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<p>1 previous notice where you had 16 topics with regard 10:15:09 2 to both of those. We're producing an appraiser, 10:15:13 3 Peter Overton, who you deposed on Monday about the 10:15:19 4 practical effects of the zoning ordinance on the 10:15:23 5 properties subject to the zoning ordinance, and 10:15:25 6 that's the only evidence that we have. 10:15:27 7 With respect to Topic Number 6, it's not 10:15:34 8 relevant, and there is no City person as I think I 10:15:40 9 sent you an e-mail yesterday explaining why we're not 10:15:45 10 producing someone on Topic 6, but I can summarize 10:15:48 11 what I told you yesterday, which is the evidence 10:15:51 12 isn't relevant, and there is no City person who has 10:15:56 13 this information anyway and you have equal access to 10:15:58 14 this information as does the City. The City has more 10:16:06 15 than 1600 employees hired in the City to go out and 10:16:13 16 survey each City employee who has had communications 10:16:19 17 with owners, occupants of properties. It's 10:16:22 18 overbroad. You know, the balance outweighs the lack 10:16:25 19 of relevance. We're just not producing anyone. 10:16:29 20 MS. BERMAN: I think we'll agree to 10:16:35 21 disagree for the moment. I do want to remind you, 10:16:37 22 though, we had a telephone conversation after you 10:16:41 23 sent your letter regarding Topic 3, during which I 10:16:43 24 explained that Topic 3 did not call for expert 10:16:47 25 testimony regarding economic impact or legal 10:16:51</p> <p style="text-align: right;">Page 10</p>	<p>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</p> <p style="text-align: right;">Page 12</p>
<p>1 opinions, but, rather, the practical uses of 10:16:55 2 properties, whether there was an impact on the ground 10:16:59 3 on the way that properties were being used, and I 10:17:02 4 thought during that call that we had reached a 10:17:04 5 meeting of the minds, if you will, that that actually 10:17:07 6 subsumed the uses that were being made of the 10:17:10 7 properties. So. 10:17:15 8 MR. SCHWARTZ: No, I never agreed to 10:17:18 9 produce a witness to testify about uses of property 10:17:19 10 subject to the overlay. Again, we also object to 10:17:25 11 your definition of zoning ordinance. But, putting 10:17:28 12 aside that objection with regard to the overlay 10:17:31 13 ordinance, Miss Early is here to testify about the 10:17:36 14 Topic 4, and we don't -- we don't have any evidence 10:17:41 15 of the practical effects of the zoning ordinance on 10:17:50 16 the properties, other than the legal effects and 10:17:54 17 that's a question of law. So we're not producing 10:17:59 18 anyone. 10:18:04 19 MS. BERMAN: Okay. I think we should 10:18:04 20 stop taking up Miss Early's time with our discussion. 10:18:05 21 We can table that for the moment and move on to the 10:18:09 22 questions that I have for Miss Early. 10:18:13 23 BY MS. BERMAN: 10:18:13 24 Q. What is your current position with the 10:18:18 25 City? 10:18:20</p> <p style="text-align: right;">Page 11</p>	<p>1 that? 10:19:48 2 Q. You guessed it. 10:19:49 3 A. Yeah. I was a sustainability planner for 10:19:49 4 the City of Palo Alto for just shy of a year, and 10:19:53 5 then prior to that I was an environmental services 10:19:57 6 specialist and a planner two for the City of San Jose 10:20:04 7 for almost nine years in Planning Building Code 10:20:10 8 Enforcement Environmental Services Department and 10:20:18 9 Public Works. Is that everybody? Yeah. Yeah. 10:20:20 10 Q. And how did you prepare for today's 10:20:27 11 deposition? 10:20:30 12 MR. SCHWARTZ: Miss Early, you should not 10:20:36 13 talk about any conversations that you and I have had. 10:20:37 14 That's privileged. 10:20:40 15 THE WITNESS: Okay. 10:20:41 16 MR. SCHWARTZ: So if you can tell them 10:20:41 17 what documents you reviewed. 10:20:44 18 THE WITNESS: Yeah, that's what I was 10:20:46 19 going to say. Yes, so all of the City's leases with 10:20:47 20 the exception to ones that are super-duper old are in 10:20:53 21 particularly available online database. So, I 10:21:02 22 reviewed some of the leases and licenses in the area, 10:21:04 23 you know, in the buildings that are in the area 10:21:10 24 around Civic Center. So. 10:21:14 25 BY MS. BERMAN: 10:21:14</p> <p style="text-align: right;">Page 13</p>

Dionne Emerald Early
September 27, 2017

