APPENDIX A

NOTICE OF PREPARATION AND COMMENT LETTERS
NOTICE OF PREPARATION (NOP) OF A DRAFT ENVIRONMENTAL IMPACT REPORT AND SCOPING SESSIONS FOR THE PROPOSED 1900 FOURTH STREET PROJECT

The City of Berkeley is preparing a Draft Environmental Impact Report (EIR), pursuant to the California Environmental Quality Act (CEQA) for the Project identified below. An Initial Study checklist is also being prepared and will be released with the Draft EIR. Project plans and other information are available at the City of Berkeley Planning and Development Department, Land Use Planning Division, 2120 Milvia Street, Berkeley, California or online at: https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1900_Fourth.aspx

The City of Berkeley, as the Lead Agency for the Project, invites you to comment on the proposed scope of the Draft EIR. Please direct comments on this NOP to: Shannon Allen, Principal Planner, Planning and Development Department, Land Use Planning Division, 2120 Milvia Street, Berkeley, California 94704; or ShAllen@ci.berkeley.ca.us. Comments on the NOP must be received on or before March 14, 2016. In addition, comments may be provided at the EIR Scoping Meetings (see below). Comments should focus on discussing possible impacts on the physical environment, ways in which potential adverse effects might be minimized, and alternatives to the Project in light of the EIR's purpose to provide useful and accurate information about such factors.

EIR PUBLIC SCOPING: The City of Berkeley will conduct two public scoping sessions:

The Landmarks Preservation Commission will conduct a public scoping session on March 3, 2016, starting at 7:00 p.m. at the North Berkeley Senior Center, 1901 Hearst Avenue to receive comments related to the review of historic and archaeological resources.

The Zoning Adjustments Board will conduct a public scoping session on March 10, 2016, starting at 7:00 p.m. at the Council Chambers, 2134 Martin Luther King Jr. Way, 2nd Floor to receive comments on all aspects of the Project's environmental review.

PROJECT LOCATION: The project site is located within the Fourth Street shopping area of West Berkeley and occupies the block surrounded by Hearst Avenue to the north, Fourth Street to the east, University Avenue to the south, and the Union Pacific Railroad (UPRR) tracks to the west. The site is immediately bordered to the west by the Berkeley Amtrak Station platform and is accessible by several bus lines operated by Alameda-Contra Costa Transit District (AC Transit). Regional vehicular access is provided by Interstate 80 (I-80) and I-580, access to which is provided approximately two blocks west of the site.

The project site is comprised of two contiguous parcels, including: 1) 1900 Fourth Street, assessor's parcel number (APN) 057-2101-001 and 2) 701 University Street, APN 057-2101-005. Local access to the site is provided by University Avenue and Fourth Street.
Figure 1 (attached) provides a map of the site's regional and local location.

EXISTING CONDITIONS: The project site is located within the Fourth Street commercial shopping district, which is characterized by high levels of pedestrian traffic and a mix of low- and mid-rise structures. Land uses along the Fourth Street corridor immediately north and east of the site primarily include retail and restaurant uses. Immediately south of the site, land uses along Fourth Street consist of mixed-use residential with ground floor retail and mixed-use with office above retail. Beyond the UPRR tracks west of the site, land uses consist of mixed-use/light industrial use, including a lumber yard.

The approximately 2.21-acre, generally-level project site consists of an approximately 350-space privately-owned surface parking lot that is open to the public for a fee and an approximately 900 square-foot one-story commercial building that is currently occupied by a private fitness facility. The site is currently surrounded by a chain link and metal fencing and wooden bollards and vegetation on the site is limited to a few trees and scattered shrubs at the perimeter. Vehicular access to the parking lot is provided by two separate one-way driveways located on Fourth Street.

The site is designated Avenue Commercial with a Development Node overlay in the Berkeley General Plan and is within the West Berkeley Commercial (C-W) zoning district. The project site is also part of a group of several properties designated by the City of Berkeley's Landmarks Preservation Commission as a Landmark site, for its location within the potential boundaries of the West Berkeley Shellmound.

PROJECT SPONSOR: West Berkeley Investors, LLC, c/o Rhoades Planning Group, 1611 Telegraph Avenue, Suite 200, Oakland, CA 94612

PROJECT DESCRIPTION: The proposed Project would redevelop the site with a mix of residential and commercial uses totaling 207,590 gross square feet, as well as associated parking and circulation, open space and landscaping, and utility improvements. The proposed uses would be located within two separate buildings, a three story building at the corner of Fourth Street and Hearst Avenue, and a one- to five-story building on the balance of the site. Building heights along Fourth Street would be lower and stepback from the street frontage, while the five-story building components would be concentrated at the interior of the site and along the UPRR and University Avenue frontages.

Approximately 118,370 square feet of residential uses (135 dwelling units) would be located on the second level and above, and would average 764 square feet in size, with a mix of studio, one- and two-bedroom units. Residential amenity space would be distributed throughout the first and second levels and would consist of approximately 56,140 gross square feet of lobby areas, a leasing office, a fitness center, a common lounge and associated residential support and infrastructure space. Commercial uses would total approximately 33,080 gross square feet, including approximately 18,230 gross square feet of retail uses and 14,850 gross square feet of restaurant uses. Between 10 and 15 commercial tenants are anticipated to occupy the ground level, with an average floor space of between 1,500 and 3,000 square feet.

A total of approximately 16,090 square feet of open space would be provided at the ground and second-story podium levels. Private residential open space would consist of private balconies and common courtyard areas, totaling approximately 9,281 square feet. A public pathway, or “paseo,” at the ground level would provide access to the interior of the site and between Fourth Street and Hearst Avenue. Street trees would be planted along Fourth Street and the University Avenue frontage.
Included in the mixed-use Project would be a five-story, approximately 148,200 gross square-foot parking garage, located at the southwest corner of the site. A total of 372 parking spaces would be provided, with the ground and second level spaces dedicated to public and guest parking and the third level and above dedicated to residential parking. Bicycle parking spaces would also be located within the garage. Vehicular access to the parking garage would be provided via Fourth Street and Hearst Avenue.

Figure 2 depicts the ground level site plan for the proposed Project. Figures 3a and 3b depict the conceptual building elevations as seen from the north, east, south, and west frontages. All figures are included as attachments to this document.

**REQUESTED APPROVALS:** The proposed Project is subject to approvals by the City of Berkeley's Zoning Adjustments Board and the Landmarks Preservation Commission. The Project would require the following discretionary entitlements from the City of Berkeley, per the City of Berkeley Municipal Code (BMC):

- Structural Alteration Permit (SAP), per BMC Section 3.24.260 to allow construction activities with the potential to affect a designated City of Berkeley Landmark site that is part of a group of several properties designated for their location within the potential boundaries of the West Berkeley Shellmound. The SAP will be referred to the Design Review Committee (DRC) for Preliminary Design Review (PDR) recommendation to ZAB and Final Design Review (FDR) of the Project.
- Demolition Permit, per BMC Section 22.12.060 to allow demolition of the existing commercial building.
- Use Permit, per BMC Section 23E.64.030.A to allow new retail sales uses greater than 7,500 square feet.
- Use Permit, per BMC Section 23E.64.030.A to allow a quick or full service restaurant use.
- Use Permit, per BMC Section 23E.64.030.A to allow a mixed-use development over 20,000 square feet.
- Use Permit, per BMC Section 23E.64.050.B.1 to allow creation of floor area greater than 5,000 square feet.
- Use Permit, per BMC Section 23E.64.060.A to allow restaurant operation from 7 a.m. to 1 a.m. on Fridays and Saturdays.
- Administrative Use Permit, per BMC Section 23E.64.030.A to allow alcoholic beverage service of beer and wine incidental to food service.

The project applicant is also requesting a Density Bonus with related waivers and modifications to development standards pursuant to Government Code Section 65915(b)(1)(B) and (f)(2).

**POTENTIAL ENVIRONMENTAL EFFECTS:** Based on site-specific characteristics and City standard conditions of approval, the Project is not anticipated to have a significant impact on the CEQA issue topics listed below. It is anticipated that these issue topics will be analyzed in an Initial Study checklist, which will be included as an appendix to the Draft EIR.

- Agriculture and Forest Resources
- Biological Resources
- Cultural Resources (historic and paleontological resources)
- Geology and Soils
Based on site-specific characteristics and preliminary analysis, the Project may result in significant impacts on the CEQA issue topics listed below. It is anticipated that these topics will be analyzed in the Draft EIR.

- **Air Quality.** The project site is located within close proximity to residential uses, it is also in close proximity to a high-volume freeway and active rail corridor. In the absence of adequate mitigation, during both the construction and operation phase of the Project, there is a potential for the Project to violate air quality standards or contribute substantially to an existing or projected air quality violation. Additionally, there is the potential for the Project to result in a cumulatively considerable net increase of a criterial pollutant for which the project area is in non-attainment under applicable federal and State ambient air quality standards (including releasing emissions, which exceed quantitative standards for ozone precursors or other pollutants). In addition, in the absence of adequate mitigation, the Project could have the potential to expose sensitive receptors to substantial pollutant concentrations.

- **Cultural Resources (Archaeological Resources).** The proposed Project would involve demolition, subsurface excavation, and construction activities on portions of the site that are designated as a City of Berkeley Landmark, due to its location within the potential boundaries of the West Berkeley Shellmound. The potential for the proposed Project to disturb subsurface archaeological deposits and result in impacts to both known and unknown cultural resources within and in the vicinity of the site is anticipated to be analyzed in the Draft EIR.

- **Noise and Vibration.** The project site is located within close proximity to residential uses; it is also in close proximity to a high-volume freeway and active rail corridor. During both the construction and operation phases the Project could expose persons to excessive noise and/or groundborne vibration levels, resulting in potential conflicts with established noise thresholds. The potential for the Project to permanently or temporarily increase noise and/or vibration levels is anticipated to be analyzed in the Draft EIR.

- **Transportation and Traffic.** Due to the intensification of land uses on the project site, the proposed Project would have the potential to conflict with applicable plans, ordinances, and/or policies establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways, and freeways, pedestrian and bicycle paths, and mass transit. There is also the potential for the Project to conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other
standards established by the county congestion management agency for designatedoads or highways. The Project could also have the potential to substantially increase
hazards due to a design feature or incompatible uses. The Project's potential to result
in inadequate emergency access is also anticipated to be analyzed. Finally, the Project
could conflict with adopted policies, plans or programs regarding public transit, bicycle,
or pedestrian facilities, or otherwise decrease the performance of these facilities and
these potential conflicts are also anticipated to be discussed in the Draft EIR.

The Draft EIR will also examine a reasonable range of alternatives to the Project, including the
CEQA-mandated No Project Alternative and other potential alternatives that may be capable of
reducing or avoiding potential environmental effects.

Shannon Allen, Principal Planner

Date of Distribution: February 10, 2016

Attachments:  Figure 1: Project Location and Regional Vicinity Map
               Figure 2: Conceptual Ground Level Site Plan
               Figure 3a: Conceptual Building Elevations
               Figure 3b: Conceptual Building Elevations
FIGURE 1

\tI:\CBE1504 1900 Fourth Street\Figures\NOP\Fig_1.ai (1/27/16)
South Elevation - University Avenue

West Elevation - Union Pacific Railroad

FIGURE 3b

SOURCES: TCA ARCHITECTS; WEST BERKELEY INVESTORS, LLC, MAY 2015.

1900 Fourth Street Project NOP
Conceptual Building Elevations
Notice of Preparation

February 11, 2016

To: Reviewing Agencies
Re: 1900 Fourth Street Project
     SCH# 2016022038

Attached for your review and comment is the Notice of Preparation (NOP) for the 1900 Fourth Street Project draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

Shannon Allen
City of Berkeley
2118 Milvia Street
Berkeley, CA 94704

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Attachments
cc: Lead Agency
The proposed project would redevelop the site with a mix of residential and commercial uses totaling 207,590 gross square feet, as well as associated parking and circulation, open space and landscaping, and utility improvements. The proposed uses would be located within two separate buildings, a three-story building at the corner of Fourth Street and Hearst Avenue, and a one- to five-story building on the balance of the site. Approximately 118,370 square feet of residential uses (135 dwelling units) would be located on the second level and above; commercial uses would total approximately 33,080 gross square feet and would be located on the ground level. A total of approximately 16,090 square feet of open space would be provided at the ground and second-story podium levels. A five-story, approximately 148,200 gross square-foot parking garage would also be located within of the buildings. A total of 372 parking spaces would be provided. Vehicular access to the parking garage would be provided via Fourth Street and Hearst Avenue.

Lead Agency Contact
Name: Shannon Allen
Agency: City of Berkeley
Phone: (510) 981-7430
Address: 2118 Milvia Street
City: Berkeley
State: CA
Zip: 94704
Fax:

Project Location
County: Alameda
City: Berkeley
Region:
Cross Streets: Fourth St/University Ave
Lat / Long: 37° 52' 5.4942" N / -122° 18' 1.4112" W
Parcel No.: 057-2101-001 and 057-2101-005

Proximity to:
- Highways: I-80, I-580
- Airports: UPRR
- Railways: Strawberry Creek, San Francisco Bay
- Waterways: Several
- Schools: Land Use: Present Land Use: Surface parking lot; 900 sf commercial building
- Zoning: West Berkeley Commercial (C-W)
- General Plan Use Designation: Avenue Commercial with a Development Node Overlay

Project Issues: Air Quality; Archaeologic-Historic; Noise; Traffic/Circulation

Reviewing Agencies: Resources Agency; Department of Fish and Wildlife, Region 3; Caltrans, District 4; Native American Heritage Commission; Department of Parks and Recreation; Air Resources Board; Department of Water Resources; Public Utilities Commission; Office of Emergency Services, California; California Highway Patrol; Regional Water Quality Control Board, Region 2

Date Received: 02/11/2016
Start of Review: 02/11/2016
End of Review: 03/11/2016

Note: Blanks in data fields result from insufficient information provided by lead agency.
NOP Distribution List

Resources Agency
Dept of Boating & Waterways
California Coastal Commission
Colorado River Board
Dept of Conservation
California Energy Commission
Cal Fire
Central Valley Flood Protection Board
Office of Historic Preservation
Dept of Parks & Recreation
California Department of Resources, Recycling & Recovery
Dept of Water Resources
Fish and Game

Fish & Wildlife Region 1E
Laurie Hamsberger
Fish & Wildlife Region 2
Jeff Drongesen
Fish & Wildlife Region 3
Craig Weightman
Fish & Wildlife Region 4
Julie Vance
Fish & Wildlife Region 5
Leslie Newton-Reed
Habitat Conservation Program
Fish & Wildlife Region 6
Tiffany Ellis
Habitat Conservation Program
Fish & Wildlife Region 6 I/M
Heidi Calvert
Inyo/Mono, Habitat Conservation Program
Dept of Fish & Wildlife
Becky Ota
Marine Region

Other Departments

Food & Agriculture
Sandra Schubert
Dept of Fish and Agriculture

Dept of General Services
Public School Construction

Dept of General Services
Anna Garber
Environmental Services Section

Delta Stewardship Council
Kevin Samsam

Housing & Comm. Dev.
CEQA Coordinator
Housing Policy Division

Independent Commissions, Boards
Delta Protection Commission
Michael Machado

County:

Alameda

OES (Office of Emergency Services)
Marcia Scully

Native American Heritage Comm.
Debbie Treadway

Public Utilities Commission Supervisor

Santa Monica Bay Restoration
Guangyu Wang

State Lands Commission
Jennifer Deleong

Tahoe Regional Planning Agency (TRPA)
Cheryl Jacques

Cal State Transportation Agency CalSTA

Caltrans - Division of Aeronautics
Philip Crimmins

Caltrans - Planning
HQ LD-1GR
Terri Pencovic

California Highway Patrol
Suzann Ikeshi
Office of Special Projects

Dept of Transportation

Caltrans, District 1
Rex Jackman

Caltrans, District 2
Marcelino Gonzalez

Caltrans, District 3
Eric Federicks - South
Susan Zanchi - North

Caltrans, District 4
Patricia Maurice

Caltrans, District 5
Larry Newland

Caltrans, District 6
Michael Navarro

Caltrans, District 7
Dianna Watson

Caltrans, District 8
Mark Roberts

Caltrans, District 9
Gayle Rosander

Caltrans, District 10
Tom Dumas

Caltrans, District 11
Jacob Armstrong

Caltrans, District 12
Maureen El Harake

Cal EPA

Air Resources Board
All Other Projects
Cathie Slaminski

Transportation Projects
Nesamani Kalandiyur

Industrial/Energy Projects
Mike Tollstrup

State Water Resources Control Board
Regional Programs Unit
Division of Financial Assistance

State Water Resources Control Board
Karen Larsen – Asst Deputy
Division of Drinking Water

State Water Resources Control Board
Student Intern, 401 Water Quality
Certification Unit
Division of Water Quality

State Water Resources Control Board
Phil Crader
Division of Water Rights

Dept of Toxic Substances Control
CEQA Tracking Center

Department of Pesticide Regulation
CEQA Coordinator

Regional Water Quality Control Board (RWQCB)

RWQCB 1
Cathleen Hudson
North Coast Region (1)

RWQCB 2
Environmental Document Coordinator
San Francisco Bay Region (2)

RWQCB 3
Central Coast Region (3)

RWQCB 4
Teresa Rodgers
Los Angeles Region (4)

RWQCB 6S
Central Valley Region (5)

RWQCB 5F
Central Valley Region (5)
Fresno Branch Office

RWQCB 5R
Central Valley Region (5)
Redding Branch Office

RWQCB 6
Lahontan Region (6)

RWQCB 6V
Lahontan Region (6)
Victorville Branch Office

RWQCB 7
Colorado River Basin Region (7)

RWQCB 8
Santa Ana Region (8)

RWQCB 9
San Diego Region (9)

Other

Conservancy

Last Updated 2/9/2016
March 8, 2016

Ms. Shannon Allen
City of Berkeley
2118 Milvia Street
Berkeley, CA 94704

1900 Fourth Street Project – Notice of Preparation

Dear Ms. Allen:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the project referenced above. To ensure a safe and efficient transportation system, we provide these comments consistent with the State’s smart mobility goals that support a vibrant economy, and build communities, not sprawl. The comments below are based on the Notice of Preparation.

Project Understanding
The project proposes to redevelop an existing privately-owned parking lot into a mix of residential and commercial uses, totally approximately 207,590 gross square feet (gsf). Approximately 135 dwelling units and 33,080 gsf of ground floor commercial would be located within two buildings at 1900 Fourth Street and 701 University Street. A five-story, approximately 148,200 gsf (372 space) parking garage would also be located within one of the buildings. Regional access is provided by Interstate (I-) 80 and I-580 via the University Avenue Interchange approximately two blocks west from the project site. State Route 123, San Pablo Avenue, is a significant north-south, multimodal arterial and is approximately one half-mile from the project site.

Mitigation Responsibility
As the lead agency, City of Berkeley (City) is responsible for identifying and ensuring the coordinated implementation of all project mitigations. The project’s fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures. Planned improvements on Caltrans’ Right-of-way (ROW) should be listed, if any, in addition to identifying viable funding sources per General Plan Guidelines. We recommend the completion of all roadway improvements prior to the issuance of a Certificate of Occupancy.

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Transportation Impact Study

The environmental document should analyze travel demand expected from the proposed project. Early collaboration, such as submitting the transportation study prior to the environmental document, leads to better outcomes for all stakeholders. Caltrans recommends using the Guide for the Preparation of Traffic Impact Studies (TIS Guide) for determining which scenarios and methodologies to use in the analysis, available at: http://dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf.

