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2 LANDMARKS PRESERVATION COMMISSION MEETING

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5
6 REVIEW OF DRAFT EIR FOR 1900 FOURTH STREET

7 Thursday, December 1, 2016

8 7:00 p.m.

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11
12 North Berkeley Senior Center

13 1901 Hearst Avenue

14 Berkeley, California

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19 REPORTER'S TRANSCRIPT OF PROCEEDINGS

20 BY APRIL DAWN HEVEROH, CSR NO. 8759

21
22 **CLARK REPORTING & VIDEOCONFERENCING**

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1 APPEARANCES

2
3 COMMISSIONERS IN ATTENDANCE

4
5 TOM BEIL (Chairperson) - District 5

6 DMITRI BELSER - District 1

7 KIRAN SHENOY - District 2

8 CHRISTOPHER LINVILL - District 3

9 STEVE FINACOM - District 4

10 PAUL SCHWARTZ - District 6

11 CARRIE OLSON - District 7

12 SHANNON BROWN - District 8

13 KIM SUCZYNSKI SMITH - Mayor Appointee

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1 P R O C E E D I N G S

2 TOM BEIL: Item 7 is review of the Draft EIR
3 for 1900 Fourth Street, which most of you are here for,
4 and we will have a brief introduction by staff, a
5 presentation by the authors of the Draft EIR, the
6 commissioners will have an opportunity to ask questions
7 of the applicant and the EIR folks, we will open it up
8 for public comment, and if you can try to please keep it
9 around two minutes -- there are a lot of people that
10 want to speak, and we'd like to hear all of you -- we
11 will then close public comment, the commissioners will
12 have their opportunity to comment and discuss, and all
13 those comments, yours and ours, will be forwarded to
14 the -- to the EIR.

15 So with that, Charles.

16 CHARLES ENCHILL: Item 7, 1900 Fourth Street is
17 Review and Comment of the Draft EIR Report of the
18 construction of a proposed mixed-use development
19 containing 155 dwelling units and approximately 30,000
20 square feet of retail and 372 parking spaces.

21 This came before the Landmarks Commission in
22 March 4th's initial scoping meeting, and today it is
23 before you to collect comments for the record, public
24 comments, as well as Commissioner comments, as the Chair
25 stated. And additionally, comments will be collected at

1 the Zoning Adjustments Board on December 8th.

2 I'd like to note that the comment period has
3 been extended one week from January 5th to January 12th,
4 and the focus of tonight's LPC meeting is cultural
5 resources, the cultural resources section of the EIR.
6 However, there are additional items, such as air
7 quality, traffic and noise that will also be addressed
8 at the Zoning Adjustments Board meeting.

9 And to facilitate tonight's meeting, there is a
10 stenographer in the back, and she will be keeping a
11 record for tonight's meeting, and I've requested that
12 she hold up her hand if she can't hear Commissioner
13 comments or public comments. And now I will let -- I
14 will let the consultants, LSA, Theresa Wallace and Tim
15 Jones.

16 THERESA WALLACE: Thanks, Charles.

17 Good evening. I am Theresa Wallace with LSA,
18 the City's consultant for environmental review of the
19 project. I am the project manager for the EIR, and with
20 me tonight is Judith Malamut, LSA principal, and Tim
21 Jones right next to me, LSA archeologist. I'm going to
22 just go over briefly the key findings of the EIR
23 analysis as it relates to cultural resources.

24 So first, I should mention that there is an
25 existing building on the site. However, the analysis in

1 the EIR concluded that this building is not a historic
2 resource for the purposes of CEQA and there would be no
3 impact to historic architectural resources.

4 So regarding historic archeological resources,
5 as you're aware, the project site is part of the West
6 Berkeley Shellmound, a City Landmark. The EIR analysis
7 determined that there would be an impact to this
8 resource, but that the impact could be mitigated to a
9 less-than-significant level. So I'm going to just
10 briefly discuss the process for making this
11 determination and then outline the mitigation measures
12 that would be required.