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<p>1 Q. When you say "the area," are you 10:21:16</p> <p>2 referring to the Civic Center overlay? 10:21:17</p> <p>3 A. Yeah. The buildings that are there, 10:21:20</p> <p>4 they're a regular part of the buildings that I have 10:21:25</p> <p>5 to know about. 10:21:28</p> <p>6 Q. When you say "know" -- that you have to 10:21:34</p> <p>7 know about, what do you mean, how does that enter 10:21:36</p> <p>8 into your job? 10:21:39</p> <p>9 A. So, I was brought on to be the real 10:21:40</p> <p>10 properties person, but I am not in the position of 10:21:49</p> <p>11 real property administrator. That was the position 10:21:54</p> <p>12 of the person before me. So, basically I have been 10:21:59</p> <p>13 cleaning up lists of property that the City owns, 10:22:09</p> <p>14 which includes like even little strips of land like 10:22:15</p> <p>15 next to the train stop. I mean, just little bits and 10:22:19</p> <p>16 pieces to leases, but focusing on those within the 10:22:24</p> <p>17 realm of Public Works. So. 10:22:30</p> <p>18 Q. And to go back for just a moment, you 10:22:32</p> <p>19 said that leases that are super-duper old wouldn't be 10:22:35</p> <p>20 included in that set. I assume you mean leases over 10:22:38</p> <p>21 10 years old? 10:22:41</p> <p>22 A. No. No. These are leases that go -- 10:22:42</p> <p>23 well, the oldest one that I've found was from 1958. 10:22:47</p> <p>24 Q. Okay. 10:22:51</p> <p>25 A. So I had to go to the clerk for that one, 10:22:52</p> <p style="text-align: right;">Page 14</p>	<p>1 to speak to that? 10:24:07</p> <p>2 MR. SCHWARTZ: The leases and licenses? 10:24:08</p> <p>3 MS. BERMAN: Yeah. 10:24:11</p> <p>4 MR. SCHWARTZ: Yeah, we produced them. I 10:24:12</p> <p>5 wasn't sure since we came into the case late, so I 10:24:15</p> <p>6 sent them all to you Monday or Friday. 10:24:17</p> <p>7 MS. BERMAN: Yes, and I received them and 10:24:21</p> <p>8 I appreciate your doing so, because some of them we 10:24:23</p> <p>9 had not received. So. 10:24:25</p> <p>10 MR. SCHWARTZ: Okay. 10:24:27</p> <p>11 MS. BERMAN: Thank you. 10:24:27</p> <p>12 THE WITNESS: Can I ask you a question? 10:24:32</p> <p>13 I need to ask a question. 10:24:34</p> <p>14 MS. BERMAN: Let's go off the record 10:24:35</p> <p>15 please. 10:24:36</p> <p>16 (Whereupon, a break was taken from 10:24:55</p> <p>17 10:24 a.m. to 10:27 a.m.) 10:24:59</p> <p>18 MS. BERMAN: Let's go back on the record. 10:27:12</p> <p>19 BY MS. BERMAN: 10:27:12</p> <p>20 Q. I think we've wrapped up with 10:27:24</p> <p>21 preparation. Are you familiar, Miss Early, with the 10:27:26</p> <p>22 Berkeley Municipal Code Chapter 23E.98, what's 10:27:31</p> <p>23 referred to the Civic Center District Overlay? 10:27:37</p> <p>24 A. I am familiar. What do you mean by 10:27:39</p> <p>25 familiar? 10:27:43</p> <p style="text-align: right;">Page 16</p>
<p>1 but that's -- I had it, because it's up for renewal, 10:22:55</p> <p>2 so, I had it anyway. 10:23:00</p> <p>3 Q. And besides the documents that you looked 10:23:03</p> <p>4 at did you speak with anyone other than your 10:23:07</p> <p>5 attorneys to prepare for today? 10:23:10</p> <p>6 A. I spoke with my supervisor. 10:23:11</p> <p>7 Q. Regarding the content of your deposition? 10:23:14</p> <p>8 A. No. 10:23:17</p> <p>9 Q. Just the fact you are going to be here? 10:23:18</p> <p>10 A. Yeah, I had to get his permission to be 10:23:20</p> <p>11 here. 10:23:22</p> <p>12 Q. That makes sense. 10:23:22</p> <p>13 A. Sorry. It's cold. 10:23:23</p> <p>14 Q. Sorry. 10:23:27</p> <p>15 A. I didn't want you to -- I'm doing this as 10:23:28</p> <p>16 my hands are frozen. So. 10:23:30</p> <p>17 Q. Oh, no. I wonder if there is anything we 10:23:32</p> <p>18 can do about the temperature in here. I don't know 10:23:34</p> <p>19 if there is. 10:23:36</p> <p>20 Those documents you referred to that you 10:23:47</p> <p>21 reviewed, do you know whether the City has produced 10:23:49</p> <p>22 those documents to the Postal Service? 10:23:53</p> <p>23 A. No, I don't know. They're publicly 10:23:55</p> <p>24 available on the Website, so I don't have any idea. 10:24:02</p> <p>25 MS. BERMAN: Andrew, would you be able 10:24:06</p> <p style="text-align: right;">Page 15</p>	<p>1 Q. Do you know of it? 10:27:45</p> <p>2 A. I know of it. 10:27:45</p> <p>3 Q. And what do you understand it to be? 10:27:46</p> <p>4 A. I understand it to be a land use overlay 10:27:50</p> <p>5 that includes a collection of historic buildings and 10:27:55</p> <p>6 the park that limits or defines the uses that can 10:28:00</p> <p>7 happen within those -- that zone. 10:28:11</p> <p>8 Q. And what are the uses that it limits? 10:28:15</p> <p>9 MR. SCHWARTZ: No objection. It calls 10:28:19</p> <p>10 for a legal conclusion. You could just cite the 10:28:21</p> <p>11 statute to the witness, because it's there in the 10:28:23</p> <p>12 statute, but you can ask for the witness' 10:28:27</p> <p>13 understanding. 10:28:30</p> <p>14 MS. BERMAN: Miss Early, I believe I 10:28:32</p> <p>15 asked about your understanding of what the overlay 10:28:35</p> <p>16 permits, and if it would be helpful to, like I said, 10:28:38</p> <p>17 this is not meant to be a memory test, but if you 10:28:41</p> <p>18 would like to take a look at the overlay, I have a 10:28:42</p> <p>19 copy of it. 10:28:45</p> <p>20 THE WITNESS: Sure. Okay. 10:28:45</p> <p>21 MS. BERMAN: And I am passing the 10:28:51</p> <p>22 witness a printout of the zoning overlay. 10:28:53</p> <p>23 BY MS. BERMAN: 10:28:53</p> <p>24 Q. Miss Early, I'll ask you to take a look 10:29:07</p> <p>25 at the second page, please, which contains a list of 10:29:09</p> <p style="text-align: right;">Page 17</p>