Please ensure that a TIS is prepared providing the information detailed below:

1. Vicinity map, regional location map, and a site plan clearly showing project access in relation to nearby State roadways. Ingress and egress for all project components on State ROW should be clearly identified. Project driveways, local roads and intersections, car/bike parking, and transit facilities should be mapped.

2. Project-related trip generation, travel demand distribution, and assignment including per capita use of transit, rideshare, or active transportation modes such as existing bus service; new bus service to major transit centers; and vehicle miles traveled (VMT) reduction factors. The assumptions and methodologies used to develop this information should be detailed in the study, utilize the latest place-based research, and be supported with appropriate documentation.

3. An assessment of 2035 Cumulative and 2035 Cumulative Plus Project conditions. Caltrans believes 2035 with a 20-year timeframe is sufficiently long enough to reflect a long-term traffic impact. Calculation of cumulative traffic volumes should consider all traffic-generating developments, both existing and future, that would affect State facilities being evaluated. Caltrans recommends the TIS include turning movement traffic per study intersection under Existing, Project, Cumulative, and Cumulative + Project Conditions for roadways and intersections in the project area.

4. Schematic illustration of walking, biking and auto conditions at State facilities and study area roadways, trip distribution percentages and volumes as well as intersection geometrics, i.e., lane configurations, for AM and PM peak periods. Potential safety issues for all road users should be identified and fully mitigated.

5. Impacts on pedestrians and bicyclists resulting from projected VMT increases should be analyzed. Walking and bicycling routes to the project should be evaluated regarding their safety and directness. The analysis should describe any pedestrian and bicycle mitigation measures and safety countermeasures that would be needed as a means of maintaining and improving access to transit facilities and reducing vehicle trips on state highways.

6. The project site building potential as identified in the Circulation Element of the City’s

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General Plan and the Congestion Management Agency’s Congestion Management Plan should be evaluated.

**Transportation Demand Management**

Please include any Transportation Demand Management (TDM) strategies that the City may implement to reduce single vehicle occupancy trips. We recommend coordinating with transit agencies to provide greater service to the targeted areas, providing transit passes to employees and residents, coordinating with car-share programs, unbundling of residential parking, and providing well lit and secure bike parking and bus/shuttle stops, etc., that will encourage use of alternative modes of travel. The report should discuss how these TDM strategies will be monitored and documented, such as through annual reports, to demonstrate their effectiveness.

Additionally, the City’s parking policies are also key to managing auto trip generation. Restructuring parking requirements, restricting the number of parking permits, and offering incentives for carpoolers should be considered at all parking areas. We encourage the City to also consider variable pricing policies and improve coordination between on-street and off-street parking prices to meet operational and policy goals.

**Transportation Impact Fees**

Please identify any transportation impact fees to be used for project mitigation. Given the project’s potential contribution to area traffic and its proximity to I-80 and I-580, mitigation may include fair share contributions to the regional fee program as applicable and multimodal programs. These contributions would be used to lessen future traffic congestion and improve transit in the project vicinity.

**Transportation Management Plan**

A Transportation Management Plan (TMP) or construction TIS may be required of the City for approval by Caltrans prior to construction where traffic restrictions and detours affect State highways. TMPs must be prepared in accordance with California Manual on Uniform Traffic Control Devices. Please ensure that such plans are also prepared in accordance with the transportation management plan requirements of the corresponding jurisdictions. For further TMP assistance, please contact the Office of Traffic Management Plans/Operations Strategies at (510) 286-4579. TMP information is also available at the following webpage: http://www.dot.ca.gov/hq/traffops/engineering/mutcd/pdf/camutcd2014/Part6.pdf.

**Encroachment Permit**

Please be advised that any work or traffic control that encroaches onto the State ROW requires an encroachment permit that is issued by Caltrans. Traffic-related mitigation measures should be incorporated into the construction plans prior to the encroachment permit process. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the following address: David Salladay, District Office Chief, Office of Permits, California Department of Transportation, District 4, P.O.

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Ms. Shannon Allen, City of Berkeley
March 8, 2016
Page 4

Box 23660, Oakland, CA 94623-0660. See the following website for more information:

Should you have any questions regarding this letter or require additional information, please
contact Sherie George at (310) 286-5535 or by email at: sherie.george@dot.ca.gov.

Sincerely,

[Signature]

PATRICIA MAURICE
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"
March 2, 2016

Shannon Allen  
City of Berkeley  
2118 Milvia Street  
Berkeley, CA 94704

Dear Ms. Allen:

Re: SCH 2016022038 1900 4th Street Project

The California Public Utilities Commission (Commission) has jurisdiction over the safety of highway-rail crossings (crossings) in California. The California Public Utilities Code requires Commission approval for the construction or alteration of crossings and grants the Commission exclusive power on the design, alteration, and closure of crossings in California. The Commission Rail Crossings Engineering Section (RCES) is in receipt of the Notice of Preparation (NOP) for the proposed 1900 4th Street Project. The City of Berkeley (City) is the lead agency.

The project area is within the proximity of several active railroad tracks. New developments will increase traffic volumes of both vehicles and pedestrians not only on streets and at intersections, but also at at-grade rail crossings. RCEB recommends that the City add language to the 1900 4th Street Project, so that any future development adjacent to or near the railroad/light rail right-of-way (ROW) is planned with the safety of the rail corridor in mind. This includes considering pedestrian circulation patterns or destinations with respect to railroad ROW and compliance with the Americans with Disabilities Act (ADA). Mitigation measures to consider include, but are not limited to, the planning for grade separations for major thoroughfares, improvements to existing at-grade crossings due to increase in traffic volumes and continuous vandal resistant fencing or other appropriate barriers to limit the access of trespassers onto the railroad ROW.

The following crossings are of concern with the Commission and are in close proximity of the project site:

Third and Hearst Street (DOT # 751179D)

The Hearst Street railroad crossing currently is equipped with two Commission Standard No 9s (Flashing Lights and Gates Assembly). This crossing is not up to ADA standard and pedestrian safety can be enhanced. CPUC recommends connecting the sidewalks to the crossing, along with the use of ADA detectable warning devices (Tactile Strips). The pavement markings should be refreshed if needed.
If you have any questions in this matter, please contact me at (415) 703-1815, sm4@cpuc.ca.gov.

Sincerely,

Sia Mozaffari
Utilities Engineer
Rail Crossings Engineering Section
Safety and Enforcement Division

C: State Clearinghouse
March 11, 2016

Shannon Allen
Principal Planner
Land Use Planning Division
City of Berkeley
2120 Milvia St
Berkeley, CA 94704

SUBJECT: Response to the Notice of Preparation of a Draft Environmental Impact Report for the Proposed 1900 Fourth Street Project

Dear Ms. Allen,

Thank you for the opportunity to comment on the Notice of Preparation of the Draft Environmental Impact Report (DEIR) for the 1900 Fourth Street Project. The 2.21-acre project site is located in the City of Berkeley’s Fourth Street commercial shopping district and occupies the block surrounded by Hearst Avenue to the north, Fourth Street to the east, University Avenue to the south, and the Union Pacific Railroad tracks to the west. The project site currently consists of a 350-space privately owned surface parking lot and an approximately 900 square-foot one-story commercial building. The proposed project would consist of approximately 118,370 square feet of residential uses (135 dwelling units) and 33,090 square feet of commercial uses (18,230 square feet of retail uses and 14,850 square feet of restaurant uses).

The Alameda County Transportation Commission (Alameda CTC) respectfully submits the following comments:

Basis for CMP Review

- The City of Berkeley adopted Resolution 56,593 on September 29, 1992 establishing guidelines for reviewing the impacts of local land use decisions consistent with the Alameda County Congestion Management Program (CMP). It appears that the proposed project will generate at least 100 p.m. peak hour trips over existing conditions, and therefore the CMP Land Use Analysis Program requires the City to conduct a transportation impact analysis of the project.

Use of Countywide Travel Demand Model

- The Alameda Countywide Travel Demand Model should be used for CMP Land Use Analysis purposes. The CMP was amended on March 26th, 1998 so that local jurisdictions are responsible for conducting travel model runs themselves or through a consultant. The City of Berkeley and the Alameda CTC signed a Countywide Model Agreement on September 15, 2010. Before the model can be used for this project, a letter must be submitted to the Alameda CTC requesting use of the model and describing the project. A copy of a sample letter agreement is available
upon request. The most current version of the Alameda CTC Countywide Travel Demand Model is the December 2015 update.

**Impacts**

- The DEIR should address all potential impacts of the project on the Metropolitan Transportation System (MTS) roadway network.
  - MTS roadway facilities in the project area include Interstate 80, University Avenue, San Pablo Avenue, 6th Street, Dwight Way and Gilman Street.
  - For the purposes of CMP Land Use Analysis, the Highway Capacity Manual 2010 freeway and urban streets methodologies are the preferred methodologies to study vehicle delay impacts.
  - The Alameda CTC has *not* adopted any policy for determining a threshold of significance for Level of Service for the Land Use Analysis Program of the CMP. Professional judgment should be applied to determine the significance of project impacts (Please see chapter 6 of 2015 CMP for more information).

- The DEIR should address potential impacts of the project on Metropolitan Transportation System (MTS) transit operators.
  - MTS transit operators potentially affected by the project include AC Transit and Capitol Corridor.
  - Transit impacts for consideration include the effects of project vehicle traffic on mixed flow transit operations, transit capacity, transit access/egress, need for future transit service, and consistency with adopted plans. See Appendix J of the 2015 CMP document for more details.

- The DEIR should address potential impacts of the project to cyclists on the Countywide Bicycle Network.
  - Countywide bicycle facilities in the project area include:
    - Aquatic Park Trail and connection to the San Francisco Bay Trail
    - Bike routes on Virginia Street, Addison Street, Ninth Street, and Channing Way
  - Bicycle related impacts to consider include effects of vehicle traffic on bicyclist conditions, site development and roadway improvements, and consistency with adopted plans. See Appendix J of the 2015 CMP document for more details.

- The DEIR should address potential impacts of the project to pedestrians in Pedestrian Plan Areas of Countywide Significance.
  - The Project overlaps with an Area of Countywide Pedestrian Significance:
    - Fourth Street is a Major Commercial District between Cedar Street and University Avenue
  - Pedestrian related impacts to consider include effects of vehicle traffic on pedestrian conditions, site development and roadway improvements, and consistency with adopted plans. See Appendix J of the 2015 CMP document for more details.
Mitigation Measures

- Alameda CTC policy regarding mitigation measures is that to be considered adequate they must be:
  - Adequate to sustain CMP roadway and transit service standards;
  - Fully funded; and
  - Consistent with project funding priorities established in the Capital Improvement Program of the CMP, the Countywide Transportation Plan (CTP), and the Regional Transportation Plan (RTP) or the federal Transportation Improvement Program, if the agency relies on state or federal funds programmed by Alameda CTC.

- The DEIR should discuss the adequacy of proposed mitigation measure according to the criteria above. In particular, the DEIR should detail when proposed roadway or transit route improvements are expected to be completed, how they will be funded, and the effect on service standards if only the funded portions of these mitigation measures are built prior to Project completion. The DEIR should also address the issue of transit funding as a mitigation measure in the context of the Alameda CTC mitigation measure criteria discussed above.

- Jurisdictions are encouraged to discuss multimodal tradeoffs associated with mitigation measures that involve changes in roadway geometry, intersection control, or other changes to the transportation network. This analysis should identify whether the mitigation will result in an improvement, degradation, or no change in conditions for automobiles, transit, bicyclists, and pedestrians. The HCM 2010 MMLOS methodology is encouraged as a tool to evaluate these tradeoffs, but project sponsors may use other methodologies as appropriate for particular contexts or types of mitigations.

- The DEIR should consider the use of TDM measures, in conjunction with roadway and transit improvements, as a means of attaining acceptable levels of service. Whenever possible, mechanisms that encourage ridesharing, flextime, transit, bicycling, telecommuting and other means of reducing peak hour traffic trips should be considered. The Alameda CTC CMP Menu of TDM Measures and TDM Checklist may be useful during the review of the development proposal and analysis of TDM mitigation measures (See Appendices F and G of the 2015 CMP).

Thank you for the opportunity to comment on this NOP. Please contact me at (510) 208-7428 or Daniel Wu of my staff at (510) 208-7453 if you have any questions.

Sincerely,

[Signature]

Tess Lengyel
Deputy Director of Planning and Policy

cc: Daniel Wu, Assistant Transportation Planner

March 7, 2016

Shannon Allen, Principal Planner  
City of Berkeley, Planning and Development Department  
Land Use Planning Division  
2120 Milvia Street  
Berkeley, CA 94704

Re: Notice of Preparation of a Draft Environmental Impact Report – Proposed  
1900 Fourth Street Project, Berkeley

Dear Ms. Allen:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the 1900 Fourth Street Project located in the City of Berkeley (City). EBMUD has the following comments.

**WATER SERVICE**

EBMUD’s Central Pressure Zone, with a service elevation range between 0 and 100 feet, will serve the proposed development. A water main extension, at the project sponsor’s expense, may be required to serve the property depending on EBMUD’s metering requirements and fire flow requirements set by the local fire department. The project sponsor should contact EBMUD’s New Business Office and request a water service estimate to determine the costs and conditions of providing additional water service to the proposed development. Engineering and installation of water mains and services require substantial lead time, which should be provided for in the project sponsor’s development schedule.

**WASTEWATER SERVICE**

EBMUD’s Main Wastewater Treatment Plant (MWWTP) and interceptor system are anticipated to have adequate dry weather capacity to treat the proposed wastewater flows from this project, provided that the project and the wastewater generated by the project meet the requirements of the current EBMUD Wastewater Control Ordinance. However, wet weather flows are a concern. EBMUD has historically operated three Wet Weather Facilities to provide treatment for high wet weather flows that exceed the treatment capacity of the MWWTP. On January 14, 2009, due to Environmental Protection Agency’s (EPA) and the State Water Resources Control Board’s (SWRCB) reinterpretation of applicable law, the Regional Water Quality Control Board (RWQCB) issued an order...
prohibiting further discharges from EBMUD’s Wet Weather Facilities. In addition, on July 22, 2009, a Stipulated Order for Preliminary Relief issued by the EPA, SWRCB, and RWQCB became effective. This order requires EBMUD to perform work that will identify problem infiltration/inflow areas, begin to reduce infiltration/inflow through private sewer lateral improvements, and lay the groundwork for future efforts to eliminate discharges from the Wet Weather Facilities.

Currently, there is insufficient information to forecast how these changes will impact allowable wet weather flows in the individual collection system subbasins contributing to the EBMUD wastewater system, including the subbasin in which the proposed project is located. It is reasonable to assume that a new regional wet weather flow reduction program may be implemented in the East Bay, but the schedule for implementation of such a program has not yet been determined. In the meantime, it would be prudent for the lead agency to require the project applicant to incorporate the following measures into the proposed project: (1) replace or rehabilitate any existing sanitary sewer collection systems, including sewer lateral lines, to reduce infiltration/inflow and (2) ensure any new wastewater collection systems, including sewer lateral lines, for the project are constructed to prevent infiltration/inflow to the maximum extent feasible. Please include such provisions in the environmental documentation and other appropriate approvals for this project.

**WATER CONSERVATION**

The proposed project presents an opportunity to incorporate water conservation measures. EBMUD requests that the City include in its conditions of approval a requirement that the project sponsor comply with Assembly Bill 325, "Model Water Efficient Landscape Ordinance," (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495). The project sponsor should be aware that Section 31 of EBMUD's Water Service Regulations requires that water service shall not be furnished for new or expanded service unless all the applicable water-efficiency measures described in the regulation are installed at the project sponsor’s expense.

If you have any questions concerning this response, please contact Timothy R. McGowan, Senior Civil Engineer, Major Facilities Planning Section at (510) 287-1981.

Sincerely,

David J. Rehnstrom
Manager of Water Distribution Planning

DJR:AMM:dks
sb16_043
cc:  West Berkeley Investors, LLC
    c/o Rhoades Planning Group
    1611 Telegraph Avenue, Suite 200
    Oakland, CA 94612
March 14, 2016

VIA EMAIL ONLY:  ShAllen@ci.berkeley.ca.us

City of Berkeley  
Planning and Development Department  
Attn: Shannon Allen, Principal Planner  
2120 Milvia Street  
Berkeley, California 94704

Re: Comments to proposed Notice of Preparation of a Draft Environmental Impact Report for proposed development at 1900 Fourth Street (the "Project")

Dear Ms. Allen:

Thank you for allowing Union Pacific Railroad Company ("UP") the opportunity to submit the following comments regarding the above-referenced Project. UP previously provided comments on the Project to the City of Berkeley ("City") by a letter dated August 20, 2015 (the "August 2015 Letter"), a copy of which is attached hereto as Exhibit A. UP continues to have the same concerns about the Project as were detailed in the August 2015 Letter. To reiterate, and for convenience purposes, those concerns and UP’s suggested potential mitigation measures are outlined below:

1. Project Safety Concerns  
   a. Adjacent railroad right-of-way  
   b. Nearby at-grade rail crossing  
   c. Increased pedestrian and vehicular traffic  
   d. Trespassing  
   e. Continuous encroachments on UP property  
   f. Noise and vibration

2. Mitigation Measures  
   a. Further examination of concerns and mitigation  
      i. Meeting with California Public Utilities Commission  
      ii. Traffic study  
      iii. Other impact reports
b. Installation of a 8 feet or higher barrier or block fence along the shared property line

c. Landscape buffers and setbacks

d. Operation Lifesaver and other public education on rail safety

e. Sound proofing materials and techniques

f. Disclosures regarding nearby railroad land use, including noise, vibration and horn use

Subsequent to the August 2015 Letter, UP has looked at certain plans for the Project included in the application and other materials posted on the City’s website. These plans appear to show proposed buildings and other Project improvements very close to the UP/Project property line, and the setbacks of such improvements from this line are not clearly delineated. Additionally, please note that such plans contain no proposed wall, fence or other barrier between the Project’s improvements and UP’s Property. This being the case, UP would like to specifically reiterate its suggestion that the developers of the Project be required to install an 8 feet or higher barrier wall at the UP/Project property line prior to construction of the Project. Our hope is that such a barrier wall would aid in the mitigation of the risks posed by the Project and identified in the August 2015 Letter, as well as resolve the encroachment issue discussed therein.

UP appreciates the Project developer and the City giving due consideration to the above concerns, as the proposed Project may result in impacts to land use and public safety. Please give notice to UP of all future hearings and other matters with respect to the Project as follows:

Peter Kenney  
Assistant Manager, Real Estate  
Union Pacific Railroad Company  
1400 Douglas Street - STOP 1690  
Omaha, NE 68179  
(402) 544-8581  
pkenney@up.com

Please do not hesitate to contact Peter Kenney if you have any questions or concerns.

Sincerely,

[Signature]

Christopher B. Kelly  
Assistant General Attorney – Real Estate  
Union Pacific Railroad Company

cc: Peter Kenney  
Robert Krantz
August 20, 2015

VIA OVERNIGHT MAIL

City of Berkeley Planning Department
Attn. Greg Powell
2118 Milvia Street
Berkeley, California 94704

Re: Comments to proposed project at 1900 Fourth Street to create a development which includes retail business, a restaurant, residential dwellings and parking (the "Project")

Dear Mr. Powell:

Thank you for allowing Union Pacific Railroad Company ("UP") the opportunity to submit the following comments regarding the above-referenced Project. UP is a Delaware corporation that owns and operates a common carrier railroad network in the western half of the United States, including the State of California. Specifically, UP owns and operates rail main lines connecting San Francisco to Sacramento and points east and north, and to Los Angeles and points east and southeast. UP is the largest rail carrier in California in terms of both mileage and train operations. UP’s rail network is vital to the economic health of California and the nation as a whole and its rail service to customers in the Berkeley Area is crucial to the future success and growth of those customers.