13 To establish baseline conditions for
14 archeological cultural resources in the Project site and
15 vicinity, LSA conducted background research, consisting
16 of records searches and an extensive literature review.
17 We consulted with local Native American individuals and
18 groups, and we also thoroughly reviewed the 2014
19 archeological investigation conducted at the site by the
20 Project applicant's consultant, Archeo-Tec.

21 The 2014 Archeo-Tec report included excavations
22 at the site and was conducted to determine whether or
23 not archeological deposits are present on the site. The
24 investigation concluded that there was no evidence of
25 intact primary Shellmound deposits anywhere within the

1 Project site.

2 LSA peer-reviewed the methodology used in the
3 Archeo-Tec investigation and determined that the methods
4 used are consistent with standard archeological
5 practice, and it is the opinion of LSA that the study
6 represents a reasonable and good-faith effort to
7 identify archeological deposits in the project site.

8 After we established baseline conditions, we
9 began our analysis. So generally, for the purposes of
10 CEQA, the significance of a historical resource is
11 impaired when a project demolishes or materially alters,
12 in an adverse manner, those physical characteristics of
13 an historical resource that convey its historical
14 significance and that justify its inclusion in, or
15 eligibility for inclusion in, the California Register,
16 or other officially recognized register.

17 As described in the Draft EIR, while National
18 Register or California Register-eligible Shellmound
19 deposits have not been identified within the project
20 site during previous excavations, ground-disturbing
21 activities associated with project construction could
22 unearth previously unidentified intact Shellmound
23 deposits that contribute to the resource's significance
24 under the National or California Registers. If such
25 resources are not appropriately treated, this could

1 affect the critical aspects of integrity that qualify
2 this site as a City Landmark and for listing in the
3 National and California Registers. Therefore, the Draft
4 EIR identifies a four-part mitigation measure that would
5 require -- that would be required to reduce the impact
6 to a less-than-significant level.

7 So first, before construction-related,
8 ground-disturbing activities can begin, the project site
9 is required to be surveyed by a qualified archeologist
10 using ground-penetrating radar to identify those areas
11 where it is most likely that any Shellmound material
12 that may exist is either concentrated or dispersed in
13 order to focus the monitoring efforts.

14 Second, prior to project ground disturbance,
15 all construction contractors shall be required to
16 participate in cultural awareness and sensitivity
17 training.

18 Third, a qualified archeologist shall review a
19 utility plan provided by the applicant to assess and
20 document whether trenching for utility connections
21 adjacent to the site have the potential to impact intact
22 deposits.

23 And finally, all project ground-disturbing
24 activities will be required to be monitored by an
25 archeologist and a representative of an Ohlone tribe and

1 all work shall be halted, the City shall be notified,
2 and the appropriate measures shall be implemented should
3 archeological deposits be encountered.

4 Collectively, implementation of these measures
5 would reduce potential impacts from the project to the
6 City Landmark and intact archeological deposits to a
7 less-than-significant level. On-site monitoring of
8 ground disturbance by an archeologist and an Ohlone
9 representative would ensure two things: One, that if
10 archeological deposits are identified during excavation,
11 that they would be treated, evaluated, documented and
12 studied in accordance with standard archeological
13 practice; and two, that archeological deposits and human
14 remains will be treated in accordance with appropriate
15 State codes and regulations and according to culturally
16 appropriate norms acceptable to the Ohlone Most Likely
17 Descendant.

18 So as I mentioned before, during the
19 preparation of the EIR, the City consulted with
20 interested members of Native American Tribes, as is
21 required by Assembly Bill 52. In addition to the
22 mitigation measures I just mentioned, two measures
23 resulting from AB-52 consultation and one recommended
24 measure are identified that would further lessen the
25 impacts to historic archeological resources through

1 compensation, avoidance and public outreach. These
2 measures are not required to reduce the impact to a
3 less-than-significant level, but will be incorporated
4 into the conditions of approval for the project. So the
5 project applicant will be required to donate money to
6 the Ohlone Indian Tribe for improvements and maintenance
7 of the Ohlone Cemetery in Fremont, create a GIS database
8 designating areas of archeological sensitivity to be
9 used for future project planning purposes within the
10 City of Berkeley, and to fund and maintain a publicly
11 accessible, permanent display within the City Landmark
12 boundary that describes the archeological and cultural
13 significance of the site.

