:19
15	again?	11:25:20
16	MS. BERMAN: Can you please read back the	11:25:20
17	question?	11:25:22
18	(Whereupon, the record was read back by	11:25:24
19	the Court Reporter.)	11:25:52
20	MR. SCHWARTZ: Can you read my objection	11:25:52
21	back please? I'm not sure I made a complete	11:25:54
22	objection.	11:25:59
23	(Whereupon, the record was read back by	11:26:00
24	the Court Reporter.)	11:26:13
25	MR. SCHWARTZ: Same objection.	11:26:13

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1	Go ahead.	11:26:14
2	THE WITNESS: A change in tenant would	11:26:16
3	require a change in the lease or license agreement.	11:26:26
4	A change in use would -- any -- any change in use	11:26:33
5	falls under the responsibility of the Planning	11:26:46
6	Department. That's my understanding.	11:26:51
7	BY MS. BERMAN:	11:26:51
8	Q. Which is not something that you would be	11:26:54
9	able to testify about?	11:26:55
10	A. That's correct.	11:26:57
11	Q. Okay. Is it correct then that the	11:26:58
12	licenses and leases that we have would speak to who	11:27:43
13	is in the building, but not how they're using the	11:27:47
14	property?	11:27:51
15	A. The licenses and leases state the use at	11:27:53
16	the time that the license went to council for	11:28:06
17	approval.	11:28:13
18	Q. But, they wouldn't reflect -- there	11:28:16
19	wouldn't be a new license or a lease if subsequent to	11:28:20
20	that there were a change; is that correct?	11:28:23
21	MR. SCHWARTZ: Objection. It's an	11:28:25
22	incomplete hypothetical. It calls for an opinion.	11:28:27
23	It calls for a legal conclusion. No foundation.	11:28:29
24	You can answer.	11:28:32
25	THE WITNESS: Say that again. Did you	11:28:33

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1	Q.	So when you say "land use designation,"	11:30:30
2		does that mean the City's regulations about permitted	11:30:36
3		uses?	11:30:41
4	A.	That's my understanding, yes.	11:30:41
5	Q.	For the property subject to the overlay,	11:30:44
6		would that refer to the overlay then, would that be	11:30:48
7		the --	11:30:52
8	A.	That would refer to...	11:30:54
9		MR. SCHWARTZ: Well, I object. It calls	11:30:55
10		for a legal conclusion. You are asking whether the	11:30:57
11		overlay applies to these properties. That's kind of	11:30:59
12		obvious. It does. It's the law.	11:31:01
13		MS. BERMAN: So, I --	11:31:05
14		MR. SCHWARTZ: Aren't you asking the	11:31:06
15		witness about, you know, what is the law that's	11:31:08
16		applicable to this property? I don't think that's a	11:31:10
17		proper question. I think it calls for an opinion.	11:31:13
18		It calls for a legal conclusion. It's beyond the	11:31:16
19		scope of the notice of the deposition.	11:31:18
20		MS. BERMAN: Both the Federal rules and	11:31:24
21		the Court's order in this case prohibit speaking	11:31:26
22		objections, and it's been going on for awhile, but I	11:31:31
23		have to object to the long form of the objections.	11:31:34
24		They're against both the Court's order and against	11:31:38
25		the Federal rules.	11:31:40

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1	MR. SCHWARTZ: I'm going to ask you to	11:31:42
2	clarify the question. Are you asking if the overlay	11:31:43
3	ordinance applies to the properties that are listed	11:31:47
4	in the overlay?	11:31:51
5	MS. BERMAN: Miss Early, my question was	11:31:53
6	actually about what you had previously testified to.	11:31:55
7	You said that whether or if there is a question about	11:31:59
8	whether a use fits within a land use designation for	11:32:04
9	a property, you described the process that the City	11:32:09
10	follows. I'm asking you whether for the property	11:32:10
11	subject to the overlay, whether the land use	11:32:15
12	designation would be the overlay, if there is a	11:32:19
13	question about whether they fall within the overlay,	11:32:23
14	is that the process that the City would follow?	11:32:26
15	MR. SCHWARTZ: I'm sorry. Could you read	11:32:30
16	the question back please?	11:32:32
17	(Whereupon, the record was read back by	11:32:33
18	the Court Reporter.)	11:33:09
19	MR. SCHWARTZ: Objection. The question	11:33:09
20	is vague and ambiguous. It calls for a legal	11:33:11
21	conclusion. It calls for an opinion.	11:33:14
22	Go ahead.	11:33:21
23	THE WITNESS: Answer?	11:33:21
24	MR. SCHWARTZ: Sure.	11:33:22
25	THE WITNESS: The land use regulations	11:33:23

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1	BY MS. BERMAN:	11:34:59
2	Q. And if they make a determination that the	11:35:03
3	proposed new use doesn't align, then there would be a	11:35:06
4	new lease or license issued; is that correct?	11:35:12
5	A. That's correct.	11:35:16
6	MR. SCHWARTZ: Wait. Wait. That calls	11:35:16
7	for speculation. It calls for a legal conclusion.	11:35:19
8	It calls for an opinion. There is no foundation.	11:35:22
9	It's also beyond the scope of the notice of the	11:35:25
10	deposition.	11:35:27
11	You can answer.	11:35:28
12	THE WITNESS: Can you ask the question	11:35:35
13	again?	11:35:36
14	MS. BERMAN: Would you please read back	11:35:37
15	the question?	11:35:38
16	(Whereupon, the record was read back by	11:35:38
17	the Court Reporter.)	11:35:58
18	MR. SCHWARTZ: You have to wait before	11:35:58
19	you answer the question, so that I can object. These	11:36:00
20	are improper questions.	11:36:02
21	THE WITNESS: Okay.	11:36:03
22	MR. SCHWARTZ: I ask you to do that.	11:36:04
23	THE WITNESS: Okay.	11:36:05
24	But, am I to respond now or...	11:36:06
25	MR. SCHWARTZ: No. You already answered.	11:36:10