UP recently became aware of the proposed Project via a media article, however, UP’s records indicate that UP has not received any prior notices for hearings or meetings regarding the Project, if any have been held at this point. The proposed Project location is adjacent to UP’s Martinez Subdivision. Additionally, there is an at-grade rail crossing over these tracks on nearby Hearst Avenue. Any land planning decisions should consider that train volumes near the Project area may increase in the future. UP also asks that the City and the Project developers keep in mind that this is a vital and growing rail corridor and nearby land uses should be compatible with this continuing rail use.
Parking Encroachment

The property owner and developer of the Project, Ruegg & Ellsworth, has been encroaching on UP property with their parking lot for several years. UP's previous and current attempts to resolve this encroachment have been unsuccessful. UP cannot support the proposed Project with the encroachment by Ruegg & Ellsworth on its property. Accordingly, UP opposes the Project unless certain criteria acceptable to UP are met. UP suggests that the City require the developers to install an 8 feet or higher barrier wall at the UP/Project property line prior to construction of the Project. The barrier wall will resolve the current encroachment and ensure that other risks of the Project are mitigated.

At-Grade Rail Crossing Safety

The safety of UP's employees, customers, adjoining land owners, and the communities we operate through is our top priority. At-grade rail crossings are areas where railroad operations and the public come into close contact. Should the Project affect property at or near any at-grade crossings, we recommend the City meet with UP and the California Public Utilities Commission to discuss the proposed Project. Appropriate modifications to the warning devices on the rail crossing(s) may need to be included as part of the Project. UP also suggests the City consider holding railroad and crossing safety presentations, such as Operation Lifesaver, for the public on an appropriate basis.

Increased Traffic Impact

Rail crossing safety is critical to the public and to UP. Any increase in traffic from the Project may render inadequate the current safety devices in place on nearby at-grade crossings. Additionally, an increase of pedestrian and vehicular traffic may conflict with train operations causing trains to proceed more slowly through the City, and/or make more frequent emergency stops, which would make rail service less effective and efficient. Should this Project be approved, UP requests that the developer and the City examine any increase in vehicular and pedestrian traffic and the impacts on the nearby at-grade road crossing to see if any additional mitigation measures should be included in the Project.

Trespassing

Any increase in pedestrian traffic will increase the likelihood of trespassing onto the railroad right-of-way. UP requests that the developer and the City examine the Project impacts associated with the increased likelihood of trespassing and set forth appropriate mitigation measures. In particular, the developer should install barrier walls or block fences, pavement markings and/or "no trespassing" signs designed to prevent individuals from trespassing onto the railroad tracks. Buffers and setbacks should also be required adjacent to the right-of-way.
Noise and Vibration Impact

UP’s 24-hour rail operations generate the noise and vibration one would expect from an active railway. Any increase in pedestrian and vehicular traffic over and around at-grade crossings may result in additional horn use by UP employees. UP requests that, as a mitigation measure, the developer should disclose to the general public, including new homeowners of the proposed Project, the daytime and nighttime noise levels naturally occurring with UP’s long-standing freight rail service, including sounding horns at vehicle crossings where required, as well as the pre-existing and predictably-occurring vibration. These disclosures should note UP’s anticipation that train volume may increase in the future. The Project’s development plans should also include appropriate mitigation measures, such as construction of sound barrier walls or landscape buffers, and/or use of sound-proofing materials and techniques.

UP appreciates the developer and the City giving due consideration to the above concerns, as this proposed Project may result in impacts to land use and public safety. Please give notice to UP of all future hearings and other matters with respect to the Project as follows:

Austin Fearnow  
Manager, Real Estate  
Union Pacific Railroad Company  
1400 Douglas Street - STOP 1690  
Omaha, NE 68179  
(402) 544-8593  
afearno@up.com

Please do not hesitate to contact Austin Fearnow if you have any questions or concerns.

Sincerely,

Christopher B. Kelly  
Assistant General Attorney – Real Estate  
Union Pacific Railroad Company

cc: Austin Fearnow
March 14, 2016

Shannon Allen
ShAllen@ci.berkeley.ca.us
Planner
City of Berkeley
2120 Milvia St.
Berkeley, CA 94704

Re: Scoping comments for the EIR - 1900 Fourth Street

Dear Ms. Allen:

We have reviewed the staff report and attachments related to the proposed project. We note that staff intends to request that the Environmental Impact Report include studies in the following areas: “archaeological resources, transportation and traffic, air quality, and noise and vibration.” Staff also anticipates requesting a peer review of the Archeo-Tec report concerning whether Indian human remains are located below the Spenger’s parking lot. We assume that staff will require a “no project” alternative for this aggressive project, as required under CEQA.

Additionally, the EIR should cover several other topics, including the significance of the cultural resource as it relates to the location of the original Ohlone Indian community, geology, hydrology, and land use. It is unsatisfactory to just peer review the Archeo-Tec report as further studies should be completed whether the Dore (Garcia) study or the Archeo-Tec study was correct in its conclusions since the two reports contradict one another.

Cultural Resources: There is a dispute regarding the location of human remains and other cultural deposits. According to the geology report, prepared by Geosphere Consultants, Inc. (“Geosphere”), dated July 13, 2015, it concluded as follows:
Various historical accounts indicate a portion of this mass to have been the site of Ohlone Indian shell mounds that were leveled during the initial development of this area in the latter part of the 19th Century, when the tidal inlet and the willow grove marshland were filled in. The shell mounds as reported in published literature, and shown on a map by Radbruch (USGS, 1957) are estimated to have occupied the current adjacent Truitt and White property on the west side of the UPRR tracks, and an area east of 4th Street, centered on Hearst Avenue. (Geosphere, page 7.)

The developer produced a study by Archeo-Tec (“Archeo”), dated June 2014 discussing whether Indian human remains and other cultural deposits are located at the project site. Archeo set itself the following task:

[The landmark] status was conferred in an effort to preserve the area as an important Native American living and burial site. As such, every effort has been made during the planning and execution of the current archaeological testing plan to recognize the potential cultural importance of the land beneath Spenger’s Parking Lot and to follow requisite California Environmental Quality Act (CEQA) guidelines pertaining to such historic landmark properties. (Archeo, page 6.)

Therefore, the proposed project should be evaluated as having a significant environmental impact on the burial site and on the location where the Native Americans lived. In her correspondence with the City, Ms. Manning states that the dispute over cultural deposits and human remains can be summarized thus:

[T]he developer, by virtue of having had archaeological trenches dug and nothing found, contends [there are no cultural deposits]. We contend that the trenches were dug in areas of the parking lot which the archaeologist, Allen Pastern, believed were most likely to render cultural resources, based on Pastern's auguring of 2000. However, the Garcia & Associates (Chris Dore) report, which did 70 four-inch corings around the perimeter of the parking lot in the public right-of-way found intact mound material along the University Avenue side of the lot. A good-faith effort at finding remnants of the shellmound should have included trenches or corings along the south edge of the parking lot . . . In addition, since this was one of the oldest shellmounds, the likelihood of subsidence of the lowest portions of the mound are great and corings should have been done to the deepest extent possible rather than shallow trenches . . .
Any large construction on Spenger's Parking Lot will effect the perimeter of the lot, especially the large buildings proposed on the south and west borders. Severe ground disturbance will take place in both locations and may indeed negatively effect any extant undisturbed remains both in the Union Pacific right-of-way, under Truitt & White and along University Avenue south of the parking lot.

In its report in Section 4.3 “Geophysical Survey,” Archeo also recommended: “...that any future development of the Spenger's Parking Lot site make use of an initial Ground-penetrating radar survey.” Also, while admitting that it could not rule out that “significant historic and pre-contact cultural materials exist within the footprint of the Spenger's Parking Lot site,” Archeo recognized the “known long occupation of the area by the Ohlone people and others before them, and [ ] the known proximity of one of the most important pre-contact shellmounds in the state of California (i.e., the West Berkeley Shellmound) ...” It recommended monitoring during construction “by a qualified archaeologist and a representative of the Ohlone people. We further recommend that a site-wide ground-penetrating radar (GPR) survey be conducted in advance of full-scale ground-disturbance and demolition...dry (weather) conditions are ideal for this technique...GPR does not work especially well in very wet conditions, as water has the capacity of absorbing and scattering incident electromagnetic signals.” (Archeo, Section 6.4.)

Further studies, not just a peer review, will be needed to determine the correct answer to whether cultural deposits exist under the project site, or any part of it, and should be included in the EIR. Whether there are cultural deposits of a general nature or human remains or both, the site is a landmarked cultural resource in Berkeley where Native Americans lived for thousands of years. It qualifies for thorough study under CEQA Checklist: V. Cultural Resources, subsections a-d and under Guideline section 15064.5. Contrary to the timing of the recommendations above, CEQA requires that the additional studies will need to be completed and included in the EIR before the decision-makers approve any permits for the proposed project.

Geology: The geology report prepared by Geosphere states that the project contemplates that the first floor parking “may be set a few feet below street grade in order to help satisfy project height limit requirements. The development is expected to occupy essentially the entire footprint of the 96,260-square foot property.” Test borings were completed at 35 and 60 feet with an auger and with a rotary wash auger when groundwater was encountered. (Geosphere, page 3.)

The soils are not expected to support heavy structures:
Logs of the 1999 archaeological borings performed throughout the site suggest similar fill thicknesses, with an average fill thickness of about six feet. The fills generally consisted of black to dark brown, loose to medium dense, clayey to silty sand to sandy silt, or black, stiff fat clay. These soils are weak and typically very compressible, and considered to be generally unsuitable for engineering support of heavy structures (i.e., not including relatively light structures such as single-story wood frame. (Geosphere, page 9.)

Furthermore, some of the information from boring holes was “indicative of very high plasticity and critically high expansion potential.” (Geosphere, page 11.) The project site will likely experience severe ground shaking during an earthquake:

The site will likely experience severe ground shaking from a major earthquake originating from a number of significant faults in the San Francisco Bay Area, including the Hayward, Calaveras, and San Andreas faults. Earthquake intensities vary throughout the Bay Area depending upon the magnitude of the earthquake, the distance of the site from the causative fault, the type of materials underlying the site and other factors. (Geosphere, page 15.)

The project site presents danger of liquefaction following an earthquake: “the old Strawberry Creek channel was mapped as in a zone of very high liquefaction susceptibility, and other portions of the site as in a zone of moderate liquefaction susceptibility.” (Geosphere, page 15.)

However, because of the higher intergranular pressure of the soil at greater depths, the potential for liquefaction is generally limited to the upper 40 feet of the soil. Potential hazards associated with soil liquefaction below or near a structure include loss of foundation support, lateral spreading, sand boils, and areal and differential settlement. (Geosphere, page 15.)

On page 3 of the report, it states that there is only a possibility of a below-grade parking lot. On page 16, however, it appears that a below-grade parking lot is contemplated. Also, as shown above, the soils would not be expected to support heavy structures. Yet, on page 16, the authors anticipate a below grade garage:

Surficial fill materials of varying composition were generally encountered during our field explorations that included loose to medium dense to dense sands. It is our opinion that such site soils are susceptible to dynamic settlement; however, these surficial soils are generally unsuitable for building
and slab support and are anticipated to be removed during site grading primarily for the partially below grade garage level. (Geosphere, page 17.)

Geosphere indicates that the soils are variable and could result in clay expansion, but expects that this will be resolved during construction. However, it does not indicate how it will be resolved and to what depth:

Fill soils underlying the site were found to be highly variable, ranging from non-plastic sands to highly expansive clays. Highly expansive clays, including the marshland compressible clays, are not suitable for slab or near-surface structural support and are expected to be removed by site or remedial grading. Therefore, special measures to mitigate the potential effect of expansive soils are not expected to be required for the project. (Geosphere, page 19.)

The overall picture, from reviewing the Geosphere report, is of a property that is geologically ill-suited for a shopping mall with at least two levels of apartments on top of it. At minimum, the City should require a peer review of the report and the lengthy and complicated mitigations proposed to address the many and variable problems with the soil and ability of the site to handle the load envisioned by the proposed project. The CEQA Checklist includes: **VI. Geology and Soils, subsections a (i)(iii), c, and d.**

**Hydrology:** The geology report prepared by Geosphere states that the site is located at the mouth of Strawberry Creek and in the flood plain:

The site is located at the historical mouth of Strawberry Creek where the creek emptied into San Francisco Bay. The *Creek and Watershed Map of Oakland and Berkeley* (Sowers and Richard, 2009), as excerpted on Figure 3, *Historical Creek Channel Map*, shows the southern two-thirds of the site to have been occupied by a willow grove marshland circa 1850 that were representative of the creek channel and flood plain area of Strawberry Creek during the same time period. The same map shows the creek mouth emptying into a small tidal inlet of San Francisco Bay at the southwest corner of the site, and the northernmost portion of the site to be part of the land mass outside the marsh area, on the northeast shore of the tidal inlet. (Geosphere, page 7.)

Furthermore, the geology report represents that prior to 1895, the creek mouth was filled, and the creek was diverted under University Avenue and culverted:

An 1895 USGS topographic map (San Francisco 15" Quadrangle) was reviewed that showed the mouth of Strawberry Creek, originally south and west of the Truitt and White property) to have been filled, and the creek
channel to have been diverted to the south side of University Avenue, as well as showing development within proposed project site. Currently, Strawberry Creek is contained within an underground storm drain or culvert below University Avenue, emptying into San Francisco Bay west of the Eastshore Freeway (I-80) on the south side of University Avenue. (Geosphere, page 7.)

Yet, the current borings and the last borings completed at the site demonstrated groundwater at a shallow level:

Free groundwater was encountered in the five new borings during drilling at depths ranging between six and 13.5 feet, with depths between six and 6.5 feet encountered in Borings B-2, B-3 and B-5. Groundwater depths interpreted from the CPTs ranged between four and five feet. Stabilized groundwater depths were also observed in open archaeological trenches near the center of the site in April 2014 to be on the order of five to six feet. Water depths of 13 and 17 feet were encountered in July 1999 during drilling of two test borings in the northeast quadrant of the site. (Geosphere, page 11-12.)

The Dore report also discusses the history of Strawberry Creek, including its history of rising water levels and at one time, “cutting many channels” through Berkeley. It originally flowed from the Berkeley Hills through the project site area and into the Bay. The EIR should study the current status of Strawberry Creek at the project site, since whatever culverting and redirecting of it has occurred was not entirely successful. Had it been, the cores would not have filled up with water at the shallow levels seen by Geosphere. The quality of the water flowing through the site and the ability to keep it flowing are crucial to the health of our environment. Also, given that at one time, rising sea levels were noted by Dore, it is important for the EIR to study the effects of climate change and potential rising sea level on the site. The Checklist for this topic is: XI. Hydrology and Water Quality, subsections c, d, and f-j.

**Land Use:** The proposed project conflicts with the Landmarks Preservation Ordinance to the extent that the property is landmarked and the project proposes to cover up the landmark with a shopping mall and apartments. It also conflicts with the General Plan and zoning in various ways, which Ms. Rhiannon summarized in correspondence to the City. She cited the General Plan’s overall purpose of maintaining and strengthening the existing character of neighborhoods and districts and, "To preserve Berkeley’s character, it is essential that infill development be sensitively designed and thoughtfully planned to fit in with the existing built environment."
Ms. Rhiannon noted that the project site is “part of the regional Fourth Street Shopping District situated north of University Avenue and west of Fifth Street. The existing built environment surrounding this lot is small scale (two story and less) retail stores with no residential. The adopted West Berkeley Plan describes the district with its anchor at Spenger's restaurant to the east of this site and, though technically in the MU/LI district, includes Truitt and White's building supply store directly west of this site as part of this established small-scale regional Shopping District. The intent of the West Berkeley Plan to include this lot in the small scale retail was later memorialized in the University Avenue Strategic Plan which gives this site its own separate page: [Ms. Rhiannon’s correspondence continues below]

Special Conditions: Spenger's Parking Lot:

"When designing this mixed-use project, there are a number of factors that need to be taken into consideration:

- The building or series of buildings should not be more than 40 feet tall and should be articulated in a pattern that echoes the rhythm of surrounding smaller-scale buildings.

- Ground floor retail must be provided on both Fourth Street and Hearst Street. The upper stories should be occupied with office space or other entertainment uses, such as a cinema." (UASP Design Guidelines, pg 104)

Both the West Berkeley Plan and the University Avenue Strategic Plan are amendments to the General Plan which inform and are implemented by the City's Zoning Codes.

More recently, environmental review of development on this lot occurred during the West Berkeley Project process which tried to change the zoning in West Berkeley to allow projects fitting the description of this proposed project. The attempted change in zoning was submitted to the voters as Measure T in 2012, and it was defeated; these large scale projects were not to be allowed. This project's own Transportation Assessment describes in its Review of Recent Environmental Documents on pg 3 of 20:

"City of Berkeley published the West Berkeley Project Supplemental EIR in April 2012 which amended the West Berkeley Project EIR, which was published in October 2010. These documents analyze the impacts of the West Berkeley Project which includes various developments throughout West Berkeley. Both documents assume that the project site would be developed as 10,000 square feet of retail space and no residential units" (my underlines)

In order to qualify for streamlined CEQA review as an infill development a project must conform to a local General Plan or any Specific or Area Plans, and its general effects must
have been considered in a certified EIR. Development on this site has never been considered beyond 10,000 feet of retail and no residential. This limitation was to mirror, strengthen and enhance the Fourth Street Shopping District; and to protect the landmarked site by limiting the extent of any excavation. The effects of this massive proposed project were never considered in any public process, and its intensity is far out of scale and massing with the surrounding district. This project will divide the Fourth Street Shopping District by blocking off Truitt and White, and there are traffic, parking, air quality, cultural resource, hydrology, and other major impacts that have never been considered for this extensive a development on this site, as well as impacts on neighboring residential areas.

General Plan Policies :

Policy LU-1 Community Character
Maintain the character of Berkeley as a special, diverse, unique place to live and work.

Policy LU-3 Infill Development
Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale. (Also see Urban Design and Preservation Policies UD-16 through UD-24.)

Policy LU-4 Discretionary Review
Preserve and enhance the aesthetic, environmental, economic, and social character of Berkeley through careful land use and design review decisions.

Policy UD-1 Techniques
Use a wide variety of regulatory, incentive, and outreach techniques to suitably protect Berkeley’s existing built environment and cultural heritage.

Policy UD-2 Regulation of Significant Properties
Increase the extent of regulatory protection that applies to structures, sites, and areas that are historically or culturally significant.

Policy UD-3 Regulation of Neighborhood Character
Use regulations to protect the character of neighborhoods and districts, and respect the particular conditions of each area.

Policy UD-16 Context
The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings. (Also see Land Use Policies LU-3, LU-4, LU-7, LU-17, and LU-21.)

Policy UD-17 Design Elements

In relating a new design to the surrounding area, the factors to consider should include height, massing, materials, color, and detailing or ornament.

Policy UD-18 Contrast and Cohesiveness

The overall urban experience should contain variety and stimulating contrasts achieved largely through contrast between different areas each of which is visually cohesive.

Policy UD-19 Visually Heterogeneous Areas

In areas that are now visually heterogeneous, a project should be responsive to the best design elements of the area or neighborhood.

Policy UD-22 Regulating New Construction and Alterations

Regulate new construction and alterations to ensure that they are individually well-designed and that they are so designed and located as to duly respect and where possible enhance the existing built environment.

Policy UD-24 Area Character

Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.

Policy UD-31 Views

Construction should avoid blocking significant views, especially ones toward the Bay, the hills, and significant landmarks such as the Campanile, Golden Gate Bridge, and Alcatraz Island. Whenever possible, new buildings should enhance a vista or punctuate or clarify the urban pattern.

Policy UD-36 Information on Heritage

Promote, and encourage others to promote, understanding of Berkeley’s built and cultural heritage, the benefits of conserving it, and how to sensitively do that.