14 So finally, the Draft EIR looked at
15 alternatives to the project. The Draft EIR is required
16 to evaluate a reasonable engage of alternatives to the
17 project, which would both feasibly attain most of the
18 project objectives and avoid, or substantially lessen,
19 any of the significant impacts of the project. The
20 Draft EIR looked at three alternatives. Other than the
21 No Project Alternative, the Reduced Building Density
22 Alternative is identified as the Environmentally
23 Superior Alternative because it would reduce certain
24 traffic impacts. However, this alternative would not
25 eliminate or substantially reduce the cultural

1 resource-related impacts of the project.

2 So those are the conclusions of the Draft EIR
3 analysis. Back to Charles.

4 CHARLES ENCHILL: Commissioners, you guys have
5 questions for the consultants?

6 CHRISTOPHER LINVILL: I do.

7 For the archeological team member, I think I
8 know what "intact" is. What is an archeological
9 deposit?

10 TIM JONES: So an archeological deposit
11 consists of artifacts that were deposited in the space
12 during prehistory by Native American groups who
13 inhabited the area. It includes things like flake
14 stones, some are Obsidian, spear points, ground stone
15 tools, potentially human remains. We know there were
16 human remains associated with West Berkeley Shellmound,
17 those kinds of materials.

18 CHRISTOPHER LINVILL: So it could be an object
19 that has somehow been manipulated or transformed by
20 human hand?

21 TIM JONES: Correct. Yeah.

22 CHRISTOPHER LINVILL: So in your definition, it
23 would not be the midden component of the Shellmound?

24 TIM JONES: Well, midden is an archeological
25 deposit. So midden is soil that's been chemically

1 altered for intensive use, including burning of fires,
2 hearths, those sorts of things. So that would be part
3 of an archeological deposit. So the conclusion of the
4 EIR and the findings of the applicants' archeological
5 consultant, Archeo-Tec, is that there are archeological
6 deposits in the project site. However, those deposits
7 have been redeposited through mechanical or other
8 natural processes.

9 CHRISTOPHER LINVILL: Okay. And because of
10 that, the notion is that the integrity of the components
11 no longer exist; is that --

12 TIM JONES: Correct, from an archeological
13 perspective, that would be an accurate assessment. But
14 again, there is -- and this is acknowledged in the
15 EIR -- ultimately, all archeological excavation is a
16 sample, and we can't say and the conclusion of the EIR
17 isn't that there's no potential for archeological -- or
18 intact archeological deposits in the project site. And
19 that's the reason why there are recommended mitigations
20 for monitoring and work stoppage in the event that
21 intact deposits of human remains are identified.

22 CHRISTOPHER LINVILL: Okay. Thanks.

23 TOM BEIL: Anything else? Any other questions
24 from the commissioners?

25 STEVE FINACOM: I might have some questions,

1 but I would like to hear what the public has to say.

2 TOM BEIL: Yeah, do we want a motion to open
3 up public comment period?

4 SHANNON ALLEN: Pardon me, Chair. I'd like to
5 add one thing.

6 So my name is Shannon Allen, and I'm the
7 project planner with the City of Berkeley. And just as
8 a point of clarification, as Charles mentioned, there is
9 a stenographer here this evening who is recording the
10 comments that we receive both from the public and from
11 the Landmarks Preservation Commission. The comments we
12 receive tonight, verbally and in writing, as well as
13 comments we receive at the Zoning Adjustments Board, as
14 well as any comments that come in before close of
15 business on January 12th, those comments are compiled
16 and responded to in a document called a Response to
17 Comments document, and that response to comments
18 document, along with the Draft EIR, they become the
19 final EIR which is then reviewed and certified before
20 any project -- any approvals could be made, before ZAB
21 could approve any of the use permits or before the
22 Landmarks Preservation Commission could approve a
23 structural alteration permit.