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<p>1 MR. SCHWARTZ: No, it doesn't. I think 10:47:46 2 that's discoverable. 10:47:50 3 BY MS. BERMAN: 10:47:50 4 Q. Then on to switch gears a little bit, 10:47:57 5 Miss Early, you mentioned earlier that you didn't 10:48:02 6 have knowledge of the situation with the property 10:48:06 7 that we were discussing prior to 2016 -- prior to 10:48:11 8 when you joined the City. 10:48:16 9 MR. SCHWARTZ: Objection. Vague. Are 10:48:17 10 you talking about Old City Hall? 10:48:21 11 BY MS. BERMAN: 10:48:21 12 Q. We were talking about Old City Hall 10:48:23 13 previously, and you had testified that you didn't 10:48:25 14 have knowledge of what use the City had made of that 10:48:28 15 property prior to your coming on board to the City; 10:48:31 16 is that correct? 10:48:35 17 A. Sort of. 10:48:40 18 Q. So, to the extent that's not correct, 10:48:42 19 please correct me. 10:48:44 20 A. I -- I think what I said was how it had 10:48:46 21 been used that I only know how it's been used in the 10:48:52 22 time that I have been here and -- yeah. 10:48:58 23 Q. I want to make sure I understand the 10:49:03 24 scope of your testimony, because our deposition 10:49:05 25 notice really asked for the City's knowledge with 10:49:11</p> <p style="text-align: right;">Page 26</p>	<p>1 only other things that are the building are used for 10:51:34 2 are, like I said, for voting, and that's just in the 10:51:38 3 lobby on the main floor and our janitorial staff uses 10:51:41 4 the basement for storage of toilet paper and cleaning 10:51:48 5 supplies and old office furniture, and that's it. 10:51:52 6 There is no other regular use of that building, so 10:51:56 7 that's what I have seen in the time I have been here 10:52:00 8 and within the documents that I have reviewed, and 10:52:03 9 like I said, the one that it's right by the door, 10:52:06 10 it's like a plaque whenever the year -- I can't 10:52:10 11 remember the year. So. 10:52:16 12 Q. And I just want to make sure that we have 10:52:17 13 an accurate record with respect for our purposes the 10:52:21 14 time really since 2013 is relevant for us or, at 10:52:26 15 least, that far back. So I want to make sure that I 10:52:30 16 understand. Is there anybody who would have, to your 10:52:35 17 knowledge, who would have more or better information 10:52:38 18 about how that building has been used since 2013? 10:52:40 19 A. Not to -- not that I know of. Not that I 10:52:45 20 know of. Yeah. 10:52:51 21 Q. So you're the best person at the City to 10:52:52 22 speak -- to your knowledge, that can speak to the use 10:52:54 23 of the property? 10:52:57 24 A. Yeah, the things that are happening in 10:52:59 25 the building have only -- I mean, again, this is my 10:53:07</p> <p style="text-align: right;">Page 28</p>
<p>1 respect to the use of the properties, and it sounds 10:49:14 2 like your testimony is based on your personal 10:49:17 3 knowledge. 10:49:19 4 A. So, I think I need to better understand 10:49:20 5 what you mean by use. It -- in all the records that 10:49:32 6 I have reviewed, which would be the leases and 10:49:43 7 agreements, the publicly available uses and 10:49:51 8 agreements with Old City Hall, everything that I 10:49:54 9 reviewed, the uses were government or education uses. 10:50:01 10 So, that's been my experience, and the other piece 10:50:12 11 that I also want to make clear is that the council 10:50:18 12 chambers is the only space that's consistently used 10:50:24 13 in the building. The rest of the building has not 10:50:28 14 been able to be occupied. 10:50:33 15 Posted on the wall outside of the 10:50:36 16 entrances is a statute that says the year that they 10:50:37 17 passed some regulation, that if it didn't meet a 10:50:47 18 certain seismic threshold, that no City staff could 10:50:51 19 occupy the building. Okay. My understanding is that 10:50:59 20 for -- and I don't remember if it was before or after 10:51:07 21 that date, that other than the City of Berkeley, the 10:51:11 22 only other people to occupy the space, I would say -- 10:51:15 23 I can't remember the exact day, but it's definitely 10:51:22 24 within my lifetime was Berkeley Unified School 10:51:25 25 District. So it was educational use then also. The 10:51:29</p> <p style="text-align: right;">Page 27</p>	<p>1 emphasis is real property, so we're talking about 10:53:13 2 leases, agreed upon uses, things like that, and, 10:53:16 3 yeah, I have -- shoulder raise doesn't work. Can you 10:53:25 4 clarify when you say APN Old City Hall? It says "Old 10:53:42 5 City Hall/courthouse/public safety building." 