Policy UD-39 Information on Designing New Buildings
Promote, and encourage others to promote, understanding of how new buildings and alterations should be designed to provide good facilities that respect and enhance their context.

Accordingly, conflicts exist between the proposed project and the General Plan, West Berkeley Plan, the University Avenue Strategic Plan, and the related zoning. The CEQA Checklist topic is: **X. Land Use and Planning, subsection b.**

Thank you for considering our comments.

Sincerely,

*Leila H. Moncharsh*
Leila H. Moncharsh
Chairperson of Preservation Action Committee

cc: Landmarks Preservation Commission
Anne Burns, aburns@ci.berkeley.ca.us
By Email

March 14, 2016

Shannon Allen
Principal Planner,
Planning and Development Department,
Land Use Planning Division
2120 Milvia Street
Berkeley, CA 94704
ShAllen@ci.berkeley.ca.us

Re: EIR Scoping Comments for the Proposed 1900 Fourth Street project

Dear Ms. Allen;

Carpenters Local 713 appreciates the opportunity to take part in the review process for the proposed 1900 Fourth Street Project (the Project) and looks forward to commenting on the draft Environmental Impact Report (DEIR).

The Project presents tremendous economic opportunities if properly implemented, but also presents significant environmental impacts that must be reduced or eliminated to the maximum extent feasible. Local 713 intends to participate in the CEQA process to ensure that the City complies with CEQA’s mandate to minimize the Project’s environmental impacts while maximizing its economic benefits for the community and skilled craft workers. In particular, we request that the City analyze all impacts required by CEQA, including, but not limited to the following:

- Environmental impacts of construction;
- Impacts resulting from construction related employment;
- Impacts resulting from building operation;
- Impacts resulting from the urban form of the development;

Many of these topics will require analysis of hydrology, transportation and traffic, air quality, land use, population and housing, and public services.

1. **Construction Impacts**

Project construction workers, who most likely will include some members of Local 713, and nearby residents will be exposed to these impacts for the entire construction phase of the project.

The EIR should analyze measures to minimize construction impacts, including the impacts of construction worker commutes, including, but not limited to:

- Local area hiring preferences that will reduce vehicle emissions from daily worker commutes;
• The traffic, air quality, and greenhouse gas (GHG) impacts of out-of-area workers who commute to the jobsites;
• Measures to reduce particulate matter emissions from construction equipment;
• Measures to reduce emissions of volatile organic compounds ("VOCs") and nitrogen oxides ("NOx") from construction equipment.

2. Economic Impacts of the Project’s Construction Employment.
Since the Project likely will have significant environmental impacts, a statement of overriding considerations may be required (14 Cal.Code Regs. §15093(b)). The agency must make “a fully informed and publicly disclosed” decision that “specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project.” (14 Cal.Code Regs. §15043(b)) Key among the findings that the lead agency must make is that:

“Specific economic, legal, social, technological, or other considerations, including the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.. [and that those] benefits of the project outweigh the significant effects on the environment.” (Pub. Res. Code §21081(a)(3), (b))

Therefore, the EIR must analyze the likelihood that the Project will provide “employment opportunities for highly trained workers.” Furthermore, many projects in Berkeley and surrounding communities have been constructed with lower-wage, out-of-area workers. The EIR must analyze the employment impacts, and compare the economic impacts of the Project with and without a local hiring preference or other mechanism to increase the likelihood of local employment for skilled craft workers. Also, the EIR must set forth the assumptions being used for the underlying hourly-wage assumptions. In particular, does the analysis assume that workers will be paid prevailing wages, and if so, on what facts is that assumption based?

Finally, if the City does not impose local-hiring preferences, what will be the impact on the jobs-housing balance for the area? In particular, will there be impacts on overcrowding and blight conditions and on public services from an increase of low-wage workers in lower-cost residential neighborhoods in Berkeley, Alameda County, and throughout the region?

3. Impacts of Building Operation
Buildings are recognized significant users of energy and other resources, both in their construction as well as their operation. New construction will result in an increase of ongoing environmental impacts and resource depletion. Thus the EIR should evaluate the environmental impacts of building operations and consider the adoption of a LEED gold or platinum standard, or another similar standard that achieves the performance objectives of these standards but does not have their same documentation requirements, for all construction in the project area.

4. Affordable Housing
The Project presents an excellent opportunity for the City to meet demand for affordable housing. The EIR should address:
• How much demand for below-market-rate housing will be created by the Project, including demand created from employment of over 100 construction workers? Please note that construction employment and associated increased demand for below-market-rate housing is not considered in the city’s affordable housing mitigation fee nexus study.
• Which neighborhoods in the City can be expected to absorb the affordable housing demand created if the project does not add to the city’s affordable housing stock?
• What will be the extent to which “doubling up” and overcrowding will occur if workers have insufficient local affordable housing options and the physical impacts on neighborhood resulting from overcrowding?
• How can the Project maximize opportunities for provision of affordable housing?

Conclusion
The Project will have impacts on the City of Berkeley. We hope that the City uses the CEQA process to minimize the Project’s environmental impacts while maximizing the economic and other benefits that the Project presents to the City, area workers, and the region. We look forward to reviewing the Draft Environmental Impact Report.

Sincerely,

Scott Littlehale
Senior Research- Analyst
Carpenters Local 713
slittlehale@nccrc.org
From: Carrie Olson [mailto:carrie.brooks.olson@gmail.com]
Sent: Wednesday, February 10, 2016 5:07 PM
To: Jacob, Melinda <MJacob@ci.berkeley.ca.us>
Cc: Allen, Shannon <ShAllen@ci.berkeley.ca.us>; Zarnowitz, Sally <SZarnowitz@ci.berkeley.ca.us>
Subject: Re: 1900 Fourth St NOP

Thank you.

I am extremely concerned about the word added here - "potential" boundaries of the shellmound. I do not remember designating anything as potential. The NOD would have had parcels. And these are included parcels. And of course, a partial parcel is not possible. A landmark site is always the entire parcel.

And of course, the irony that Mark Rhoades, as City Planning Manager, was then responsible for filing the NODs promptly, something that never ever happened, means that something procedural could have happened to affect this. I hope that is not the case.

I would like to be assured the the NODs were properly filed, and that there is no ambiguity about the parcels involved. We spent a lot of time getting it right, and the only thing that changed at Council was the 2nd St edge on the west side of the street.

- Carrie

On Wed, Feb 10, 2016 at 4:44 PM, Jacob, Melinda <MJacob@ci.berkeley.ca.us> wrote:

Sorry about that. I forgot to attach the notice. Please see the email below.

From: Jacob, Melinda
Sent: Wednesday, February 10, 2016 4:35 PM
To: Jacob, Melinda <MJacob@ci.berkeley.ca.us>
Cc: Allen, Shannon <ShAllen@ci.berkeley.ca.us>; Zarnowitz, Sally <SZarnowitz@ci.berkeley.ca.us>
Subject: FW: 1900 Fourth St NOP

Members of the LPC and ZAB:
Attached please find the Notice of Preparation (NOP) of a Draft Environmental Impact Report and Scoping Sessions for the Proposed 1900 Fourth Street Project.

The City of Berkeley will conduct two public scoping sessions during the NOP review period:

- The Landmarks Preservation Commission will conduct a public scoping session at their regularly scheduled meeting on March 3, 2016.

- The Zoning Adjustments Board will conduct a public scoping session at their regularly scheduled meeting on March 10, 2016.

In addition, next Thursday, February 18, 2016, the Project will be before the Design Review Committee for a Preview.

Thanks!
March 2, 2016

Dear Landmarks Preservation Committee,

I am sorry that this correspondence is late, but I think that it is imperative that other Ohlone voices are heard on the matter of the 1900-Fourth Street project. I am against the project going forward because we know it to be the site of the oldest Shellmound/burial site of my ancestors. Our organization, Indian People Organizing for Change, IPOC, has been working on protecting and preserving the over 425 shellmounds in the Bay Area for the last 20 years. Since we started working together with other organizers over the years we are certain that this site is at what is now the Spengers parking lot is a shellmound. Over the last year we were aware that further testing was done on the site to “prove” or disprove this fact. Our ancestral sites were always along the fresh water creeks leading to the Bay, putting this area now on Fourth, where Strawberry Creek leads out to the Bay and the area where the railroad station and Truitt and White sit also a part of this important historical monument. Maybe you might ask, how this is a monument when it is under asphalt, but to many Ohlone people, this does not negate the fact that our ancestors lived, prayed and had ceremony at this site. We know that the City of Berkeley is well aware of this fact because of the Ohlone dancers that are depicted in mural, signage and words. This site is important to me as a mother and a grandmother. As difficult as it is to be erased by the world it is even more difficult to have to bring our children to these places that have been and continue to be desecrated. Imagine having to take your own children and grandchildren to a mall, a parking lot, a street corner and to have to explain the history of your ancestors. At least the area as it is now allows for it to be an open space to ponder what it may have been like a few short hundred years ago, imagine how much harder that will be if this place is further desecrated. I know that you will hear how the developer did all of this work prior to the plan, but I say that they did it because they already had a plan in mind. The work that they did on the site now is supposed to disprove all of the historical documentation that already exists? This same Landmark Commission at one time designated this site a historical site, so you have previous experience with this knowledge. I implore you to not be hasty when making the decisions, but that your comments to the EIR include that the developer use the latest technology in magnetic imaging over the entire site. If development were to start and when ancestral remains are found, the responsibility is who’s? It will then be too late to stop the further desecration of this funerary site. The Ohlone monitor on the site is not the only voice that should be heard.

Sincerely,

Corrina Gould

shellmoundwalk@yahoo.com
Attached please find a 2004 report by Christopher Dore, the archaeologist hired by the Redevelopment Agency and Caltrans to do an area wide study for the train station and the Aquatic Park improvements and "all future projects" that might require excavation into the public right of way. He did corings all around Spenger's parking lot (of course the lot itself is private property, so he couldn't dig there) and he found 33 separate areas of cultural deposits, 16 of which were intact and undisturbed, some as much as 2 feet thick. For this reason, the City determined that no excavation into the public right of way along University Ave or 4th St. surrounding this site can dig deeper than 2 feet (Train Station and Aquatic Park MND's).

The Partners Environmental Site Assessment report shows first housing and then, for 20 years up till the late 1970's, a car wash directly on top of the area that Pastron trenched. So naturally, the ground underneath was disturbed. They didn't look alongside University Ave or the SE section of the lot along 4th St. near where Dore found the undisturbed remains. In describing the 1911 Sanborn map that contains a diagram of Strawberry Creek in a culvert in the southern part of the lot, he also states:

"The area adjacent to the northeast of Fourth Street is depicted as residences, out buildings, vacant land, and a part of Strawberry Creek" (my emphasis)

and

"The area adjacent to the southwest of 3rd Street and rail lines is depicted as El Dorado Oil Works with a boiler and engine room, mill building, warehouses and asack warehouse. Ocean View Hotel and a portion of Strawberry Creek are also depicted on the adjacent property to the southwest" (again, emphasis mine)

If Strawberry Creek is seen running from the NE of the property to the SW corner, then how could it be culverted where it’s drawn in? The City’s records of culverted creeks is sketchy at best. I know that Schoolhouse Creek on the Creeks map is shown diverted to Virginia St.
West of Curtis St. on the other side of San Pablo Ave, but for the first five years that I lived here in my house on Virginia St below 6th there was about 30 feet of Schoolhouse daylighted in my back yard.

To state that there's absolutely no chance of cultural deposits on the actual landmarked site of the shellmound seems pretty outrageous, especially considering that every project in the vicinity (even as far as 7th St and 2nd & Addison) has admitted significant impacts and has adopted extensive mitigations up to and including hiring archaeologists to train workers in advance of any excavations.

Rhiannon
WHY HERE? SETTLEMENT, GEOARCHAEOLOGY, AND PALEOENVIRONMENT AT THE WEST BERKELEY SITE (CA-ALA-307)

Christopher D. Dore, Stephen Bryne, Michael McFaul, and Garry L. Running IV

During 2001, in an attempt to define the spatial boundaries and condition of the archaeological deposits that constitute the West Berkeley Site (CA-ALA-307), a systematic sample of sediment cores was taken throughout the streets of Berkeley. While these cores allowed the three-dimensional boundaries of disturbed and undisturbed deposits to be delineated, they also provided new data on the natural setting of this prehistoric settlement. This paper presents the geoarchaeological and paleoenvironmental data, presents an environmental reconstruction of the mouth of Strawberry Creek, and infers the reasons that this location was the location-of-choice for the early settlers of San Francisco Bay.

Until recently, many of the large, once mound archaeological sites that ring San Francisco Bay were thought to have been destroyed. Over the last five years, archaeological detective work and subsurface probing have revealed that these sites have not been destroyed and in some cases, retain substantial integrity. This has caused cities and other agencies responsible for environmental compliance, as well as archaeologists, to rethink an archaeological record that hasn’t been seen since the World War II urban expansion of the Bay Area. This paper presents the story of the West Berkeley Site (CA-ALA-307).

The West Berkeley Site is thought to have been a multi-function habitation site occupied relatively continuously from 3030 B.C. to A.D. 780. It is the type-site for the Early Horizon, Berkeley Facies (as defined by Elsasser 1978:37-41 and suggested by Wallace and Lathrap 1975:57) and has been recommended as eligible for listing in the National Register of Historic Places under each of the four eligibility criteria (Dore et al. 2002). It currently is thought to be the earliest major settlement on the edge of San Francisco Bay following the Bay’s Holocene filling.

The West Berkeley Site once was a well-known landmark, first to mariners navigating San Francisco Bay (Figure 1), and then to East Bay residents as the cities of Ocean View and Berkeley grew up around it. Many newspaper references indicate that the site was a part of the everyday life of citizens. Unfortunately, most of these citizen activities contributed to the degradation of the site as it was used for a recreational setting, location of “treasure hunting,” commercial fill source, and obstacle for industrial growth. The site was the subject of archaeological excavations in 1902, 1904, 1950, and 1954...the time when the cultural deposits above the contemporary grade were finally removed.

While the exact location of the impressive 6.1-meter high mound once was well known by archaeologists and the public alike, the knowledge of this location gradually faded as the neighborhood landmarks were modified and replaced. The archaeological projects of the 1950s did draft detailed maps of the mound, topography, and placement of archaeological excavation units. The reference data that were used, however, were corners of buildings that were destroyed during the early 1950s and these maps, while well known, could no longer be placed in the correct city block. An earlier site sketch map made by Nels Nelson in 1910 did reference city streets and gave precise measurements for site dimensions. The existence of this map, however, was not known and was only recently discovered in old archival files. It was only in the late 1990s with the development of geospatial technologies that the old maps could be referenced to the present using historic aerial photographs as linking documents. This process reestablished the exact location of the West Berkeley Site (Pastron 2000:Appendix 2), or at least the mounded portion of the site.

While the spatial location of the mound was once again known, questions still remained about the extent and boundaries of the site. Since the archaeological

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Stephen Bryne, Garcia and Associates, sbryne@garciaandassociates.com
Michael McFaul, LaRanie Soils Service, Inc., geomorph@laraniesoils.com
Garry L. Running IV, University of Wisconsin & LaRanie Soils Service, Inc., running@uwec.edu
excavations at the site during the first half of the 20th century focused primarily on chronology, little attention was paid to areas away from the mound. Prior to the study discussed here today, the only source of site boundary information came from Nelson’s 1910 sketch map (Nelson 1910). This map did show, and differentiate, between the boundary of the mound and the boundary of the site that was shown covering an area of approximately 2.5 square blocks. While Nelson’s spatial data are important, they are problematic in that the criteria he used for boundary determination were not specified. It appears, too, that he was hindered in defining a western site boundary by the lack of property access (Sanborn Fire Insurance Company 1909).

Given planned infrastructure projects in the site vicinity by the City of Berkeley, determining the extent, depth, and integrity of the remaining cultural deposits was a critical first step in meeting California and federal environmental laws. In 2001, the City of Berkeley contracted with Garcia and Associates to assist in the compliance process and, in turn, Garcia and Associates consulted with Archaeological Mapping Specialists (now Statistical Research) for geospatial support and LaRamie Soils Service for geoarchaeological expertise.

**METHODS**

Given the urban setting of this site and the lack of virtually any unpaved land surface, simple archaeological questions of extent and depositional integrity required distinctively urban methods. The project area consisted of a grid of 17 linear blocks and work was limited to public streets. A systematic sediment sampling program was designed to identify anthropogenic sediments in the project area and, if found, to determine their depositional context.

A total of 124 sediment cores were attempted in the project area during the summer of 2001. Cores were spaced at an approximate systematic interval of 25 meters. This distance was based upon inferences regarding the size of prehistoric and historic sites in the vicinity of the project area as determined by Nelson (1910), Busby and Bard (1978), Chavez (1989), Pastron (2000), and Tremaine (2000a, b). The amount of infrastructure under city streets necessitated
deviating slightly from the idealized 25-meter interval to avoid obstructions. Of the 124 cores attempted, a total of 96 cores produced data on the natural and cultural sediments below the road.

Cores were extracted with a trailer-mounted, piston-driven, Giddings Soil Sampling device (Figure 2). To penetrate the concrete, asphalt, and road base materials overlaying sediments, a 4-inch auger was used. When the softer sediments were reached, the auger was exchanged with a 2-inch core capable of extracting intact sediment columns. The deepest core reached a depth of 7.5 meters below street level and served to provide a baseline vertical context for subsequent cores. Most cores were in the 1-3 meter range and were terminated when Pleistocene sediments were reached or when an obstruction prevented penetration.

When cores were extracted, basic stratigraphic relationships were observed and recorded. Then, sediments were removed from the core tube and recorded in detail. When soil scientists had finished recording the cores, archaeologists divided the sediments by strata and screened them through ¼-inch hardware cloth to identify artifacts and ecofacts within sediment strata. All artifacts and ecofacts were counted and described; they were photographed if they had special diagnostic traits. All artifacts, ecofacts, and natural sediments were replaced into the cores, compacted, and topped with clean sand. Following the extraction of the cores, the holes were surveyed to a horizontal accuracy of 30 centimeters using the global positioning system.

RESULTS

Thirty-three cores contained prehistoric period cultural sediments attributable to the West Berkeley Site (Figure 3). Of these, 16 are interpreted as being in undisturbed contexts. An additional 17 cores have cultural deposits that are interpreted as being in a disturbed, or secondary deposit. These cores occurred in the same general area as did the cores containing undisturbed deposits.

Eleven of the cores with in situ cultural deposits are clustered into two groups of four and seven adjacent cores. This clustering indicates that, in some areas, primary cultural deposits are still present spanning distances of over 100 meters. Interestingly, the polygon that encloses all cores with primary deposits matches almost exactly the site boundary defined by Nelson in 1910. Cultural deposit thickness ranges from as thin as seven centimeters to as thick as 60 centimeters with the minimum depth below the modern road surface being no less than approximately 60 centimeters.

While our study was successful in defining primary and secondary cultural deposits in space, the most interesting finding came from the sedimentological data collected below the archaeological deposits. These data provided an opportunity to explore the spatial environment of the site’s location prior to human settlement approximately 5,000 years ago. Why was this location chosen for one of the first villages at the edge of the newly formed San Francisco Bay?

GEOARCHAEOLOGICAL MODEL

The West Berkeley site is located at the modern edge of San Francisco Bay adjacent to, and perhaps spanning, the mouth of Strawberry Creek. Strawberry
Creek is a spring-fed perennial stream the flows from the Berkeley Hills to the Bay, and prior to the formation of the Bay was a tributary of the Sacramento River. The Berkeley Hills formed by Pleiocene uplifting approximately three million years ago. Erosion from the hills during the Pleiocene and into the Pleistocene formed large fan and bajada aprons at the foot of the hills.