24 So we are hearing tonight -- hearing
25 information or hearing comments on the Draft EIR. Later

1 there will be a formal response to comments/documents
2 that responds to those.

3 TOM BEIL: Thank you.

4 CARRIE OLSON: I do have one.

5 TOM BEIL: Please.

6 CARRIE OLSON: Why was this released just
7 before a holiday, a major holiday? Isn't there some way
8 the City can be more sensitive to our time than to take
9 our time away from Thanksgiving and Christmas holidays
10 and whatever else comes up?

11 SHANNON ALLEN: It's a balance between moving
12 projects, proceeding projects forward and --

13 CARRIE OLSON: Well, this is a --

14 SHANNON ALLEN: If I may finish.

15 So the document was released -- there is, under
16 CEQA, one can extend the 45-day public review period to
17 a maximum of 60 days. The City has extended it to 57
18 days because the City is closed on Sunday, and so
19 working backwards, that's the longest that we're legally
20 able to extend the comment period.

21 CARRIE OLSON: Well, you may have heard, but I
22 think we had a seismic shift in Berkeley, and I know
23 one of my comments to those council members I know is
24 that this is wrong. Like allow us --

25 (Applause)

1 CARRIE OLSON: -- a time of year when we can
2 actually do this, because I know I didn't get to read it
3 until today.

4 SHANNON ALLEN: Well, that's terrible.

5 CARRIE OLSON: And even though we'll have
6 one more period to comment because it's been extended,
7 that is absurd. And so I hope that the Planning
8 Department takes that to heart and realizes they can't
9 do it, and that goes for summer vacation, too. Council
10 gets to take their time off. So should we. So anyhow.

11 TOM BEIL: Do we want a motion to open public
12 comment?

13 CARRIE OLSON: I would like to hear public
14 comment. I am so impressed by the group that's come out
15 tonight. This size is very unusual for us. This speaks
16 to how many people are paying attention to this project,
17 so thank you.

18 SHANNON BROWN: And please use the mic.

19 TOM BEIL: Yeah, motion? No motion?

20 KIM SUCZYNSKI SMITH: I'll make a motion.

21 TOM BEIL: For the public comment period?

22 KIM SUCZYNSKI SMITH: I move to open.

23 CARRIE OLSON: I'll second.

24 TOM BEIL: All in favor. All right.

25 Corrina Gould and Marsha Feinland, do you want

1 to go first?

2 (Applause)

3 CORRINA GOULD: (Speaking in native tongue.)

4 I -- I am disturbed that I'm here, actually. I
5 am here trying to preserve a sacred site of my
6 ancestors. I have always lived here in the village or
7 the territory of Huichin. Huichin is actually a large
8 territory that encompasses most of Oakland, Berkeley,
9 Emeryville and Alameda, and we know that here in the
10 city of Berkeley, that the Landmarks Commission was
11 actually set up to preserve and protect sacred sites, as
12 well as historic sites.

13 And as I was sitting back there listening to
14 this woman talk about the beauty of the house, right?
15 And this house that had been here since 1894, and the
16 reason why this should be protected, I said, "Wow. This
17 historic site of my ancestors, the very first place that
18 people ever lived in the entire Bay Area is up for
19 destruction."

20 Now, I know that you guys have been down to
21 Fourth Street before, and Fourth Street right now is
22 booming with all kinds of developments. Right across
23 the street from Spenger's parking lot, or the West
24 Berkeley Shellmound, five of my ancestors' remains were
25 pulled out just this last spring. We know that there's

1 a large part of the Shellmound that is in -- is across
2 the way from the parking lot in the railroad tracks. We
3 know these things.

4 We have these archeologists now saying that
5 there's nothing -- there's stuff on both sides, but
6 right here in the middle, there's nothing there, right?
7 So it makes me curious to find out why isn't that there?