10:53:48 6 Q. Just for the record, Miss Early was 10:53:54 7 pointing to Exhibit 96, and the first numbered 10:53:56 8 statement on there is which the first parcel that's 10:54:03 9 covered by the zoning overlay. So the questions we 10:54:05 10 were talking about Old City Hall, I wasn't looking to 10:54:10 11 the document, per se, which is organized by parcel 10:54:14 12 number. It was specifically about the property Old 10:54:15 13 City Hall. 10:54:20 14 A. Just the -- you are talking about the 10:54:21 15 structure? 10:54:23 16 Q. Yes. 10:54:24 17 A. Just the structure? 10:54:24 18 Q. Yes. 10:54:25 19 A. Not the whole part? Okay. 10:54:26 20 Q. And I'll be asking you about the other 10:54:30 21 properties encompassed by that. 10:54:33 22 A. Okay. Okay. 10:54:35 23 Q. So, just to make sure we have a clear 10:54:36 24 record, the discussion that we had and the answers 10:54:38 25 you provided so far about uses, those pertained to 10:54:41</p> <p style="text-align: right;">Page 29</p>

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1	Old City Hall?	10:54:44	1	Q. Are there any tenants in the City Park?	10:57:08
2	A. Old City Hall.	10:54:45	2	A. No.	10:57:10
3	Q. And to the best of your knowledge the	10:54:46	3	Q. And did you run across any evidence that	10:57:15
4	City has been using it for -- to make sure I	10:54:49	4	the City changed its use of the City Park based on	10:57:19
5	understand correctly -- council meetings?	10:54:52	5	the overlay?	10:57:23
6	MR. SCHWARTZ: Objection. Asked and	10:54:56	6	A. Changed its use? No.	10:57:23
7	answered.	10:54:57	7	Q. Next building.	10:57:30
8	You can go ahead and answer.	10:54:58	8	A. Okay.	10:57:30
9	THE WITNESS: Yes. City council meetings	10:55:00	9	Q. The Veterans Memorial Building.	10:57:32
10	and what are they called? Commission meetings.	10:55:02	10	A. Okay.	10:57:34
11	They're associated with the council. It's the same.	10:55:09	11	Q. The address is 1931 Center Street,	10:57:34
12	It's the same difference. Yeah. Same space.	10:55:12	12	correct?	10:57:38
13	BY MS. BERMAN:	10:55:12	13	A. Correct.	10:57:39
14	Q. Any tenants in that building?	10:55:15	14	Q. And does the City own that property?	10:57:39
15	A. There are no tenants in that building.	10:55:17	15	A. Yes.	10:57:41
16	Q. And has that been the case since 2013?	10:55:20	16	Q. How does the City use that property?	10:57:42
17	A. That's why I was saying before I can't	10:55:23	17	A. That property with the exception of two	10:57:44
18	remember the date, but if we were the last tenant or	10:55:32	18	tenants, I think it has -- I think there are seven	10:57:56
19	Berkeley Unified School District was the last tenant.	10:55:38	19	total tenants. All of the tenants except two fall	10:58:03
20	So that's something that -- but that is it. That was	10:55:42	20	under the responsibility of Health, Housing and	10:58:11
21	the cut off. Those are the people who have used the	10:55:47	21	Community Services, which is a department within the	10:58:16
22	building.	10:55:50	22	City of Berkeley, and they have license agreements,	10:58:23
23	Q. When you say you can't remember the date,	10:55:52	23	not leases as do the others.	10:58:31
24	could you approximate, are we talking about a decade	10:55:54	24	Q. To make sure I understand correctly,	10:58:40
25	ago or more recently?	10:55:57	25	there are five tenants to whom that would apply?	10:58:42
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1	A. I think it was at least a decade. Maybe	10:55:58	1	A. I can't remember. The reason that I	10:58:48
2	two decades ago. So.	10:56:01	2	hesitate is because all of the license agreements	10:58:53
3	Q. So, for the last 10 or 20 years	10:56:04	3	were negotiated and submitted for approval through	10:59:01
4	approximately?	10:56:08	4	the City Council process by staff from Health and	10:59:09
5	A. I would say for sure for the last	10:56:09	5	Housing -- Health, Housing and Community Services and	10:59:13
6	10 years there have been no tenants in that building.	10:56:11	6	the programs are related to community service	10:59:19
7	Q. So for the last 10 years the City has	10:56:15	7	programs that they provide.	10:59:26
8	been the user of the building?	10:56:18	8	Q. Does that pertain to all of the tenants	10:59:28
9	A. Correct.	10:56:20	9	that are in that property?	10:59:31
10	Q. Did you run across -- in your review of	10:56:27	10	A. Berkeley Historical Society may be the	10:59:32
11	the documents, did you run across any evidence that	10:56:30	11	only one that it doesn't directly, except it is a	10:59:44
12	the City changed its use of that property based on	10:56:32	12	community service, but it's not a health service --	10:59:49
13	the overlay?	10:56:36	13	health or housing service, and then it is the	10:59:54