The oldest deposit found during sediment coring is a terrestrial fan alluvium (San Antonio Formation, upper member). Transported from the Berkeley Hills down the School House and Strawberry Creek drainages, the alluvium coalesced to form a low relief bajada. Fan deposition was followed by the development of an argillic paleosol. The results of previous geologic investigations (Radbruch and Case 1967; Louderback 1951) and the strength of the argillic soil suggests that this paleosol and its host fan alluvium are Pleistocene in age.

Following the formation of the bajada, the drainage responded to the sea level lowering by cutting a channel into the bajada that may have been 10-20 meters deep in the site vicinity. Today, we tend to think of Bay Area streams as narrowly defined and channeled. However, the Pleistocene Strawberry Creek braided its way down the arroyo bottom cutting many different channels. The edges of Strawberry Arroyo can still be seen today in the streets of Berkeley as subtle, but distinct, topographic features.

Middle Holocene sea level increases subsequently flooded the arroyo creating a deep estuary overlooked by banks cut into the bajada. Cultural deposits from this period are found resting upon the terrestrial argillic paleosol that developed on the bajada. This alluvial surface probably corresponds with the submound surface described by Wallace and Lathrap (1975) for the excavations conducted during the 1950s (Table 1). This context also is consistent with the surface—a marine variant of the terrestrial alluvial surface—found underlying cultural deposits by Pastron during the auguring of the interior of one block in 1999 and 2000 (Pastron 2000). Since auguring destroyed the sediment and shell bedding of cultural deposits, Pastron was unable, in most samples, to conclusively address the primary/secondary distinction. We now believe, however, that the cultural deposits found by Pastron are in a primary setting.

Sea levels greatly stabilized during the middle Holocene but smaller fluctuations continued during the middle and late Holocene periods. Parts of the
Table 1. Soil/sediment unit correlations

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>U1</td>
<td>Stratum 1</td>
<td>Qaf</td>
<td>Disturbed powdery zone</td>
</tr>
<tr>
<td>U2</td>
<td>Not observed</td>
<td>Qt</td>
<td>Not observed</td>
</tr>
<tr>
<td>YA_1</td>
<td>Stratum 2</td>
<td>Qts</td>
<td>Darker zone with cultural</td>
</tr>
<tr>
<td>YB</td>
<td>Stratum 4</td>
<td>Qm</td>
<td>Not observed</td>
</tr>
<tr>
<td>OAB</td>
<td>Stratum 2 if culture bearing</td>
<td>Qsu</td>
<td>Underlying clayey material</td>
</tr>
<tr>
<td>OA</td>
<td>Stratum 3 if sterile</td>
<td></td>
<td>Yellow alluvium</td>
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</tbody>
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Notes:
1. These correlations are based on our interpretations and do not necessarily reflect the intent of the original authors, nor can we be certain our correlations are correct.
2. "Not observed" is not meant to imply incomplete observations on the part of other authors. Rather, we acknowledge that the scope, methods, and specific objectives of our research varied from that of previous authors and direct correlations across all of them may not be appropriate.
3. Though all our soil/stratigraphic units were not observed in any single core, we present them in stratigraphic order, youngest to oldest, in the leftmost column.

bajada were inundated up to the +3 meter elevation mark that today is found between 3rd and 5th Streets in the project area—at a higher elevation than the West Berkeley Site.

During the late Holocene, a second alluvial unit began to accumulate on the argillic paleosol surface and in the estuary. In some places this alluvial material covers cultural layers; in one sediment core, cultural layers are found both below and above the alluvium. Wave erosion during the late Holocene shaped the Bay shore by forming cuts in the older alluvial fan that are still visible in places despite being covered with the late 20th century urban fabric.

Historic period changes to the area came quickly as evidenced by a variety of historic maps. Between 1852 and 1859 substantial portions of Strawberry Creek’s estuary were filled. By 1874, the creek itself had been channelized. The once undulating landscape of alternating arroyos and ridges had been cut and filled into a much more level surface.

**DISCUSSION**

The long period of occupation at the West Berkeley Site makes settlement, occupation, and abandonment arguments difficult to correlate with factors of the natural environment. During occupation, fluctuations in sea level above and below the elevation of the settlement took place. Occupation persisted through periods of heat, cold, wet, and dry. Rainfall, too, fluctuated dramatically as measured by salinity levels. Faunal assemblages suggest an environmental change from a rocky to a muddy nearshore setting in the site’s vicinity. For example, the Pacific oyster (Ostrea lurida) constituted approximately 50 percent of the molluscan remains in the lower levels of the West Berkeley Site while the upper levels of the site are dominated by Bent-nosed clam (Macoma nasuta) (Greengo 1975:67). Since oysters favor gravel bottom conditions and clams favor mud flats, this has been interpreted as evidence of environmental change (Greengo 1975:67). This change may have resulted from the episode of late Holocene alluvial deposition visible in the sediment cores.

If explanations can’t come from these environmental factors, where do we look for answers to why this was the Bay’s first major settlement and why it was occupied for such an extensive amount of time? We believe that it is the uniqueness of this particular environmental setting that made the occupational history of the West Berkeley site so different from other village locations. While it is true that many of the sites that ring the Bay are found adjacent to perennial streams, Strawberry Creek doesn’t appear to be like other streams. The presence
of the deep water estuary formed from Strawberry Arroyo, immediately adjacent high ground, and a location directly across from the Golden Gate\(^2\) may be the factors that made this location the location of choice leading to the establishment of one of San Francisco Bay’s first settlements, the development of an estuary adaptation, and allowing for nearly 4,000 years of continuous occupation.

Endnotes

1 Note, however, that the abandonment of the site does correlate with the abandonment of at least four other Bay Area sites and a change to drier conditions (Ingram 1998). Other factors must have been operation in concert with this environmental change, though, since other sites continued to be used after this change and since periods of equal dryness occurred at other times during the occupation history of the West Berkeley Site.

2 It has been speculated that this less sheltered area directly across from the Golden Gate may have had a greater than average occurrence of off-shore marine mammal traffic and on-shore wash-ups. Was this the reason that in 1772 Pedro Fages noted the peculiar lack of settlements and large numbers of grizzly bears in the Berkeley area of the East Bay (Brown 1994:14)?

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Chavez, David

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Elsasser, Albert B.

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1975 Shellfish. Appendix A in Contributions of the University of California Archaeological Research Facility Number 29, Berkeley.

Ingram, B. Lynn

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Nelson, N.C.

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2000 *Pre-Construction Archaeological Testing Program Conducted within a portion of the Proposed Springer's Plaza Development Project, (Specifically, the Northwestern, Southeastern and Southwestern Quadrants of the Paved Parking Lot bounded by University Avenue, Hearst Avenue, Fourth Street and the Tracks of the Union Pacific Railroad), City of Berkeley, California*. Report submitted to Commercial Lessors, Inc. by Archeo-Tec, Oakland, CA.

Radbruch, Dorthy and J.E. Case

Sanborn Fire Insurance Company
1909 *Map of Berkeley.*

Tremaine, Kim J.


Wallace, William J. and Donald W. Lathrap
Land Use

The Introduction to the City's General Plan stresses the importance of maintaining and strengthening the existing character of neighborhoods and districts:

"To preserve Berkeley’s character, it is essential that infill development be sensitively designed and thoughtfully planned to fit in with the existing built environment."

This site is part of the regional Fourth Street Shopping District situated north of University Avenue and west of Fifth Street. The existing built environment surrounding this lot is small scale (two story and less) retail stores with no residential. The freeway overpass provides a distinct visual border between the small scale retail to the north and the high density residential district to the south of the overpass. The adopted West Berkeley Plan describes the district with its anchor at Spenger’s restaurant to the east of this site and, though technically in the MU/LI district, includes Truitt and White’s building supply store directly west of this site as part of this established small-scale regional Shopping District. The intent of the West Berkeley Plan to include this lot in the small scale retail was later memorialized in the University Avenue Strategic Plan which gives this site its own separate page:

Special Conditions: Spenger's Parking Lot

"When designing this mixed-use project, there are a number of factors that need to be taken into consideration:

- The building or series of buildings should not be more than 40 feet tall and should be articulated in a pattern that echoes the rhythm of surrounding smaller-scale buildings.
- Ground floor retail must be provided on both Fourth Street and Hearst Street. The upper stories should be occupied with office space or other entertainment uses, such as a cinema." (UASP Design Guidelines, pg 104)
Both the West Berkeley Plan and the University Avenue Strategic Plan are amendments to the General Plan which inform and are implemented by the City’s Zoning Codes. More recently, environmental review of development on this lot occurred during the West Berkeley Project process which tried to change the zoning in West Berkeley to allow projects fitting the description of this proposed project. The attempted change in zoning was submitted to the voters as Measure T in 2012, and it was defeated, these large scale projects were not to be allowed. This project’s own Transportation Assessment describes in its Review of Recent Environmental Documents on pg 3 of 20:

"City of Berkeley published the West Berkeley Project Supplemental EIR in April 2012 which amended the West Berkeley Project EIR, which was published in October 2010. These documents analyze the impacts of the West Berkeley Project which includes various developments throughout West Berkeley. Both documents assume that the project site would be developed as 10,000 square feet of retail space and no residential units" (my underlines)

In order to qualify for streamlined CEQA review as an infill development a project must conform to a local General Plan, any Specific or Area Plans, and its effects must have been considered in a certified EIR. Development on this site has never been considered beyond the 10,000 feet of retail and no residential. This limitation was to mirror, strengthen and enhance the Fourth Street Shopping District, and to protect the landmarked site by limiting the extent of any excavation. The effects of this massive proposed project were never considered in any public process, and its intensity is far out of scale and massing with the surrounding district. This project will divide the Fourth Street Shopping District by blocking off Truitt and White, and there are traffic, parking, air quality, cultural resource, hydrology, and other major impacts, direct and cumulative, that have never been considered for this site, as well as impacts on neighboring residential areas.

General Plan Policies :

Policy LU-1 Community Character
Maintain the character of Berkeley as a special, diverse, unique place to live and work.
Policy LU-3 Infill Development
Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale. (Also see Urban Design and Preservation Policies UD-16 through UD-24.)
Policy LU-4 Discretionary Review
Preserve and enhance the aesthetic, environmental, economic, and social character of Berkeley through careful land use and design review decisions.
Policy UD-1 Techniques
Use a wide variety of regulatory, incentive, and outreach techniques to suitably protect Berkeley’s existing built environment and cultural heritage.
Policy UD-2 Regulation of Significant Properties
Increase the extent of regulatory protection that applies to structures, sites, and areas that are historically or culturally significant.
Policy UD-3 Regulation of Neighborhood Character
Use regulations to protect the character of neighborhoods and districts, and respect the particular conditions of each area.
Policy UD-16 Context
The design and scale of new or remodeled buildings should respect the built environment in
the area, particularly where the character of the built environment is largely defined by an
aggregation of historically and architecturally significant buildings. (Also see Land Use
Policies LU-3, LU-4, LU-7, LU-17, and LU-21.)

Policy UD-17 Design Elements
In relating a new design to the surrounding area, the factors to consider should include
height, massing, materials, color, and detailing or ornament.

Policy UD-18 Contrast and Cohesiveness
The overall urban experience should contain variety and stimulating contrasts achieved
largely through contrast between different areas each of which is visually cohesive.

Policy UD-19 Visually Heterogeneous Areas
In areas that are now visually heterogeneous, a project should be responsive to the best
design elements of the area or neighborhood.

Policy UD-22 Regulating New Construction and Alterations
Regulate new construction and alterations to ensure that they are individually well-
designed and that they are so designed and located as to duly respect and where possible
enhance the existing built environment.

Policy UD-24 Area Character
Regulate new construction and alterations to ensure that they are truly compatible with
and, where feasible, reinforce the desirable design characteristics of the particular area
they are in.

Policy UD-31 Views
Construction should avoid blocking significant views, especially ones toward the Bay, the
hills, and significant landmarks such as the Campanile, Golden Gate Bridge, and Alcatraz
Island. Whenever possible, new buildings should enhance a vista or punctuate or clarify the
urban pattern.

Policy UD-36 Information on Heritage
Promote, and encourage others to promote, understanding of Berkeley’s built and cultural
heritage, the benefits of conserving it, and how to sensitively do that.

Policy UD-39 Information on Designing New Buildings
Promote, and encourage others to promote, understanding of how new buildings and
alterations should be designed to provide good facilities that respect and enhance their
context.
To Whom It May Concern:

I am writing in regards to the last meeting which covered the scope of the EIR. The West Berkeley Shellmound is one of the oldest and largest mound site. The integrity of the site must be protected from further degradation. The Garcia and Associates report which found undisturbed shell mounds in the 4 inch coring on the University Avenue side of the parking lot should be included in the EIR document as it shows that the archaeological trenching was inadequate. Furthermore, the EIR document must consider the 1950 excavation report which detailed that the burials found were kept in situ as removing the burials would undermine the railroad tracks. Thus, the boundaries are not well defined. As the boundary of the mound is difficult to pinpoint due to the historical impact of urban development, the best option would be to allow a "no build" zoning around the site.

We owe it to ourselves, to the Ohlone community as well as to future generations to keep the site protected.

Sincerely,
Ms. Lee Pono
Please be sure that the EIR required cultural resources section excavates the corner mentioned by the first speaker near Truitt and White and the building.

Sent from my iPhone
To the City of Berkeley,

As a resident of the city, I object to further survey and discussion of development of the West Berkeley Shellmound area until thorough outreach and input from the descendants of the Chochenyo-speaking Ohlone is achieved. I suspect that with proper community engagement, our principled city will choose to preserve the entire area as an historic Ohlone site, adding to the richness and authenticity of our city. I am proud that Berkeley endorsed and then implemented the UN Declaration on the Rights of Indigenous Peoples locally, and I look forward to seeing how we move forward with our commitment to indigenous rights.

Thank you,
Wendy Kenin
PO Box 3406
Berkeley, CA 94703
Dear Berkeley City Planners and Landmark Commission Members;

My name is Richard Schwartz. I am a Berkeley historian. I attended the Landmarks Commission hearing on March 3, 2016 at the North Berkeley Senior Center in regards to the 1900 Fourth Street proposed development.

Please distribute this email to all the preservation planning/Landmarks Commission commissioners.

At this meeting the developer's representative (his name, I believe, is Mark Rhoades) made a statement that I had reviewed the work of the project archeology by Archeo-Tec.

Also, on the developers website (http://www.1900fourthst.com/archaeology), the statement is made, "The research and investigation was carried out under the observation of Andy Galvan, an Ohlone Indian and cultural resource management consultant—with the methodology, findings, and conclusions reviewed by Berkeley writer and historian Richard Schwartz."

I need to inform you on both the oral and written statements made that I reviewed the "methodology, findings, and conclusions" of Archeo-Tec are not factual. While I did receive a final copy of Archeo-Tec's Spenger's Parking Lot Archaeological Testing Report by email on July 22, 2014 (it was a copy of the already released report), I was not asked to review it. I did contribute decades of research on the West Berkeley Site (which is what the West Berkeley Shellmound is contained in and the site is what was Landmarked) to the project but none of it, I believe, was mentioned in the report.

I need to make it clear that I did not, as the developer both verbally stated and printed on their website, review Archeo-Tec's work, nor was I asked to do so. Allan Pastron had said to me that I would have a chance to review and make comments on my research that was used in the report, but none of my research appears to be used in the report nor did I receive a preliminary report upon which I was asked to comment on. Please be advised any statements to the contrary are not factual.

Thank you for your attention to this matter.

Also, I would like to be emailed a list of the newspapers you use for publication of notices and also be put on your list to receive a copy of the Draft EIR as well as the final EIR for this proposed development.

Sincerely,

Richard Schwartz
1676 Tacoma
Berkeley, CA 94707
Richard Schwartz

Subscribe to my events email list,
http://eepurl.com/o4ltf
RESOLUTION NO. 67,352–N.S.

RECOGNIZING THE OHLONE PEOPLES

WHEREAS, the Ohlone village of Huchium existed in what is now the Berkeley city limits; and

WHEREAS, the Ohlone language Chochenyo was and is spoken in the area now called Berkeley; and

WHEREAS, the Ohlone Peoples spoke and still speak more than one language; and

WHEREAS, the Ohlone Peoples have sacred sites and burial sites in the City and greater Bay Area region.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City of Berkeley recognizes the Ohlone Peoples as the original inhabitants of the land now called Berkeley and the region.

BE IT FURTHER RESOLVED that the City of Berkeley will work in good faith with representatives of the Ohlone peoples today.

The foregoing Resolution was adopted by the Berkeley City Council on January 19, 2016 by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Droste, Maio, Moore, Wengraf and Worthington.

Noes: Bates.

Absent: None.

Tom Bates, Mayor

Attest: Mark Numainville, City Clerk
Ms Denise Pinkston
Chair Zoning Adjustments Board
City of Berkeley Planning & Zoning departments
2180 Milvia street
Berkeley, Ca 94708

RE: 1900 Fourth Street

March 24, 2016

Dear Ms. Pinkston and members of the ZAB,

As you suggested Thursday evening I am writing regarding the new mixed use project at 1900 Fourth Street. There are many issues that need further vetting and discussion. Many of these issues should be studied in the EIR.

1. Preserving the Regional Economic Health of Fourth Street.

While it is good to think we can replace parking demand with more bikes and transit. However, Fourth Street’s economic power and success comes from its regional customer from 15-miles away or greater. This customer comes by auto and would stop coming if it were too difficult to park.

The applicant maintains they are increasing parking over the amount required. However, applicant’s traffic study does not discuss the impact of the loss of 350 spaces upon the Fourth Street economy, impact on small businesses and city tax revenues. All parking added by 1900 Fourth will be for their own use and demand generated by the new project.

Our traffic consultants estimate that the Fourth Street area will lose at least 250 spaces of on and off street parking each day of the week. The collective owners of 4th Street only have 450 parking stalls. Thus the loss of 250 stalls of on and off street parking greatly impacts the viability of the entire neighborhood.

Furthermore, each housing unit at 1900 Fourth Street has one parking space assigned; however, occupants will be charged extra for parking. If residents get charged many will not use the allocated parking. This will greatly increase the burden on neighborhood streets. We therefore recommend the ZAB to enforce a policy which requires each unit to have one space without extra charges so the burden on street parking is reduced.

The added 35,000 square feet of retail/restaurant and house keeping activities at 1900 Fourth Street will generate about 175 daily employees. Many will drive cars...
in attempt to park in the neighborhood. This will create a very under parked neighborhood affecting not just Fourth Street but surrounding neighborhood as well.

2. Traffic and Local Businesses.

Traffic/parking access of this project will have tremendous impact on other businesses in the fourth street neighborhood. The access to parking at 1900 will create many backups/delays that will interact with the rail crossing on Hearst Avenue. We have all been warned by the rail companies about increases in rail traffic. One of the mitigations which should be required will be to implement synchronized traffic signals at the rail crossing along with signal lighting at Hearst and 6th and Hearst and 4th Street.

3. Limiting carte blanche use permits to a case by case basis for the size of spaces and use of Restaurant space.

The developer of this project does not even represent himself at public meetings. He fits a different mold. He is bringing pension fund money to fund this $120,000,000 dollar project. This is the modern way of development; however, it does not lead to community building. For this reason the ZAB should not allow carte blanche use permits for sizes of space and gross restaurant space. The developer should come back to the board on a case by case basis so we can see how the project is moving.


In 1997 a University Ave Strategic Plan was formulated and passed by City Council. That plan specifically mentions the development of 1900 Fourth. It suggested that the height on this particular parcel should be kept at 40 feet.