8 And even if there's nothing there, that does
9 not mean that this place is not sacred. We're talking
10 about an entire landscape where there was a village
11 site, where there was burial sites, where my ancestors
12 lived, first place in the entire Bay Area. Why should
13 we not preserve that? If we're willing to talk about
14 small things like nuts and bolts in a different house
15 that had been here for less than a couple of hundred
16 years, for thousands of years my ancestors have been
17 here.

18 So what I'm saying or what I'm asking for this
19 council to do is to actually do what you have been put
20 in place to do, is to preserve and protect these sacred
21 places, to begin to think about how we can work together
22 to actually create something that's different here. And
23 Berkeley is a wonderful place to do that. We have the
24 opportunity to do something different. There's housing
25 down there that's being developed all over the place.

1 No one wants these big box stores to come in. Nobody
2 wants more traffic down there. What we need to do is
3 have an open space where people can actually see
4 something, where people can actually (inaudible).

5 Two or three weeks ago we actually had an
6 interfaith prayer service there. 200 people showed up
7 to pray right there at that site. There's going to be
8 an interfaith service there this coming weekend where
9 people are going to be praying there, just like my
10 ancestors did for thousands of years, this place where
11 the water came up, this place where we have fresh water,
12 this place that held us and this land, this place that
13 was designated by our Creator as a point of reference
14 for us to be at.

15 Now, we are here, but we are almost totally
16 annihilated. When we look at Ohlone people, we're
17 invisible-ized. We're taught that we are in the past in
18 our history books. Children still, in California, are
19 taught that missions were a good thing. They almost
20 entirely annihilated our people.

21 So what I'm asking, really, is for you to, as a
22 commission, to not allow this to happen, to uphold what
23 this commission is saying, to preserve and protect what
24 is right here. Not just for Ohlone people, but for
25 people that have been here for the last couple of

1 hundred years; that everyone deserves to know that this
2 site is a special place, a place that deserves to be
3 protected, a place that still has significance, not just
4 for my people, but the people of Berkeley and the people
5 of California.

6 (Applause)

7 TOM BEIL: Thank you.

8 MARSHA FEINLAND: Hello. My name's Marsha
9 Feinland, and I live here in Berkeley, and I am learning
10 a lot about what has happened in history, both long ago
11 and more recently.

12 So I read this report, and it just seemed to me
13 that this is -- this is a historical Ohlone Shellmound
14 and that it has been disturbed. And so when you ask are
15 there any items of archeological significance, they
16 might not be of significance to those of us who are used
17 to just going to museums and looking at things that we
18 can see, but they are of significance of the people who
19 were here before and the people who follow them and the
20 people to whom they are important.

21 And I think we need to respect that, and I
22 think we just -- we need to not just think about the
23 things that we can see and enjoy, but think about what
24 is of cultural and spiritual significance to the people
25 that we haven't really treated right, and maybe it's

1 time to start.

2 (Applause)

3 TOM BEIL: Jane Perry and Annie Banks.

4 PERRY MATLOCK: Perry Matlock?

5 TOM BEIL: Jane Perry and Annie Banks.

6 JANE PERRY: First off, I feel shy about
7 speaking when there's many leaders and elders behind me
8 and I'm merely standing with them, but -- so here I am
9 in the lineup.

10 I was here in June of 2013 in support of my
11 co-authored landmark application for the Harold E. Jones
12 Child Study Center, and so I really appreciate the
13 Commission for its ability to protect.

14 I'm deeply saddened to have learned that my
15 co-author Susan Cerny has died because she was a mentor
16 and a tutor for me on how to do a landmark application
17 inclusively to attend to all the voices that had to do
18 with a site and the users of the site. And so I come to
19 you tonight from having received that landmark
20 application and to encourage the Commission to think as
21 inclusively as Susan Cerny would encourage us to do in
22 understanding this application, which was a phenomenal
23 thing to try and get a hold -- try and appreciate --
24 it's all online, but to understand it, I first started
25 with the Environmental Impact Report. That sent me to

1 the initial study, which I reviewed, then I had to go to
2 the NOP to get the comments, which told me that there
3 was a lot more information that was contextualized in
4 regards to this landmarked site than was included in the
5 EIR.