14	A. No.	10:56:38	14	Veterans Building, so the Veterans and the American	10:59:59
15	Q. Let's talk about Civic Center Park next.	10:56:39	15	Legion have a small office there, too, but the rest	11:00:04
16	A. Okay.	10:56:44	16	are related to programs provided in association with	11:00:08
17	Q. Does the City own that property?	10:56:45	17	Health, Housing and Community Services, and I am	11:00:15
18	A. Yes.	10:56:48	18	Public Works. So.	11:00:19
19	Q. And how does the City use that property?	10:56:49	19	Q. So, I have another document I would like	11:00:22
20	A. It's a public park.	10:56:51	20	to ask you about.	11:00:25
21	Q. How long has the City used that property	10:56:59	21	I'll ask the court reporter to please	11:00:32
22	that way?	10:57:01	22	mark this as Exhibit 97?	11:00:34
23	A. I don't know.	10:57:02	23	(Whereupon, Deposition Exhibit 97 was	11:00:50
24	Q. More than 10 years?	10:57:05	24	marked for identification.)	11:00:52
25	A. Yes.	10:57:07	25	MS. BERMAN: And I have a copy for	11:00:52
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1	counsel as well.	11:00:54	1	refers to agreements with six organizations. Can you	11:04:17
2	BY MS. BERMAN:	11:00:54	2	find the -- sorry. I'll rephrase the question. Are	11:04:24
3	Q. Miss Early, do you recognize Exhibit 97?	11:00:55	3	these organizations all current tenants within Center	11:04:30
4	A. Yes.	11:00:58	4	Street -- or within 1931 Center Street?	11:04:35
5	Q. What is it?	11:00:59	5	A. To my knowledge, yes.	11:04:38
6	A. It is a council report describing the	11:00:59	6	Q. And is there anyone at the City who would	11:04:43
7	license agreements for the Veterans Memorial Building	11:01:10	7	have better knowledge on this subject?	11:04:46
8	from October 15, 2013.	11:01:16	8	A. As I mentioned before, these are	11:04:50
9	Q. And I haven't included the six	11:01:20	9	associated with Health, Housing and Community	11:04:53
10	attachments listed at the end. A part from those	11:01:24	10	Services. Their director is named Paul Buddenhagen.	11:04:56
11	attachments, is this a fair and accurate copy of the	11:01:29	11	Q. Would you mind spelling that if you know?	11:05:03
12	resolution?	11:01:35	12	A. B-U-D-D-E-N-H-A-G-A-N. That would be my	11:05:04
13	A. So, this isn't the resolution. This is	11:01:37	13	guess.	11:05:18
14	the staff report.	11:01:41	14	Q. But, to the best of your knowledge, these	11:05:23
15	Q. Is this a fair and accurate copy of the	11:01:42	15	are the tenants besides the ones you mentioned?	11:05:24
16	staff report?	11:01:44	16	A. Yes.	11:05:27
17	MR. SCHWARTZ: I object. The question is	11:01:48	17	Q. And these tenants have been in the	11:05:28
18	vague and ambiguous, and the document speaks for	11:01:49	18	building since 2013?	11:05:31
19	itself. What do you mean, is it a fair and accurate	11:01:52	19	A. Yes.	11:05:34
20	copy? Did someone alter it or what?	11:02:03	20	Q. Do you know how long they have been in	11:05:37
21	THE WITNESS: There is no signature.	11:02:07	21	the building approximately?	11:05:39
22	MR. SCHWARTZ: Can you rephrase or	11:02:08	22	A. No. There was a previous set of leases	11:05:40
23	clarify your question?	11:02:11	23	that were dated 2008. So.	11:05:45
24	BY MS. BERMAN:	11:02:11	24	Q. So they have been present in the building	11:05:48
25	Q. Miss Early, I'll represent to you that	11:02:14	25	since 2008, at least?	11:05:50
Page 34			Page 36		
1	this is a document that was produced by the City. It	11:02:17	1	A. Yes.	11:05:52
2	has the City's stamps at the bottom there. COB003563	11:02:21	2	Q. And the second page of Exhibit 97, at the	11:05:54
3	is a stamp on the first page. Does this look like an	11:02:29	3	bottom under "rationale for recommendation" refers to	11:06:00
4	accurate copy of the staff report?	11:02:33	4	previous license agreements having been issued to the	11:06:04
5	A. I don't know that document well enough to	11:02:35	5	groups discussed in this document in 2005. Would	11:06:08
6	know if it's an accurate copy or not. So.	11:02:38	6	they have been present in the building since 2005?	11:06:12
7	Q. Okay. Do you have any reason to think	11:02:47	7	A. That seems -- I can't -- I can't	11:06:15
8	that it's not?	11:02:48	8	remember. I can't remember seeing documents that	11:06:31
9	A. I don't know one way or the other.	11:02:49	9	were approved further back than 2008. So.	11:06:35
10	Q. This staff report, it lists six	11:03:02	10	Q. I'll ask you to look at the last page of	11:06:40
11	organizations. Are those organizations that are	11:03:07	11	this document, please, labeled page 3. It's noted	11:06:46
12	current tenants in 1931 Center Street?	11:03:11	12	here that City staff considered assessing a higher	11:06:55
13	A. That's my understanding with one missing.	11:03:15	13	license fee to reflect the percentage of the	11:07:00
14	Q. What's missing?	11:03:28	14	utilities consumed my each licensee. And then	11:07:03