5. Any decision made for or against this project must be made by reviewing the applicants previous projects. The applicants building will degrade the public realm so beautifully implemented by other developers. Emery Bay is a degradation of public space. This “cheesy” architecture will eventually result in uninteresting tenancy, run down environment, and vacancies. A project like this will be managed by off site hedge/pension fund type managers. These people do not build community they degrade it. A short trip to Walnut Creek will show you two projects built by the applicant similar to this project. They are called Plaza Escuela and Olympic Place. Even amongst retail real-estate sales people they are known as completely second rate, run down and not very successful projects. Upon your review of these projects note the tenancy, the lack of authenticity, and
resulting kitch that surrounds you. Solving this issue can only be accomplished with alternate approach to this development by this same developer.

6. Alternatives to the applicants Project

Whenever I mention the mediocre nature of this project, people they say “yes, but we need the housing.” Maybe it’s the city’s fault for making the all the ground floor retail demands upon the project that has twisted this project into mediocre “platform architecture.” In many ways it’s the retail that really drives the crazy result being portrayed.

Therefore, why not direct the developers to make a large housing project with which de-emphasizes the retail circus. Some architectural guidance’s could be to building 3 buildings with open space in-between and with small amount of retail on the corner of 4th and Hearst. Forget all the step backs and just admit “it’s a nice large housing project site”. The developer should build a large parking structure that could be communally owned by other neighborhood property owners, the developers, and the City of Berkeley.

In closing we want the ZAB to:

1. Have the EIR study the economic impact on the Fourth Street resulting from Loss of on and of street parking & Traffic congestion

2. Review the intent of the University Avenue Strategic Guidelines Plan of 1997

3. Limit carte blanch use permits to a case by case basis for the size of spaces and use of 15,000 sqft of Restaurant space

4. Encourage ZAB members to visit the applicants previous projects.

5. Seriously consider an alternate project of mainly a housing. Encourage the design of 3 separate buildings. Make it into a beautiful residential block. With light & air in between buildings with small café on the corner of Fourth Street.

6. Seek mitigations for community parking, coordinated traffic lights, and employee shuttle.

Sincerely,

Denny Abrams, Partner
Abrams Millikan
1900 Fourth Street Scoping Session

Services provided by:
QuickCaption
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* * * * *
>> CHAIR PINKSTON: ... The next item is the scoping session on 1900 fourth street. The way we do these things is there will be a staff presentation followed by questions from the ZAB and then there will be an applicant presentation again with questions. We will open the public hearing to the public comment. Limit speakers to two minutes so we make sure everyone has a chance to speak. We encourage you to try not to make the same point over and over again. If there are nuanced points, just to make sure that the fullness of every issue is able to be discussed in what is a relatively compressed amount of time. And then the ZAB will have a discussion.

With that general process, we are ready to take up 1900 Fourth Street and have the staff report.

>> STAFF: Thank you.

This is the draft EIR scoping session for 1900 Fourth Street.  -- -- approximately 33,000 square feet of retail and restaurant uses and a 372-space parking garage that is available both to the public and proposed uses.

The project site is located on Fourth Street between University Avenue and Hearst Avenue in the Fourth Street commercial shopping district in West Berkeley. Approximately 2.21 acres, generally flat site consists of 350 space privately owned surface parking lot known as the SPANGER's parking lot. The site includes a 900 square foot vacant commercial building at the southwest corner that was last occupied by a fitness facility.
The site is located on a portion of the City of Berkeley landmark, the West Berkeley shell mound. An environmental impact report, EIR, is being prepared for this project. One reason is that the project would include subsurface, demolition, grading activities on a site that is part of a group of several properties designated in 2000 as a city landmark for the location within the potential boundaries of the West Berkeley Shellmound. This is what prior researchers estimated as a location and potential dimensions of the West Berkeley Shellmound. Archaeological testing was conducted in 1999 and 2000 and the applicant's archaeological consultant ARCHE tech completed testing at the site in June of 2015. The primary report says primary Shellmound deposits do not exist on the site. The original version of the report was provided to ZAB and LPC. For a brief time it was posted on the city's website and at the request of the northwest information center that report was removed because it contained confidential information. Earlier this week a revised report that has removed the information at the request of the northwest information center was resubmitted to the city and the version is posted on the city's website. This report will be peer-reviewed as part of the environmental review process and potential impacts to archaeological resources under CEQA will be evaluated in the EIR.

In addition, it will intensity uses on the site, adding commercial and residential uses. The site is in close proximity to residential uses and to the Union Pacific railroad tracks and interstate 80.

Based on the site-specific characteristics and preliminary analysis, the draft EIR is also anticipated to focus on transportation and
traffic, air quality, noise and vibration. An initial study will be prepared to address all other issue topics, specifically agriculture and forest resources, biological resources, cultural resources, being historic and paleontological resource, hydrology, and water quality, mineral resources, population and housing, public work services, recreation and utilities and service systems.

The initial study released as an appendix to the draft EIR similar to what was just done for the Bank of America site and for the 2211 Harold Way project. So that initial study will come with the EIR as an appendix.

So the purpose of this scoping meeting is to solicit input from ZAB and other interested community members as to what issues the EIR should address. This input will be considered while the draft EIR is being prepared. The scoping session is also an opportunity to learn more about the project itself and the EIR process. A similar scoping meeting was held with the Landmarks Preservation Commission last week on March 3rd. Six members of the public and three members of the LPC provided comments at that scoping meeting and their comments included the following, and it is sort of a long list that I will run through.

That is sacred site, whether the Shellmounded are there or not. The EIR needs to clarify the location and intent of the landmark. Review policies and laws regarding what can be done on the site. Need to consider all four CEQA criteria under historic resources for eligibility. Not just prehistory and history, we need to consider compatibility with the historic structures on Fourth Street including SPANGER's. All the archaeology reports that have been conducted on or around the site need to
be compiled and included in the EIR. We should conduct the recommended ground penetrating radar survey for the entire site. The EIR issued include mitigation regarding monitoring during construction and we should be thinking about mitigation measures to respect and remember the Ohlone in a real way.

The project or project alternative should be scaled back away from any likely archaeological resources. The site should be a park or a museum. There is concern with the location of Strawberry Creek as it relates to hydrology and drainage on the site. The proposed five-story building will block views. Concerns with air quality and noise given proximity to the railroad and freeway. The location of the fuel line adjacent to the railroad needs to be disclosed. The EIR needs to address traffic and circulation, including the railroad crossing, and the EIR should affect parking, since it relates to traffic.

The recommendation is ZAB hold a hearing to solicit input from the community and provide comments on the draft EIR. All comments will be recorded and considered during preparation of the EIR.

>> CHAIR PINKSTON: Thank you, Shannon questions?

Sophie.

>> S. HAHN: Shannon, thank you. Can you clarify, the report that had confidential materials, somebody requested that it be removed. Who is that? Is that a report that was prepared through the city or was it prepared for the applicant? Why would it be confidential? I'd better like to understand that.

>> That was a report prepared by ARCHEOtech, the consultant submitted it to the city as part of the application and we submitted it
online with the preparation materials. When the notice of preparation was sent out to interested agencies, I received an e-mail from Ryan munch, coordinator at the northwest information center, and that is an agency that really collects and manages archaeological reports and information and it is a real resource for technical folks who then when they complete their reports they submit them there. It is an archiving -- clearinghouse of sorts, and archival location. And his e-mail was in accordance with California government code section 625410 we respectfully ask that you remove the full version of your testing report from the city website. And as it contains confidential information regarding the location and content of an archaeological site.

>> S. HAHN: So it is to protect artifacts.

>> STAFF: Yes.

>> S. HAHN: Thank you. It was unclear who was asking for that, under what authority, and why it was removed. So what we have in our packets we should not share with others.

>> STAFF: Yes.

>> S. HAHN: Thank you.

>> CHAIR PINKSTON: Questions for staff? Are we ready for the applicant's presentation?

Applicant, your presentation.

>> If it is okay, through the chair, because this is a scoping session but also an information for the lower case P preview of the project, I have suggested that 15 minutes would be okay for them for their application.

>> CHAIR PINKSTON: Okay.
Good evening, madame chair and members of the Zoning Adjustments Board. It is a great opportunity to be here tonight talking about this site and this project. Given what we have learned about it for the last couple years. I'm Mark Rhoades with Rhoades Planning Group and I'm here tonight representing BHD Center Street, who is the potential developer of this site. Our design team includes PGA landscape architects, Thomas Cox architects, VCV architects of San Francisco. And really the two most important people in my mind tonight are Dr. Allen Pastor of ARCHEO tech, the foremost Shellmound archaeologist in the Bay Area, and -- and an Ohlone Indian. We spent the first full year plus looking at the archaeology of the site and the potential for cultural resources. It is important to note that despite whatever rectangles might exist on the landmark map this entire area was part of a village complex at one point, the entire area, not just the parking lot. What we have found will be gone over by Dr. Pastorin and Andy for a moment. Before we get into project design discussion we thought it would be helpful for you guys to hear from them. And they are going to be here still afterwards to answer any questions you might have. So without further ado, Andy, please.

Good evening. My name is Andy. I'm here to share with you that I am -- was a doubter that the site did not exist at this location, SPANGER's parking lot. And basically my response at this point is, well, we are not sure where the Shellmound is today. We are pretty certain
where it is not. And that's one thing that I want to make sure everyone gets across.

Now here you see this is a map here of the Ohlone territory from San Francisco, San Pablo bay in the north down to the great harbor of Monterey in the south. There are village locations here. And my ancestry includes the village of KARKIN, not far from here, a village of SOKLAN, modern day Walnut Creek, and a village of HAUKN, modern day Hayward. Berkeley is a bulls eye in between the villages. The State of California has established the Native-American heritage commission, which those of us who want to be notified when such projects like this are happening that we are informed by agencies and the commission. And as you may well know, there is a new bill, assembly bill 52 which takes effect July 1st, 2016, and at that time it will be tribal consultation be agencies likes yourself.

Over here on this side, this map is a language map of the area, eight languages in Ohlone area. CHOCHENO is the language group of Berkeley of this particular area, and we are happy to share more information with you, but this is something very briefly that we wanted to have up to share with you.

Here is a map of the Shellmound. It is amazing that the northwest information center did not say take this map down because this is the treasure map, the bulls eye with 425 dots that tell you where the mounds pretty much at one point were. Most of them are gone. If you go to coyote hills regional part you'll find four, San Bruno mountain has one and a few more locations. Emery Village, one that was demolished during the construction of IKEA and other stuff.
The West Berkeley Shellmound is near Strawberry Creek. A Shellmound is, yes, it is a burial site, a sacred site of burials, it is a place where people lived, habitation site, and also, yes, people lived and they create garbage so there is our refuse there since we are along the bay, we ate quite a bit of shellfish. And you have, as you know, if you go to a crab feed there is a lot of shell left over once you eat the inside of that fish.

So the development of the Shellmounds along the Bay Area happens over thousands of years. My ancestors lived at these places and when you live there and somebody dies you keep them near you so you can visit them, take care of them, and therefore generally when somebody died at the village you buried within the village compound, which is why in most Shellmounds we also find human remains.

Good evening. My name is Allen PASTRON and I have been the project archaeologist for what we commonly refer to as the SPANGER's parking lot. I have been involved with this project going on and off for 17 years. In 1999 I was asked to put a program of study together to try to determine whether remnants of the West Berkeley Shellmound existed within the SPANGER's parking lot. In 1999 and again in 2000 my crew and I excavated 41 mechanical borings throughout the SPANGER's parking lot covering basically every portion thereof. These borings were excavated down to 20, 25 feet, well into sterile sub soil. In a couple places during this process we found very minute traces of shell and other indications that suggested the presence of precontact archaeological deposit. For a variety of reasons, our work terminated in 2000 and we didn't come back again until 2014 when I was asked once again to try to
determine much more definitively whether remnants of the West Berkeley Shellmound existed within the SPANGER's parking lot. This time we came in and focused on those areas where the previous borings had suggested precontact deposit might exist. We put in a series of 20 mechanical trenches which you can see in the larger area which we made contiguous. In addition, we did one large aerial exposure that was done mechanically and in part by hand. Just to come to the point, we found no remnants of the West Berkeley Shellmound anywhere within those portions of the parking lot that we tested. Even less than what is suggested by the borings of 1999 and 2000. We concluded that wherever the remnants of the West Berkeley Shellmound are, they do not appear to exist within the borders of the SPANGER's parking lot. Thank you. We did find some historic materials, not of a great deal, of bottles and ceramics and bone which reflect activities within the project site, or at least the dumping of materials within the project site, during the later 19th and early 20th century. Again, this material was not abundant. There wasn't much of it. But you can see there was a bottle and we did find that sort of stuff.

If we can go back for one second. Let me call your attention, you can see in the soil profiles there what we see there is simply dirt and fill. And the next slide, this is from a site SF R-114 where the Moscone site is. That is six to eight feet of midden deposit. And you can see that is what a Shellmound looks like. And when you find one and you start impacting one, you really don't need a Ph.D. to recognize the archaeological midden. And that is very, very distinctive and different from what we found everywhere throughout the SPANGER's parking lot. Thank you.
There are a couple of images of how mitigations might go for a project, whether we are digging for a project or doing bores for piling. There are ways to be able to see what is coming up out of the ground, suggesting what might be underneath it. But we are at the beginning of the CEQA process and there will be a lot more on that as we go.

This is what happens. This is a process that is a state requirement should you encounter bones on the site. Andy is here. He can walk you through that in detail if you like at the end of the presentation, but it is quite a detailed process should that be the case. We don't expect it to be the case.

I'm going to try to very quickly walk you through the project that we have been working on for the last year, once we got to the conclusions that we came to on the Shellmound.

>> Mark, I just wanted to be clear that you have five minutes.

>> We are all familiar with Fourth Street and what is going on down there. There is a massive amount of residential development happening south of the University Avenue overcrossing and then north of the site there is no residential development. It is all very low-scale pedestrian-oriented retail development. So this site becomes a bridge for those.

We spent a lot of time studying the ground as it exists knot on Fourth Street, the Fourth Street retail shopping area, the ins and outs and landscaping. And you will see that reflected in our site design.

The site's very well connected. It has good transit accessibility, AC Transit up into the downtown, San Pablo Avenue, etc. We have got the AMTRAK station. And again you can see how this site is a
bridge between what is occurring south of University Avenue and what is occurring north of the site itself.

This is a base project zoning envelope. Not going to spend any time on this. If you want to talk about the density bonus aspect, we can later.

This is our initial project design concept that we walked away from many, many months ago because it wasn't giving us the opportunities to really get in to the ground plane like we wanted to be a better reflection of the retailing environment north of us.

So we came to three project objectives in general. This site as a bridge site takes us from the scale of what is south of University Avenue and transitions us to one, two and three-story retail and office and residential like exists to the north of us. Secondly, we are transit-oriented. Right next to the freeway, to the AMTRAK station, there are other amenities being built into the project. And providing 150 more parking spaces than the zoning ordinance requires for projects of this nature right now. And finally the pedestrian environment. And you will see in the site planning how we have come to that. This is figure studies to show you how we are going from the larger scale architecture to the south and kind of hopscotching down and matching the scale of the architecture at the corner of fourth and Hearst just to the north of us and how we take all the edges into consideration.

This is really taking a look at the density. The density south of University Avenue are in the 90 to 120 units per acre range. Our site is not that. Our site holding edges on the railroad tracks, University Avenue, 135 units basically on two acres. About 65 units to the acre
because of the transitional nature of this site and then it gets right to this retail connectivity right here. And I'll turn it over to Britney.

>> Good evening. Really quickly we just wanted to show you a glimpse of how we translated all these things into architecture. We will spend a little bit of time on the floor plan. Just showing you how that translated redistributing the massing, carving out the ground plane here. Looking northwest from the university overpass towards the Fourth Street shopping area. And big picture wise it is a mix-use community.

>> CHAIR PINKSTON: You have less than two minutes. Hit the highlights and skip the stuff we know.

>> 3,000 square feet of retail 135 units.

372 parking stalls. A really significant surplus in there beyond city requirements. And our residents have a robust amenity package as well.

>> So our project not only places importance on continuing the Fourth Street experience on the north/south direction but also in the east/west direction in creating porosity and activation on the site which you see on Fourth Street today.

In studying the existing sidewalk on Fourth Street we felt it was important to continue the generous sidewalks both on fourth and Hearst. We achieved this by stepping the building back from the property line and extending the curve west on to Hearst Avenue. All the retail is located off pedestrian corridors to provide activation to the public realm, including retail and building amenities that wrap down university to activate that facade. The parking garage is accessed on both 4 And Hearst Street with ample queueing area to pull the car off the street.
The entrance off Fourth Street and the parking garage is roughly in the same location as where the existing parking lot entry is today.

>> Just very briefly, the pedestrian-friendly environment is something that we worked hard to strengthen. And the trees that you can see extending from the north part of Fourth Street around the sides, also there is storm water management. And the green environment of the language is something that contributes.

>> CHAIR PINKSTON: Thank you. Questions? Can we hit the lights? Questions of the applicant team.

>> Dr. PASTORIN has to leave. He has a storm-related emergency that he has to attend to. Please lots of questions about the cultural and archaeological. Also a fly-around model of the site with the proposal should you want to see it. It takes about 90-seconds to get through.

>> CHAIR PINKSTON: Sophie and Igor.

>> S. HAHN: I have one question that I think would be appropriate for Dr. P, or Andy.

What would life have been like around the Shellmound? I think you have spent a lot of time sort of determining what is in the Shellmound and what is not, but I'm interested in knowing what the life would have been like that would have created a Shellmound of that size. What was going on around this?

>> Well, I think Andy can probably answer that in a sense better than I can. People were living there. It was a place where people lived and died and ate and discarded their garbage. Basically like any village that you can see today. It had different areas of activity. It had areas that were sacred and secular. And it changed over time. And
this was a very old site and those sort of activities wept on for a long, long time.

>> CHAIR PINKSTON: Does that answer that question? Should we hear from Andy as well? Andy.

>> Thank you. I think one of the first things we need to consider, it was high density. It was very much more than 135 units. Very, very much more than 35 units were located on this site. It was intensely used. People lived as you may well know with what the Shellmound mapped from West Berkeley all the way to Emeryville along the bay, a high population of ancestral people of the San Francisco Bay is in the East Bay just as it is today. It would have been a place where people lived, they ate, they cooked. Hunted, prayed. And unfortunately like us today, when we live we face death. And when we die 200 more years ago, thousands of years back, unlike today my ancestors did not have backhoes at a cemetery. So when someone died you had a digging stick or a deer antler. And so the softest places to dig were in the silting planes of the creek or into the shell midden. You wanted to keep the burials near the home, sometimes within the house, to protect it from the wildlife excavating the burials at night. Think about this every time you watch one of those country westerns and you see rocks on top of a grave site. There is a to keep the animals from digging up to the fresh meat. I don't mean to be disrespectful to anyone's burial. So you have a habitation site. When you live, we all create garbage. Whether we are neat about it or not, we create it. My ancestors did not have a garbage service that came back on a whatever day of the week and they put the cans out. Instead if you are eating shells you throw the shells into one area
hopefully where the wind is blowing the smell the other direction. Over time if your houses are here, the rain comes, like it is today. And we rejoice. But the rain comes and it washes you out down below. So you put some dirt on top of the shell, think Foster City, put some dirt on top of the shell and you move your houses on top of the new hard earth and you start throwing the shells over where you used to live. Somebody dies. You bury them now within the new village location. And then it continues for thousands of years along the interior of the San Francisco Bay.

Shellmounds are not limited to San Francisco. They are found throughout the world along the ways and the oceans. So the life of my ancestors, we even have documentation now, a recent dissertation, that proposes that even after the close of the missions our ancestors returned to these sacred sites to these homes because this was their home that they had been taken from and moved to the missions.