6 I then had to go to the CEQA, figure out what
7 was being referenced, and that -- then I went also to
8 Archeo-Tec to learn that this was a singular voice and
9 not a complete picture of the architectural
10 understanding that we already know. So I encourage you
11 to look in the NOP comments to find out that Richard
12 Schwartz's extensive research to landmark the site was
13 referred to but not included, which was bizarre. And
14 that the 2004 Dove, Boyne, Fall and Running paper
15 confirmed 33 deposits on this landmark site, 16 of which
16 were undisturbed. And that was not -- that didn't
17 reveal itself when I read the EIR.

18 So then that led me to think about, okay, who's
19 propelling the EIR? And it is a project that has
20 objectives to do retail, housing, green construction and
21 revenue for the City. So that's the story that's being
22 told, versus the story of the Ohlone people. We are
23 guests on that land, and that's, to me, the story that
24 needs to be told. That's not mentioned at all. There
25 is an Ohlone designate, but it's not the Indian people

1 organizing for change, which LSA is aware of because
2 you've been communicating with them on another sacred
3 site. So for you to not be communicating directly with
4 them as consultants because they are the guardians of
5 this land. So, I mean, I could go on and on, but I
6 think it's the story of the guardians of the land that
7 needs to be told, and to respect that this is already a
8 landmark site. And to mitigate it and just not attend
9 to preserving in place as a possibility and to consider
10 not the alternative of No Project Alternative is
11 disregarding the whole reason why it was landmarked and
12 what the land is telling us, which is something very
13 different than the commercial reason that the project is
14 being brought.

15 (Applause)

16 ANNIE BANKS: Hi. My name is Annie Banks. I'm
17 a resident here in Berkeley. I just live a few blocks
18 away and work just a few blocks away, as well.

19 Similarly to Jane, I feel humbled by the number
20 of people in the room who can better speak to this than
21 I, but I feel passionately about it and appreciate the
22 opportunity to come and speak.

23 I'm a settler here, I'm a guest, an uninvited
24 one at that, and I very much appreciated being able to
25 be on these beautiful territories of the Ohlone people.

1 I think it's clear in so many ways we're not in right
2 relationship as it stands, and I think that things like
3 this are one small way to move towards being in right
4 relationship with the original inhabitants and the
5 continued protectors of the land.

6 I think we can see throughout the country all
7 over the place there are movements towards justice being
8 led by indigenous people, and I think it certainly
9 proves all of us who want to live in a society of
10 justice and right relationship to respect when people
11 are asking something like respecting a sacred site. I
12 think it's just a very crucial shift that needs to
13 happen, and so, you know, I saw the Berkeley City
14 Council came out in support of Standing Rock, and I
15 think this is an example of a sacred site right here at
16 home that we can --

17 (Applause)

18 ANNIE BANKS: -- and also, people look to
19 Berkeley, you know. People that I know in other places
20 look to Berkeley as a progressive place, as a place that
21 makes changes that sets a meter for what other places
22 do, and so I think this doesn't only reflect on
23 Berkeley, but has the potential to encourage other
24 places to respect when local indigenous nations ask that
25 their sacred states be respected and that we live in the

1 relationship and forge a different path because the
2 one behind us has not been good. Thank you.

3 (Applause)

4 TOM BEIL: Ari Sahagún.

5 ARI SAHAGÚN: Hi. I'm also a settler. I grew
6 up in Illinois. I want to acknowledge that we're on
7 Ohlone land, and I don't have much to add. I just want
8 to voice my opposition to continuing with the project.
9 So in support to continuing, consistent to the landmark,
10 and I also support the long-term work that's happening
11 here and in other places all over the world to protect
12 sacred sites. Thanks.

13 TOM BEIL: Thank you.

14 Claire. Claire Greensfelder.

15 CLAIRE GREENSFELDER: Good evening. My name is
16 Claire Greensfelder, and I'm a third or four year
17 resident of Berkeley and property owner here in the
18 city.