15	A. The Disabled Veterans and American	11:03:29	15	ultimately it says: "Staff recognized that charging	11:07:11
16	Legion. Disabled Veterans, Number 7. American	11:03:36	16	higher fees would result in a financial burden for	11:07:14
17	Legion, Number 25. They are together, one -- the 7th	11:03:40	17	these organizations."	11:07:16
18	tenant.	11:03:46	18	Do you see where it says that?	11:07:17
19	Q. To clarify, are those one organization or	11:03:51	19	A. I do.	11:07:18
20	they share a space, what do you mean by that?	11:03:55	20	Q. Do you know whether the City has since	11:07:19
21	A. I have no idea. I just know that there	11:03:57	21	increased the license fees for these organizations?	11:07:22
22	is a lease that has both of those names on it -- or a	11:03:59	22	A. Not to my knowledge. I have no idea.	11:07:27
23	license agreement that has both of those names on it.	11:04:02	23	Yeah.	11:07:33
24	Sorry.	11:04:05	24	Q. To make sure I understand, you don't know	11:07:36
25	Q. This recommendation, or this staff report	11:04:12	25	whether the City has or not or that -- or is your	11:07:38
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<p>1 testimony that the City has not? 11:07:43</p> <p>2 A. So I don't know. That's what I'm saying. 11:07:45</p> <p>3 Q. Now, I would like to ask you about the 11:08:12</p> <p>4 City's agreements with those organizations 11:08:14</p> <p>5 specifically. 11:08:17</p> <p>6 A. Okay. 11:08:18</p> <p>7 MS. BERMAN: I would like to ask the 11:08:30</p> <p>8 court reporter to mark Exhibit 98, please. 11:08:32</p> <p>9 (Whereupon, Deposition Exhibit 98 was 11:08:32</p> <p>10 marked for identification.) 11:08:32</p> <p>11 MS. BERMAN: I have a copy for counsel. 11:08:32</p> <p>12 BY MS. BERMAN: 11:08:32</p> <p>13 Q. Do you recognize Exhibit 98, Miss Early? 11:09:13</p> <p>14 A. One second, please. 11:09:19</p> <p>15 Q. Please take your time and review the 11:09:26</p> <p>16 document. 11:09:31</p> <p>17 A. I have seen it before. 11:09:35</p> <p>18 Q. What is it? 11:09:39</p> <p>19 A. It is a copy of the -- actually, no. I 11:09:40</p> <p>20 take that back. I don't think I've seen this 11:09:53</p> <p>21 specific document, I think, beyond the cover page. 11:09:58</p> <p>22 Q. What is the cover page? 11:10:05</p> <p>23 A. It's the cover page is what we used to 11:10:06</p> <p>24 track and make sure that signatures, that documents 11:10:12</p> <p>25 are properly signed and packaged for delivery for 11:10:17</p> <p style="text-align: right;">Page 38</p>	<p>1 tenant doing in X building. So that would be the 11:12:16</p> <p>2 first "whereas" Dorothy Day House operates the 11:12:20</p> <p>3 breakfast program. Okay. The other is how much are 11:12:24</p> <p>4 the license fees or lease fees, which is the last 11:12:34</p> <p>5 "whereas," and then I use the "now therefore," 11:12:37</p> <p>6 statement to confirm, which City facility it's 11:12:47</p> <p>7 located in. That's -- that's it. 11:12:51</p> <p>8 Q. So, this last page of Exhibit 98 11:12:57</p> <p>9 identifies what Dorothy Day House does or the use 11:13:00</p> <p>10 that it makes of 1931 Center Street, correct? 11:13:04</p> <p>11 A. Yes, correct. 11:13:08</p> <p>12 Q. And what use does Dorothy Day House make 11:13:09</p> <p>13 of that property? 11:13:14</p> <p>14 A. It operates the Trinity Church Breakfast 11:13:14</p> <p>15 Program and provides breakfast for homeless people 11:13:17</p> <p>16 six days a week and prepares -- yeah, with food 11:13:20</p> <p>17 preparation in the basement kitchen, that part I'm 11:13:27</p> <p>18 not certain of. That's what it says they do. So, 11:13:31</p> <p>19 yeah. 11:13:38</p> <p>20 Q. How long have they been making that use 11:13:39</p> <p>21 of 1931 Center Street? 11:13:43</p> <p>22 A. Like I said, the other -- the other 11:13:47</p> <p>23 documents, the 2008 documents, that's as far back as 11:13:49</p> <p>24 I can go. 11:13:55</p> <p>25 Q. Have there been any changes to their use 11:13:58</p> <p style="text-align: right;">Page 40</p>
<p>1 finance -- to the City Manager and then to Finance. 11:10:23</p> <p>2 That's what it is. 11:10:26</p> <p>3 Q. But, the document that's behind that 11:10:27</p> <p>4 first page, you do not recognize? 11:10:29</p> <p>5 A. I mean, I can read what it is, but I 11:10:31</p> <p>6 haven't read it in depth. I don't know every aspect 11:10:38</p> <p>7 of this, no. That's a resolution. 11:10:43</p> <p>8 Q. And Miss Early, what you just referred to 11:11:01</p> <p>9 as the resolution, you were looking at the last page 11:11:04</p> <p>10 of Exhibit 98 labeled -- 11:11:08</p> <p>11 A. I am. 11:11:08</p> <p>12 Q. -- the Bates label at the bottom is 11:11:11</p> <p>13 COB003837. 11:11:15</p> <p>14 A. Uh-huh. 11:11:17</p> <p>15 Q. And it sounded like you recognized the 11:11:20</p> <p>16 last page; is that correct? 