>> S. HAHN: Thank you.

>> D. PINKSTON: Igor.

>> VICE CHAIR TREGUB: Thank you. I also had a question for the archaeologist. And perhaps Andy too if you would like to after this. I'm not as familiar with the methodology for trenching, so presumably when you said you had dug -- I can't remember how many trenches it was.

>> 20.

>> VICE CHAIR TREGUB: 20 -- basically to get a statistically significant sample size; correct? As I understand it, there was a comment by someone at the last public hearing asking to excavate and test the entire site. What is your professional opinion about the adequacy of the sampling that was employed?
In my opinion, the combination of the borings and the trenching particularly given the fact that the trenching was aimed specifically at those portions of the site that had yielded some material during the earlier borings, I think that there is a high statistical probability that we have evaluated the site's archaeological potential correctly.

With archaeology, I always quote Chris rock when he says you never know. And it is true. Short of excavating the entire site, you can't entirely eliminate the possibility that something might be there. However, I feel that we have evaluated the site with a high degree of confidence, and I am convinced that even if we did excavate the entire property we would not find significant remnants of the West Berkeley Shellmound there.

VICE CHAIR TREGUB: Thank you.

CHAIR PINKSTON: Thank you. Steven and then Shoshana.

S. DONALDSON: I have a few questions for you about the archaeology and the historic nature of the site and the anthropological components of the Ohlone. Did the Ohlone actually -- what I have read, and correct me if I'm incorrect, they would come to the shoreline seasonally and then come back to the mounds and build the villages and then leave and go to the hills at another time during the year. I may be correct on that.

I think that is often the case on some of the sites. With the bigger ones like Emeryville or the West Berkeley Shellmound, obviously I wasn't there. But I would imagine there was a presence there pretty much all year round. The bay was so bountiful and yielded such a copious
amount of sustenance that there was a huge population in the coastal and
bay regions of the San Francisco Bay area, just as there is today.

>> S. DONALDSON: And the location of the original shoreline
was approximately below the railroad tracks or right around there?

>> Correct.

>> S. DONALDSON: And Strawberry Creek went where the
university is but migrated?

>> It probably migrated significantly over time.

>> S. DONALDSON: Regarding the Shellmound, is there anything
written saying it is exactly on this site?

>> The specific location of the West Berkeley Shellmound was
never pinpointed.

>> S. DONALDSON: Are there photos of it?

>> There are photographs. We know about where it was and may
still be. My charge beginning in 1999 was to determine whether or not
historically significant remnants of the West Berkeley Shellmound existed
within the parking lot. So others can simply be speculating. I couldn't
tell you where it is. As Andy said before, I'm satisfied that I know
where it is not.

>> S. DONALDSON: I see. Thank you very much.

>> CHAIR PINKSTON: Shoshana.

>> S. O'KEEFE: By the way, I was never officially sworn in or
whatever. The roll call. Is that okay? I just wanted to make sure
before I spoke. My question is for Andy. I was wondering if there is an
organized governing body of the Ohlone people and if so with a your
relationship to it is, if you could explain how that works.
There are currently about five or six different groups applying for federal recognition that have organizations. The group for which I'm president of the board of directors, Ohlone Indian tribe S not currently filing for federal recognition. We have state recognition and we work with the State of California. As I mentioned earlier, AB 52, which actually went as a law on July 1st, 2015, provides for methods for which tribal governments recognized by the State of California who have provided documentation to the state as to who they are will then be the ones that are encouraged to have connections or interactions with governments like yourself and agencies for those projects. Did that answer your question?

S. O'KEEFE: Yes. And do you expect the Ohlone Indian tribe, the name of your organization --

The Ohlone Indian tribe was incorporate bid my father in 1971. According to the bureau of Indian affairs we have the historic use of the name. In other words we were the first group to incorporate the name in any formal way. And at that time my father did petition the government for recognition. That was done in 1971 so that we could obtain a piece of property, a Catholic cemetery that was a traditional Indian village in mission San Jose and Alameda and it is the only property the Catholic church has returned to a group of Indians. And that is the same piece of land I bury mid father. He fought Caltrans and won. Caltrans goes around our cemetery.

S. O'KEEFE: Good. Thank you for sharing that with us.

S. HAHN: I had a question that didn't involve these particular experts so I saved it.
>> CHAIR PINKSTON: Anyone have any questions for the archaeologist? Thank you very much for coming down tonight.

>> S. HAHN: I had a question for the design team. So you talked about how you worked hard to continue the retail patterning. But you're also across the street from SPANGER's. Is it a landmark? Either way, it is a historic building that has a very different vernacular and you are also on a site that was inhabited by a large population of Ohlone people for several thousand years. So I would like to know how your design responds to those two other elements in your environment.

>> Sure. Before I let Jennifer get into some of the details of how we put this together with respect to what is to the north and across the street, I'll say that this site is not singularly different from this area on 5 Or Sixth Street or north. There is a chain of Shellmounds. All of West Berkeley, Fourth Street here, here, all the industrial over here, it was all part of the village complex. So there's nothing distinguishing this parking lot from those. And so now I'll let Jennifer talk a little bit about how we got into our site design and how it responds to the retail environment.

>> Right. So I think to kind of address your comment and to speak to what Mark and Britney mentioned is that we really aimed at stepping down the massing from the south university side north to the Hearst side. And the corner building that you see at fourth and Hearst is actually completely free-standing. And as such we were able to step down the floor plate from there to really step down the massing to respond to the building across Hearst. And also the art location of it with the radial edges respond to the opposing three corners that you find on fourth
and Hearst. Additionally we aligned the retail PASEO with the future PASEO that will be across the street.

>> S. HAHN: Okay. So if I understood correctly, the design doesn't really respond to the Ohlone piece simply because no one else has. So TRUITT white has not responded so there is no response here. That's all I heard.

>> All I'm saying is this site is not distinguishable from our surroundings. But certainly what do we do with this -- come on up, Andy. We have been in conversation about this for two years. We have not drawn any conclusions because from a design perspective we don't really feel like it is our place to say what it ought to be. What we have done is asked Andy to spend time thinking about this so that we can come back to it ultimately before we get to the place where a project might be approved and constructed. And it is very much a significant part of our consideration right now, but I'll turn it over to Andy.

>> Thank you. My understanding, your question is perhaps along commemorative memorial.

>> S. HAHN: No.

>> I'm trying to get your question.

>> S. HAHN: I was just responding to the answer I got to my question, which sounded to me -- and you don't need to explain that. Mr. Rhoades, you have made the comment. I didn't get a full enough answer to my question which was how is this design responding to SPANGER's, which is of one historical era, and to the Ohlone past. And the response that I think I got was there was Ohlone habitation all over here. That's what I heard.
CHAIR PINKSTON: It is a question and they answered it. We appreciate the answer and we should move on.

I'm hoping that some Ohlone people would be able to live there just like we did in the past. That's how we will continue into the present there.

CHAIR PINKSTON: Thank you. Other questions of the design team or can we move to the open session on the EIR scoping? This is not a project review. We can come back with comments after we have heard from the public.

The first card we have had from the public, and every speaker will have two minutes. What I will do is call three names. Folks, because we have a number of speaker cards, could you start approaching the front of the room so when your name is called you don't have to wind your way off the bench that would be great.

The first speaker is Karina G, Malcolm M, and Toby McCross.

Good evening. Speaking Native language. I am CHOCHENA Ohlone. I have come here and I have been watching this project over the last couple years. I have been doing work on protection and preservation of the sacred sites of the Bay Area, my ancestral home, for the last 20 years. I worked vigorously and joined the Emeryville one. We created a Shellmound peace walk between 2005 and 2009 where people from all over the world walked the Shellmounds down Vallejo to San Francisco. Took us three weeks to walk it trying to figure out where the shell mounds are and how we can honor our ancestors. When we stopped at the different places we honored the ancestors that had to live there beforehand. Over the years we have done our own research around how we found out where these
archaeological sites were because as they have shown there's a huge map that Mr. Nelson did over 100 years ago knowing that all the Shellmounds were about to be obliterated because of development. I have listened and I have watched all of this stuff unfold around the 1900 Fourth Street thing and what I did find out is that there is this one little building that is on the property that hasn't been touched that nobody has excavated under that is right across from the railroad tracks but we know there is shell matter under right across from TRUITT and white, we know it is by the turnabout and the City of Berkeley knows the Shellmound exists in that area. What I'm suggesting is that before we go forward with the project that particular area of the project development that is supposed to happen, that is excavated in a manner we can find out that particular corner has a piece of the Shellmound and what are we going to do in order to preserve it?

>> CHAIR PINKSTON: Malcolm Margolits followed by Tony McCloud and Andrew Galvin.

>> My name is Malcolm M, I wrote a book called the Ohlone way many years ago. We have a magazine for 30 years ago going out to the Indian community. Done about 50 books on California Indians. I am clearly not an Indian. But I want to say something that I don't think has been said. And I want to talk about the living culture and I want to talk about the fact there's people in this community speaking the CHHCENO language. There is a cultural revival, people learning dances and songs. And the living culture has something to offer us. Berkeley needs much more than we need another building. And if the building goes up it has to be going up in such a way that it preserves the sanctity of that land.
The sacredness of that land is what will attract living cultures and living cultures is where the juice lies, where the message lies, where the moral injunction to honor people, not to commemorate them but support the people that are around today. And I think `that it is a complicated world -- is the head of the Ohlone tribe, one of many Ohlone factions. There's the west Ohlone, several other bands of Ohlone. Dealing with something that is live and complicated. And it has to be open to the people around there. And if it is not open, we have lost a marvelous opportunity. There is an opportunity in there -- there aren't too many places in Berkeley that have a historic link to the past and to this ancient past. And if we move that link, we are going to end up with disembodied monuments, end up looking at people in the past --

>> CHAIR PINKSTON: Thank you, Mr. M. Toby MacLeod.

>> Good evening. My name is Toby MacLeod.

When I went to the graduate school of journalism it was the first time I fell in love with Strawberry Creek that flows along the property underground. The sacred sites -- disrespected all over the world and after film screenings people ask what can I do? And my best answer is ally with native people -- we are talking about a sacred site -- it is the earliest and biggest of the Shellmounds. I haven't heard it was originated in 3,000 BC, 5,000 years, where oyster mounds grew 18 feet high. I am within urban development within the boundaries to prevent sprawl but another huge commercial structure is disrespectful of the indigenous people of this place who have been ignored for hundreds of years. True consultation is necessary and one paid native consultant is not enough. The international standard of free, prior and informed
consent should be honored here. This is Berkeley, right? And I don't think consent would be given by the Ohlone community. On a procedural note, this project should have first gone to the Landmarks Preservation Commission for review and public comment, not straight to design review and an EIR. The city should buy this parcel, make it available as a public park, a green space that recognizes and honors native California history because a giant building covering that entire block is not right. I suggest a memorial park on this very visible site and on the western edge let's build a wall A really big wall and paint a mural on it so people can see the golden gate, the shoreline and the Shellmound and let's bring Strawberry Creek up to the surface and run it right through. Thank you.

>> CHAIR PINKSTON: Mark Rhoades, we have already heard from you. Allen PASTORON followed by Jennifer Smith and Kathy Garrett.

>> All project team.

>> CHAIR PINKSTON: Thank you for fessing up. Britney de-Paul and Kelly Hammargren. Kelly is not project team. Followed by Susan Meyer and Danny Abram.

>> I'm hiding under my rain hat. I am here and not part of the project team.

Notices looking at the site today and I was also looking at the seismic hazard map for other reasons and also looking at where this site fits in the seismic hazard map. And this proposed building is in an area of liquefaction. And thinking about the historic nature of the site and how nice it would be to have open space, it also makes sense to keep that as open space knowing this area is part of liquefaction and not too far,
according to the map, from a flood zone, and we know that our water is changing, getting big storms all once and then we have big droughts in between. So those were really the points that I wanted to bring up tonight. Others have covered other very important points.

>> CHAIR PINKSTON: Susan Meyer.

>> This is such an important site for us to protect in the City of Berkeley. And these are the first people that lived here for 2,000 years before we were here and the Shellmound must have been spectacular and the ceremonies spectacular. And it wasn't a garbage dump. That was community. And I was thinking about this. -- he wrote me a lovely note back and said why don't you read the letter that I wrote so you, so I will. He says the Indian community.

>> CHAIR PINKSTON: If you like, you can give us a copy.

>> The fact that a lot of the shells have been hauled off and used for landfill doesn't mean there wasn't a huge Shellmound. And the fact it was profoundly disturbed -- the letter to me -- the fact that it is profoundly disturbed to the point there may not be any burials there is not essential to me. In the Indian world, place has power. And while the physical altitude may be severely degraded the power and story remains. In the Indian world time is flat, knowledge of who people are is preserved by place and the stories that adhere to the place. And in Indian belief these stories are not artifacts of the human imagination. They exist outside the human imagination has truth kept alive by spirit and the power of place. The sense I get is that even as the stories should be erased from the memory of all human beings, it would be kept by the power of place in a kind of especially accessible place -- this is such an amazing
site. It is like having the pyramids and okay they were carted off. And we need preserve this site. And we don't need to build a high-rise.

>> CHAIR PINKSTON: Danny Abrams followed by Mary Siegel.

>> I would love to comment on the architecture and building but I don't think this is the venue for that right now. But the scale of the project really needs to be considered. Across the street the highest point is 28 feet. You just got through approving a plan that is being built and the highest point on that is the corner, 31 feet. This project tops out at almost three times that. So you have narrow Fourth Street, SPANGER's here. You'll have 71 feet over here. It is going to be a really ridiculous canyon. And it doesn't pay much respect.

With regard to the EIR, here are some of the things that you need to consider. One is the University Avenue strategic design guidelines specifically was passed in '97 called out for this site not to exceed 40 feet. You can do something within 40 feet on this site that can be economically viable since the driving force of this site is retail. So that's one request to look at that.

The economic impacts, I have read the traffic study and I think it needs to be redone in a more objective manner. This was hired by the Blake group and Mark Rhoades who guided this traffic study, and it is not objective. There is one line in there that says it may impact the Fourth Street customer base. I will tell you a little bit Fourth Street. It is the most vibrant -- could I have a couple --

>> CHAIR PINKSTON: We have limited everyone to two minutes. I'm going to finish the rest of the commentators. We have limited everybody to two minutes.
Fourth Street is driving force. It generates 140 in retail sales and it is regionally based. People aren't coming by bike. You need to reconsider the economic impact.

CHAIR PINKSTON: If you missed saying something, feel free to submit it in writing too because it will be part of the process. Igor has a question before you step down.

VICE CHAIR TREGUB: If you wouldn't mind coming back to the mic.

CHAIR PINKSTON: After Mr. Abrams we have Mary S and Rhiannon and Ariel L.

VICE CHAIR TREGUB: Thank you. I was hoping you could clarify for me. You mentioned that the highest point across the street is 28 feet and then you mentioned something else recently approved at 31 feet.

The corner of the project where Anthropologie is — the SPANGER's street sign is 28 feet high. Across the street, the developer isn't providing you sections across the street, as it rises to 71 feet at that point.

VICE CHAIR TREGUB: Across the street on Fourth Street?

The new project.

VICE CHAIR TREGUB: Okay. Thank you.

CHAIR PINKSTON: Sophie, you have a question.

Thank you so much for coming here and thank you for Fourth Street, which we know you were largely responsible for. If I understand correctly, you own a lot of the properties up and down Fourth Street. And I assume that you could have developed them more intensively,
theoretically. And I was wondering if you could tell us a little bit about what your vision was for Fourth Street, because it has been so successful. What are the elements that you have done that have made it that successful? And I know you could probably talk about this for a long time but if you could just give us a very quick understanding of what you have done that made it work.

>> I guess we are in year 38 or so of working on it. The developer that is coming to build there, he is a flipper. He'll be out of here in three years. Anyway, you don't build community in three years. You build community over time. We purchased parcels as we went. And so the place grew up organically. This ridiculous thing of the architects going and measuring all the ins and outs, those ins and outs were responses to buildings next door. One of my pet peeves about this project is it is so large scale. It comes out of Las Vegas and the suburbs. You have to go to Walnut Creek and see this guy's projects and look at it. He has a project just like this.

>> S. HAHN: I'm sorry. I wanted to hear what you had done.

>> Okay. What we have done is the fine-grain nature of it comes up because it grew up over time. And that's the authenticity of it. And that gives it a real economic strength and ground because it is authentic development just the way cities always grow, by many, many acts of building. This is one singular act building that is trying to appear like many acts.

>> S. HAHN: Thank you.

>> CHAIR PINKSTON: So we have another question.
S. DONALDSON: Just a quick question of staff. Who did pay for and do the traffic study? Was it the developer?

STAFF: There was not a complete traffic study, but a trip generation memorandum that was submitted with the application. A complete traffic study is currently being prepared by a consultant of LSA. LSA is the consultant for the city working on the EIR. So a traffic report --

S. DONALDSON: By the city.

STAFF: Yes, underway.

CHAIR PINKSTON: Thank you, Mr. Abrams. We all appreciate Fourth Street and we spend far too much money there. And happy to do so. Mary Siegel and Rhiannon and Ariel L.

May I start? A lot of what I have been thinking about has already been said so I will just concentrate on one thing. And that is the air quality on that site. Of course, I'm aware that there have been other big buildings built around the I-80 off ramp. And I'm also aware that there hasn't been an adequate city for monitoring the air quality. I was able to see on the website for this building pictures of children playing and looking like there's a real fun, fabulous site for children. But I'm very concerned about the air quality from I-80 and the trains. We know the trains put a lot of diesel particulates in the area. So I wonder if this has been studied at all.

CHAIR PINKSTON: I appreciate the question. I believe that is one of the items that will be studied in the EIR. Thank you for bringing that up.

Rhiannon.
Hi there. I guess the Shellmound is well taken care of. So I would like to address the parking and the traffic. The West Berkeley circulation master plan says it would generate 36 vehicle trips per day. This project is 2,600 vehicle trips per area. Nearly every intersection in the area, Hearst and sixth, even Hearst at fourth, operate at level of servicing E for the most part and often have. The cumulative traffic between this project -- TRUITT and white generates 5600 vehicle trips a day. All the other shops in the area generate extra trips. This is going to add impact to the intersections. The 51 B is the only bus line in running now. It is already operating at over 100 percent capacity. And there are over 500 units already permitted for university, the southern part of University Avenue between sixth and second. And only half of those are built so far. And already the 51 B is overtaxed. Giving out bus passes for a reasonable shopping district. As Mary mentioned, there are air quality problems with the overpass and the railroad, both the 2 and Addison Street project, they found an high increase of cancer rate from the railroad tracks. I know there are other things, but I'll leave it at that.

>> CHAIR PINKSTON: Ariel L or lucky. And Steve Martinoff.

>> Ariel lucky. Born and raised in Oakland. My wife was born and raised in Berkeley. Lived here all my wife and we live ton border between the two cities. I raised my two children here, two elementary school children. And they are learning the history of the Bay Area. Part of that history, the history I didn't learn until I was a young adult was about the Ohlone people, about the history of thousands of years of history of this land. There are very few monuments, few memorials, few
open spaces all over the Bay Area, especially here in the urban city areas that are dedicated to that history, to acknowledging the history. And like Malcolm M said to, supporting the living culture. I think this is an incredible opportunity to take an open space that has unfortunately already been desecrated and paved over, but it is still open, and create something special. Every third grader in the City of Berkeley learns about Ohlone people. It is a whole part of the curriculum. Where do they go? What place can they go in the city to stand on land that has historical significance like this Shellmound? There are very few spaces. This was one of the oldest shell mounds, one of the biggest Shellmounds. I think it is very important to keep part of this space open, to create a gathering place where young people can learn about the history of the land, can meet living community members from the Ohlone tribes, and can connect to this history in an important and valuable way. Berkeley doesn't need another condominium. There are lots of them. The last thing that I would like to say is about probability. If there is one family of ancestors that is destroyed by this, is that worth it? Might not be statistically probable. What if there are two families? How can you make that calculation?