11:11:22</p> <p>17 A. I would say that in general with leases 11:11:24</p> <p>18 or licenses that fall under the responsibility of 11:11:36</p> <p>19 other departments, that I have to review, I generally 11:11:40</p> <p>20 look at the first page, and I look for the 11:11:46</p> <p>21 resolution, and that's usually it's the most 11:11:49</p> <p>22 information as I need for my purposes. 11:11:52</p> <p>23 Q. And what is the information that you are 11:11:55</p> <p>24 looking for when you review these documents? 11:11:59</p> <p>25 A. Often people ask generally what is X 11:12:01</p> <p style="text-align: right;">Page 39</p>	<p>1 of the property since 2013, the date of this 11:14:00</p> <p>2 document? 11:14:04</p> <p>3 A. Not to my knowledge. 11:14:04</p> <p>4 Q. Are you aware of any steps that they -- 11:14:07</p> <p>5 that Dorothy Day House took in response to the 11:14:13</p> <p>6 overlay in terms of making arrangements for further 11:14:19</p> <p>7 use of the property? 11:14:24</p> <p>8 A. I am not aware of any response. 11:14:24</p> <p>9 Q. And would somebody at the City be aware 11:14:26</p> <p>10 of that if it had occurred? 11:14:29</p> <p>11 A. That would be a program level question. 11:14:31</p> <p>12 So you would have to talk to Mr. Buddenhagen. 11:14:38</p> <p>13 Q. So to make sure I understood correctly 11:15:04</p> <p>14 for information about whether Dorothy Day House 11:15:09</p> <p>15 changed its use of 1931 Center Street, we would need 11:15:13</p> <p>16 to talk to -- I'm afraid I'm going to get his name -- 11:15:19</p> <p>17 A. Paul Buddenhagen. 11:15:24</p> <p>18 Q. Paul Buddenhagen; is that correct? 11:15:26</p> <p>19 A. Yes. 11:15:30</p> <p>20 MS. BERMAN: Can we take another brief 11:15:38</p> <p>21 break please. 11:15:39</p> <p>22 (Whereupon, a break was taken from 11:15:40</p> <p>23 11:15 a.m. to 11:21 a.m.) 11:15:41</p> <p>24 MS. BERMAN: We will go back on the 11:21:48</p> <p>25 record. 11:21:51</p> <p style="text-align: right;">Page 41</p>

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1	BY MS. BERMAN:	11:34:59	1	MR. SCHWARTZ: Objection. No foundation.	11:37:34
2	Q. And if they make a determination that the	11:35:03	2	You can answer.	11:37:36
3	proposed new use doesn't align, then there would be a	11:35:06	3	THE WITNESS: I'm not aware of any	11:37:37
4	new lease or license issued; is that correct?	11:35:12	4	changes, no.	11:37:41
5	A. That's correct.	11:35:16	5	BY MS. BERMAN:	11:37:41
6	MR. SCHWARTZ: Wait. Wait. That calls	11:35:16	6	Q. What about the City's own use of the	11:37:42
7	for speculation. It calls for a legal conclusion.	11:35:19	7	properties that it owns, that are subject to the	11:37:45
8	It calls for an opinion. There is no foundation.	11:35:22	8	overlay, are you aware of any changes in the uses	11:37:48
9	It's also beyond the scope of the notice of the	11:35:25	9	that the property makes based on its overlay?	11:37:53
10	deposition.	11:35:27	10	MR. SCHWARTZ: Since? Can you please	11:37:56
11	You can answer.	11:35:28	11	define the time period you are talking about?	11:37:58
12	THE WITNESS: Can you ask the question	11:35:35	12	MS. BERMAN: Since the passage of the	11:38:00
13	again?	11:35:36	13	overlay in 2014.	11:38:03
14	MS. BERMAN: Would you please read back	11:35:37	14	THE WITNESS: Am I aware of any? I'm	11:38:05
15	the question?	11:35:38	15	sorry. Can you repeat the question?	11:38:11
16	(Whereupon, the record was read back by	11:35:38	16	MS. BERMAN: Sure. I'll let's scratch	11:38:12
17	the Court Reporter.)	11:35:58	17	that question, and I'll ask you a new question.	11:38:14
18	MR. SCHWARTZ: You have to wait before	11:35:58	18	THE WITNESS: Okay.	11:38:16
19	you answer the question, so that I can object. These	11:36:00	19	BY MS. BERMAN:	11:38:16
20	are improper questions.	11:36:02	20	Q. Are you aware of any changes in the way	11:38:18
21	THE WITNESS: Okay.	11:36:03	21	the City uses its property that occurred because of	11:38:21
22	MR. SCHWARTZ: I ask you to do that.	11:36:04	22	the passage of the overlay in 2014?	11:38:25
23	THE WITNESS: Okay.	11:36:05	23	A. No, I am not aware of any changes.	11:38:28
24	But, am I to respond now or...	11:36:06	24	Q. And just to clarify, no changes in 2014	11:38:33
25	MR. SCHWARTZ: No. You already answered.	11:36:10	25	or thereafter; is that correct?	11:38:37
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1	THE WITNESS: Okay.	11:36:12	1	A. To my knowledge, yes.	11:38:39
2	BY MS. BERMAN:	11:36:12	2	Q. Is there anyone who would have better	11:38:42
3	Q. To make sure I understand, if a use in a	11:36:15	3	knowledge?	11:38:45
4	property changed and became inconsistent with the	11:36:22	4	A. I don't think so.	11:38:47
5	City's regulations, including the overlay, would	11:36:30	5	MS. BERMAN: Let's take one more brief	11:39:07
6	there be a new lease or license?	11:36:34	6	break please.	11:39:09
7	MR. SCHWARTZ: Objection. Beyond the	11:36:38	7	(Whereupon, a break was taken from	11:39:10
8	scope of the notice. It calls for speculation.	11:36:39	8	11:39 a.m. to 11:44 a.m.)	11:39:11
9	There is no foundation. It calls for a legal	11:36:41	9	MS. BERMAN: Let's go back on the record,	11:44:41
10	conclusion. It calls for an opinion.	11:36:44	10	please.	11:44:54
11	MS. BERMAN: Please answer the question.	11:36:48	11	Based on the City's failure to prepare	11:44:57
12	THE WITNESS: Yes. In my experience,	11:36:49	12	Miss Early to testify as a designee as 30(b)(6)	11:45:01
13	yes.	11:36:51	13	requires, as to the matters called for in the	11:45:07
14	BY MS. BERMAN:	11:36:51	14	deposition notice, we're going to stop the deposition	11:45:09
15	Q. For the property subject to the overlay	11:36:53	15	at this point to allow us to consider whether to seek	11:45:12
16	district, are you aware of any leases or licenses	11:36:56	16	relief from the Court.	11:45:16
17	beyond those that were produced to the Postal	11:37:02	17	MR. SCHWARTZ: What's the basis of your	11:45:17
18	Service?	11:37:12	18	contention that the City hadn't prepared Miss Early	11:45:19
19	MR. SCHWARTZ: Objection. No foundation.	11:37:12	19	to testify about Topic 4 of your notice?	11:45:23
20	You can answer.	11:37:15	20	MS. BERMAN: Miss Early's testimony seems	11:45:26
21	THE WITNESS: No.	11:37:16	21	to be largely based on personal knowledge, rather	11:45:28
22	BY MS. BERMAN:	11:37:16	22	than preparation as to the full scope of the City's	11:45:31
23	Q. With respect to the property subject to	11:37:19	23	knowledge.	11:45:36
24	the overlay, are you aware of any changes to the use	11:37:24	24	MR. SCHWARTZ: About what?	11:45:39
25	of the properties because of the overlay?	11:37:30	25	MS. BERMAN: Regarding the topics as to	11:45:41
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<p>1 which we requested testimony. 11:45:45</p> <p>2 MR. SCHWARTZ: All right. Well, you 11:45:48</p> <p>3 haven't asked Miss Early about her experience, about 11:45:51</p> <p>4 her duties. You haven't established what she knows 11:45:54</p> <p>5 and what she doesn't know. This witness is certainly 11:46:00</p> <p>6 responsive to your Topic Number 4. She is qualified 11:46:04</p> <p>7 to testify about licenses and leases of space and 11:46:08</p> <p>8 City-owned property in the overlay district. She has 11:46:16</p> <p>9 personal experience with them. She knows what they 11:46:20</p> <p>10 -- what the properties are used for. She knows -- 11:46:23</p> <p>11 she is familiar with the leases and licenses. She is 11:46:29</p> <p>12 here to testify about them. You just haven't asked 11:46:35</p> <p>13 her what her personal experience is. 11:46:37</p> <p>14 MS. BERMAN: I think we're going to have 11:46:40</p> <p>15 to agree to disagree on that point and stop the 11:46:44</p> <p>16 deposition at this point. 11:46:48</p> <p>17 MR. SCHWARTZ: Okay. 11:46:50</p> <p>18 MS. BERMAN: Thank you for your time. 11:46:50</p> <p>19 THE WITNESS: Okay. 11:46:51</p> <p>20 COURT REPORTER: When do you want the 11:46:51</p> <p>21 transcript?</p> <p>22 MS. BERMAN: What is reasonable from</p> <p>23 your standpoint?</p> <p>24 COURT REPORTER: Tomorrow if you like.</p> <p>25 MS. BERMAN: Wonderful. Yes.</p> <p style="text-align: right;">Page 54</p>	<p>1 STATE OF CALIFORNIA)</p> <p>2) ss.</p> <p>3 COUNTY OF _____)</p> <p>4</p> <p>5</p> <p>6 I, the undersigned, declare under penalty</p> <p>7 of perjury that I have read the foregoing</p> <p>8 transcript, and I have made any</p> <p>9 corrections, additions or deletions that I</p> <p>10 was desirous of making; that the foregoing</p> <p>11 is a true and correct transcript of my</p> <p>12 testimony contained therein.</p> <p>13</p> <p>14 EXECUTED this _____ day of _____,</p> <p>15 2017, at _____,</p> <p>16 _____.</p> <p>17 [City] [State]</p> <p>18</p> <p>19 _____</p> <p>20 DIONNE EMERALD EARLY</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 56</p>
<p>1 COURT REPORTER: Thank you.</p> <p>2 (Whereupon, proceedings concluded at 11:46:52</p> <p>3 11:46 a.m.) 11:46:53</p> <p>4 --o0o--</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 55</p>	<p>1 STATE OF CALIFORNIA)</p> <p>2) ss.</p> <p>3 COUNTY OF SAN FRANCISCO)</p> <p>4</p> <p>5</p> <p>6 I, DEBRA L. ACEVEDO-RAMIREZ, hereby</p> <p>7 certify:</p> <p>8 That I am a Certified Shorthand Reporter of</p> <p>9 the State of California;</p> <p>10 That in pursuance of my duties as such, I</p> <p>11 attended the proceedings in the foregoing matter and</p> <p>12 reported all of the proceedings and testimony taken</p> <p>13 therein;</p> <p>14 That the foregoing is a full, true and</p> <p>15 correct transcript of my shorthand notes so taken.</p> <p>16 Ms. Early would like to read and sign.</p> <p>17 Dated: September 28, 2017</p> <p>18</p> <p>19</p> <p>20</p> <p>21 _____</p> <p>22 DEBRA L. ACEVEDO-RAMIREZ, RPR, CSR 7692</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 57</p>

Dionne Emerald Early
September 27, 2017