>> CHAIR PINKSTON: Steve Martinoff.

>> Steve Martino. I need to dependence with a couple policy questions. Right now Berkeley faces a housing crisis. It is not because there is insufficient supply. It is because that insufficiency of supply is being used to throw a lot of people out of their homes and on to the street, both rental and private property owners. Owners. What will be built here is market rate housing. I have produced a very logical
argument using hypothetical situations that it is market rate housing right now that is responsible for this crisis. And that to build more will make the crisis worse. The only way to resolve the crisis will be to build affordable housing, low income starting and middle income. That is not going to be built in this site. That is not on the agenda. But that is what is needed. If we looked at this Fourth Street area, if you put a building like this in that parking lot, there's only a single lane that goes through three intersections to get to the onramp on the interstate. Do you have any idea of what have that kind of traffic jam is going to do to commerce all along Fourth Street? It will be horrendous. But given all of this, why don't we take seriously the idea that this is part of the archaeological and anthropological tradition of this city and not build anything there? Take seriously the idea that it should be an open space that pays homage and recognizes the people who used to live there as part of a tradition that we accept.

>> CHAIR PINKSTON: Thank you very much for your testimony. That concludes the cards I have for this item -- no it doesn't. Last speaker.

>> I just wanted to make the point it is not about what has happened in the past. It is what is happening now. And I don't need the mention the name of the man who spoke second about the issue, who burglarized me for ten years -- I am tired of the rhetoric that we have in this town about honoring anyone. This town is founded on white supremacy and white doesn't mean anything. White is no ethnic group at all. The history of California, where I have lived my entire life, and I'm a survivor of the eugenics program. My mother was sterilized without her
permission at Alta Bates hospital. Fortunately I was chalk white when I was born so I was not slain at birth. Moving right along, the eugenics program at Alta Bates hospital is an example of what California has been all about. The history of California is about worshipping money, destroying the indigenous people, both past and present, and destroying women, destroying children. And destroying people who are poor. Now we have Godzilla manifested as a man, Mark Rhoades, who is the darling of Tom Bates and Laurie Capitelli. And they will do as they please because they are continuing a tradition of male chauvinistic environmental terrorism. Whatever this body wants to do, especially when Darryl Moore is appointing Steven Donaldson, who looks white to me, appearances are deceiving, you can do whatever you want to do, but can we cut the crap about honoring people? This town does not honor anyone. The people in this town worship the University of California, which is a premier weapons developer for the US military.

>> CHAIR PINKSTON: Thank you for your comments. That concludes now the open session on this EIR scoping matter. I have a question, actually. Is Mr. Abrams still in the audience? And the project architect or project rep still here. The question I have is about economics. Mr. Abrams you mentioned this. The EIR doesn't have to study economics. But I am curious since you brought it up what your concern is about the impact of the project on the economics of Fourth Street and why.

>> Well, first of all, Fourth Street's success, economic success for a town like this is to be able to import dollars from outside of town. It is nice that you spend, but people in the region spend. And
they come by automobile. And this project is so huge it will impact that. I also sort of resent Mr. Rhoades' ask for large footprints, the whole thing over 7,500 feet, you are talking about big box. I rejected banana republic and the gap and big people like that because I understand it is the beautiful mix of independents and some nationals that makes for great shopping and demand. So this project will impact the regional shopper and won't be able to come. There will be too much traffic. They are asking for 15,000 square feet of restaurant space. If you add up all the restaurants except for SPANGER's, leave it out, it is an anomaly, all of our restaurants and the drew's restaurants, they add up to less than 14,000 feet. And they are asking for 15,000 feet carte blanche without you looking at it. Asking for retail space that exceeds what the general plan asks for. That means independents are out of it. It will bring the Cheesecake Factory here. That is what it will do. It is that kind of suburban development. You have to see what this man does. This is what he is bringing. A concrete platform with a bunch of housing that is trying to make it look like it is interesting.

>> CHAIR PINKSTON: So now I have a question for the applicant, which is essentially the same question in reverse. Who is the target audience for the retail? What tenants are you considering? What types of tenants are you considering? Give us a sample tenant roster for who you would ideally like to see here. And then this is again on the merits, not the EIR issue. Why have you created this circuitous pedestrian pathway for retail that is off the public street when Fourth Street is the retail identity. It is less the paseo. I'm curious why that decision was made.
We haven't got to a point where there is a firm tenancing plan for the retail yet. Dennis can say what he wants, of course. But there's lots of small retail spaces that are built into this project, most of them, in fact, are well below what Danny's trying to characterize. The paseo, go halfway north of the block and you have that paseo effect with the driveway that takes you back to the pasta shop and things like that. You have the little retail shops that front those spaces. Very similarly, that's what is going on directly across the street from there. You have sort of a more pedestrian environment that is coming off of Fourth Street branching off of Fourth Street. And again with the project you approved right across the street on the northern portion of the SPANGER's lot, that is a paseo that tucks behind the project and cuts back. The notion that there are retail exposures in and about Fourth Street is consistent what is already there. And what we have tried to do is make sure that this project isn't like the fourth and new project. We don't believe that retail environment is conducive to good retailing as opposed to the David track ten berg lot right across from that which is good exposure.

We are trying to mix it up. The mix of tenants we are talking about is exactly the same mix. As he said, there will be some nationals, some not nationals in the mix. We have set aside two spaces for community-serving retail because we know that Fourth Street north doesn't serve any of the neighborhood, really, except the fact that it does and there is lots of residential being constructed right now just to the south. So we know there will be more of a need for captive residential retail and business services.
>> CHAIR PINKSTON: Thank you. There was one more question and then I would like to, since we are not making a decision tonight on this project, not providing guidance, just to provide comments on the EIR scoping. What I would like us to do, if we can, to shift the conversation to topics that need to be in the EIR and we can go down the dais and people can say I have something or don't have something. We should move the agenda along, given that it is 8:30.

George, Bob, Sophie.

>> S. HAHN: Yes, I do. I didn't realize we were coming to this. I have prepared my notes. Just need open to a page.

So if you look on page nine of attachment two in your packet it lists the criteria for eligibility of a resource, historical resource under CEQA. And it has four points. The resources associated with events, not just places. Events that have made significant contribution to broad patterns of California's history and cultural heritage. Is associated with the lives of persons significant in our past, and that is the distinctive characteristics of the method of construction -- artistic values -- has yielded or will be likely to yield information important to prehistory or history. I actually think the study that was presented does a decent job of trying to answer the question, one question. Was the original Shellmound on this site? Unfortunately, answering that question, even if you could answer it definitively, may you did, maybe you didn't, it is maybe five percent of what needs to be addressed. So I find the study to be not necessarily inadequate in answering its own question, but it is entirely inadequate in answering the questions that seeks to have answered, especially you have asked the question is the Shellmound here?
Yes, no, end of story. That is just the beginning. We have people here, experts, who have said -- and I'm quoting from the notes I took -- the life of my ancestors was here, those were sacred sites. So why are we really concerned about the significance of a Shellmound which let's say the refuse pile and maybe a cemetery. Yet there is no discussion of the life that was led, lived up on this parcel, either partially adjoining the Shellmound or 20 feet from the edge of the Shellmound. Quite frankly, it doesn't matter. Clearly, there was significant indigenous life for thousands of years. Yet, the study does nothing to address that. So I beg you, this is a wholly inadequate treatment of this question, and the EIR needs to go way beyond this. It is almost an insignificant point, and I almost am sorry that you have invested so much time and so many borings answering a question that is only of tangential importance to the bigger picture.

I am going to say something that is kind of personal. My father's family are Czech Jews. Czech Slovakia did a really good job. 95 percent of the Jews were killed. The town my father's family came from, KIDENIA, which I visited, three Jews survived the SHOA. That town had a synagogue. After World War II, there was no one to fill it. It fell into disrepair and that synagogue was used as a warehouse. I'm going to say this. It's important. It was going to be torn down. The city's non-Jews resurrected it, took it back, refurbished it, filled it with Jewish items, scrolls, artifacts and a museum, and they maintain it lovingly. We have less than one percent of the native people who are here. Way less. We have to do better as a community. We cannot say that because almost every
vestige of these people have been wiped out, doesn't mean we have to wipe out this scrap. We have to do better.

>> CHAIR PINKSTON: We will move down quickly. Igor.

>> VICE CHAIR TREGUB: Thank you. I will attempt to be brief. I do have some questions about the compatibility of what is proposed with the rest of that, but I will not address them tonight. I will focus on the scoping of the EIR. There were several comments that I think are worthy of further study, which were made tonight. I'm not sure having not received any information about them prior to this about their validity, but there was mention of a fuel line onsite. There was mention about the possibility of artifacts underneath the building onsite. I would like to understand the methodology -- well, if there is a chance that there might be additional artifacts elsewhere onsite, at the very least I would like to see clarification of why the borings were made in the locations where there were and there were no other borings. I think it is important under cultural resources to study all the different sub elements under cultural resources in the EIR. Under air quality, last but not least, I appreciate it that cumulative impacts are summarized. I know cumulative impacts are not normally summarized in EIRs so I'm glad this made mention of it. There is proximity such as to the asphalt plant and just the past Tuesday night there was a robust discussion about continuing impacts around air quality. So I do believe those need to be considered under the air quality section. Those are my comments for tonight. Thank you.

>> CHAIR PINKSTON: Steven.

>> S. DONALDSON: And a quick question and then just a little bit about the transportation. So given all the commentary about the
historic value of the site or the nature of the people and the culture that were there, and I'm looking at you, Andy, is there a possibility of integrating some component of this project that reflects on the historic nature of the use, the relevance to the community, and the 5,000 years of the native peoples that were there so that our community can share in that, children can go there and see what was there and talk about it?

>> CHAIR PINKSTON: I think it is something we would like the EIR to take a look at.

>> S. DONALDSON: And Mark to look at that.

>> I was going to say something along the same lines. I agree with all the scope that has been outlined for the EIR so far and it sounds like there is some real interest in expressing the story throughout the entire neighborhood. This is really fascinating. I am not so lucky as to be a third grader in Berkeley today learning about the stories, and it seems like the district could do something to celebrate and explain the people that live there and the people that will live there somebody future will appreciate where they live because of it. So thank you.

>> CHAIR PINKSTON: Shoshana.

>> S. O'KEEFE: Thank you. I haven't dealt with an EIR that had this sort of archaeological aspect to it before so I'm not sure what exactly is appropriate in an EIR, but I do really want to see in the mitigations surrounding the cultural resources section, I want to see really a lot of detail about how the excavation process is monitored. I want there to be an independent third party there at all times in case something is discovered. And I'm not sure if this will be addressed in the EIR or in the later permitting process but my concern is that should
something significant be discovered I'm worried it will be very hard to stop the project. I believe at this moment if it turns out there were significant artifacts there that the project should not go forward. I would not want the project to be built if that was the case. And I'm a little uncomfortable with the thought of possibly approving something that may then begin and then they excavate and they find some significant artifact and there's so much pressure at that point to continue the project because the developer has invested a lot and they wouldn't want to back out. I would like to see a contingency plan in place if significant artifacts are discovered and I would like to see whatever agreement we make, should it be approved. I would like the contingency plan to have teeth so we know the project could be stopped. I'm really concerned about that. To whatever extent it is appropriate, in the EIR I would like to see that addressed fully. Thank you.

>> CHAIR PINKSTON: So I'm going not sure if I'm last but I'm going to go next in any case. I think that the EIR traffic scope needs to be somewhat broadly defined. Personally I would rather see the trip capacity in West Berkeley devoted to residential uses rather than a lot of additional retail. I think that additional retail will peak at the same time that the existing retail peaks. And although the amount of retail proposed in the proposed project is nothing on the scale of a large regional mall, much less retail than that, the amount of retail that now happens in Emeryville have driven people away from going to Emeryville at all costs because it is so miserable to get on and off the freeway. Emeryville is a one-mile city that doesn't have a lot of people living there. If we jam University Avenue and Gilman with retail trips, regional
retail trips, it would be very unfortunate because then we will get a lot of pushback of trying to do what I think is a more important priority, which is more housing. So I would like the traffic report to include a fairly wide net of intersections that go from university to Gilman since those are the two primary regional freeway access points and also to consider and do a fairly detailed consideration of starting a shuttle in West Berkeley. I have been approached repeatedly by West Berkeley landowners who have expressed an interest in trying to get going a shuttle to manage West Berkeley regional traffic because the AC access is not robust. The BART access is too far away to get to BART. And emery go around is the way Emeryville manages traffic. If we are going to continue to add housing and jobs in West Berkeley consistent with the West Berkeley plan that we need to have a different way of handling traffic if we want to be a transit-oriented community. So I would like the EIR to examine the shuttle systems in the region. I'm happy to help with that because I ran the board for emery go round for six years and I started a similar shuttle in Mountain View so I'm happy to feed information to the traffic consultant. I would like to see this project that would be conditioned ton contributing to a West Berkeley shuttle at that point in time when a shuttle may become viable. May not be they are starting to payday one but the projects in West Berkeley would be required to pay into a shuttle that over a ten-year period might provide a realistic transit-oriented at so I've that we can add density without strangle in the trips that it might create.

Secondly, I think that the EIR cultural resources section, I agree with all of my colleagues who said it is very important to support
living culture as well as to honor the history of the Ohlone people. A retail project with an outdoor public plaza that is thoughtfully and artfully programmed with green space as well as installations that can tell a story and create a place for gathering, essentially our retail centers have become our community centers and I think that similar to how Bay Street handled their Shellmound, although I think it could have been better handled at Bay Street, personally, and I would like to see Berkeley do a much better job. I think we have resources in the audience who poetically have spoken to the importance of this and I would like to see the EIR give us a menu of options for how that heritage could be honored both in physical installations, outdoor installations as well as cultural programming which is not uncommon in a retail environment.

So those are my comments and requests of the EIR.

Are there comments or questions?

Thank you all very much for coming. We are very grateful for your thoughtful remarks and suggestions. This is the beginning of the process and we will hear from you more soon.
MEMORANDUM

DATE: March 9, 2016
TO: Shannon Allen, Principal Planner, City of Berkeley
FROM: Theresa Wallace, Project Manager
      Emily Gerger, Planner

On March 3, 2016 the City of Berkeley Landmarks Preservation Commission (LPC) held a Scoping Session to assess environmental topics and issues that should be discussed in the 1900 Fourth Street Draft Environmental Impact Report. City of Berkeley staff presented an overview of the project and intent of the scoping session; Tim Jones, LSA Associate/Cultural Resources Manager, presented the scope of work for the cultural resources analysis; the applicant’s consultants, Andy Galvan and Allen Pastron, presented an overview of the history of the West Berkeley shellmound and the past archaeological research conducted at the site; and the applicant team presented the proposed project.

Public Comments

Stephanie Manning
- The project should not move forward because it would be a blight on the significance of the West Berkeley Shellmound
- Lack of resources found on the site does not negate the importance of the site
- Concerned about loss of views of Mt. Tamalpais and the Berkeley Hills
- The applicant should utilize magnetic imaging to survey the entirety of the site, specifically the southern portion of the site
- Questioned why trenching wasn’t done near the southern portion of the site where undisturbed midden was previously found
- The project should be scaled back to and should respect the surrounding intact burial areas

John English
- The project would result in too many housing units near the freeway, railroad tracks, and University overpass, resulting in noise and air quality issues for residents
- The EIR should look at the compatibility of the project with the nearby Spenger’s building, which is a Landmark structure as well as compatibility with the scale and character of existing development along Fourth Street

Leila Monckash
- It’s not clear where the Landmark area is in relation to the project site – this should be shown in the EIR
- One of the alternatives should analyze whether there is a way to provide spacing between proposed new construction and landmarks and sensitive burial areas
• The EIR should consider peer review of the applicant’s archaeology report
• The EIR should identify and discuss the local, State, and federal laws that apply to shellmound sites and whether the project would conflict with these regulations
• Potential conflicts with City policies should be evaluated
• It appears that Strawberry Creek is located in this area – culverting creeks is not desirable and creates drainage issues. The hydrology section should address this
• The City is required to collect and keep a record of all documentation related to the project to be available for public review. The commenter believes that confidential records/documents are not allowed
• The traffic analysis should include parking and whether the project would increase traffic congestion

Richard Schwartz
• Emphasized that the Landmark designation is not intended to be limited to the boundaries of the West Berkeley shellmound itself
• Historic significance also includes outlying areas and surrounding deposits that may appear in secondary sites or pockets that cover areas outside the core mound
• The site has been recommended for national and state landmarks
• Four criteria are evaluated for cultural resources; only one pertains to human remains. All criteria should be considered in the EIR
• Previous studies by Dr. Kent Lightfoot have indicated that the shellmound area/site may have been a political meeting place
• What will be done/required as mitigation to respect the site and historical context?

Rhiannon
• Sixteen separate deposits were found all around the project site
• There is a policy in place that states no excavation within the public right of way can exceed 2 feet
• The site was intended for small/lower scale extension of the shopping district north of University with more high density designated for south of University
• Development on the site was assumed via past planning efforts to generate 36 vehicle trips and the project would far exceed what was previously considered
• The project is far out of scale from what was previously considered for the area
• Traffic congestion will affect transit operations

Susan Meyer
• Nothing should be built on this site because of what it means to the City and Ohlone people
• The site should be a park or a museum
• Although physical attributes of the site or shellmound may be degraded, the history and memory of “place” should be preserved

Commissioner Carrie Olson
• Stated that the project site is a designated City of Berkeley Landmark, not a “potential” Landmark. It took months of hearings to figure out how to best honor this site. The Landmark site is not about the mound itself specifically, but 5,000 years of habitation. This is not about a boundary but the “West Berkeley Village” as a whole community/home site, which included many secondary mounds
• Is this the oldest shellmound in the area? That was one of the reasons this site was landmarked.
• Anticipates a lot of interest in this project and that all perspectives should be considered
• Christopher Dore report should be included in the EIR
• Coring should be part of excavation work, other areas should be trenched and magnetic imaging should also be used. It would be a missed opportunity to not use new technology that is available
• Would the CEQA process attempt to undo the Landmark designation for the site
• Design review should occur within the LPC not the DRC
• The project should not have a midblock crossing at Hearst
• EIR should look at the airline fuel pipeline under the railroad tracks and this information should be disclosed to building tenants
• There is a conflict between the parking structure entrance and the nearby railroad tracks
• Nelson information should also be considered in the EIR and by the LPC

Commissioner Austene Hall
• The project should have come to the LPC before the DRC and shouldn’t go to DRC at all in the future because it is a Landmark site; possible to invite the DRC to LPC meetings
• All archaeology reports should be available and considered in the EIR
• No trenching was done in the southwest portion of the site, where the parking garage will go
• The EIR should consider the proximity of the Spenger’s Landmark building across the street and consider contextual issues/conflicts that could be created by the project
• Project driveways on Hearst and Fourth are an issue – pedestrian conflicts on Fourth where people are supposed to be walking and traffic congestion/rail crossing on Hearst

Commission Chair, Christopher Linvill
• Emphasis of concern is properly on archaeological resources, but the designation related to pre-contact and historic resources should also be considered
• There seems to be an argument that the Landmark designation for the site was well intended but is not substantiated by later evidence; however, the absence of evidence of archaeological resources does not negate the site’s cultural value
• What is the context of LPC review given the absence of known archaeological resources on the site?
• Monitoring should be required at the site
• Other historic period items should be considered, not just pre-historic artifacts
• Soils report, geotech report, and archaeological reports should be considered together