19 First of all, I'd just like to thank you for
20 holding this hearing, and I appreciate -- again, echoing
21 of my fellow Berkeley residents, and I just want to turn
22 also just to offer my respect to everyone who's come
23 here today in support of something that is phenomenally
24 important, not just to us as a site, as a location, but
25 as an entrance into our soul of who we are as a people

1 and why we are here on this planet, and the opportunity
2 that preserving this site would award us as humans, as
3 members of the global species that live here in
4 Berkeley, California. So I just want to start with that
5 and offer my respect to all the indigenous peoples of
6 this territory and others who are here in support.

7 Now, having said that, excuse my back. So I
8 can also address my fellow Berkeley Commissioners,
9 having formerly been a commissioner on a couple of
10 commissions myself. The Environmental Impact Report has
11 32 pages that are devoted to cultural resources. How
12 does one encapsulate 4,000 years of continuous
13 habitation at a very important sacred site in 32 pages?
14 It's not easy. I know you tried, but it doesn't convey
15 the impact and the importance of what the possibility is
16 here. It's not just a question of what's being proposed
17 and being in opposition to that. The question is what
18 is the possibility here? The campaign to save the
19 landmark historic site of 1900 Fourth Street is part of
20 larger movement nationally and worldly to save the
21 preserved site's historic, cultural and spiritual
22 significance to indigenous people. Wow.

23 Is that my time?

24 AUDIENCE MEMBER: Can I give her my time?

25 TOM BEIL: Thank you.

1 CLAIRE GREENSFELDER: When I think of our
2 historical water protectors following the Dakota Access
3 Pipeline on Standing Rock Sioux Reservation, the
4 cultural heritage protectors here are fighting to save
5 the site at 1900 Fourth Street from the proposed
6 development. We're determined to preserve a site that
7 is sacred and sacred to the ancestors of our local
8 people. The site of 1900 Fourth Street is within the
9 zoning land base designated as the City of Berkeley
10 Landmark on February 7th, 2000. The site of 1900 Fourth
11 Street is listed in the California State Registry of
12 Historic Places. The site at 1900 Fourth Street has
13 been deemed eligible for the National Registry of
14 Historic Places. In addition, in relation to the United
15 Nation Declaration of the Rights of Indigenous People, a
16 declaration that was adopted by proclamation of the City
17 Council of Berkeley on May 19th, 2009, stating that
18 UNDRIP should be adopted as a municipal policy for the
19 City of Berkeley and implemented, it also recommended
20 that it become a convention globally. That is a bold
21 step that Berkeley took, and it's one that we can
22 continue.

23 With Berkeley's official endorsement adoption
24 of UNDRIP, the City of Berkeley should respect the
25 provisions as outlined under Articles 11 and 12 which

1 call for, among other items, for the right of indigenous
2 peoples to maintain, protect and develop the past,
3 present and future manifestation of their cultures, such
4 as archeological resource.

5 Rejecting the proposal for development of 1900
6 Fourth Street would give the City of Berkeley, together
7 with local Ohlone indigenous descendants, an opportunity
8 to save the site's true historical and spiritual
9 significance that has the potential to educate thousands
10 of people who already come to Fourth Street every year,
11 as well as local Berkeley residents, school children,
12 university students all about the deep and abiding
13 presence of Ohlone people who are believed to be the
14 first Ohlone Village site; in fact, the first human
15 inhabitant site on the San Francisco Bay.

16 At this point in time, the only recognition of
17 this site in the first village in sacred Shellmound is a
18 set of very striking artistically beautiful murals
19 underneath the freeway next to the parking lot, and a
20 small plaque. Surely Berkeley, as a city of
21 progressive and visionary ideas, can benefit by creating
22 a truly meaningful public recognition of its Ohlone past
23 by wonderful working with local and other people and
24 interested citizens, residents and others to develop a
25 major memorial and educational site at 1900 Fourth

1 Street.

2 TOM BEIL: A lot of people want to talk.

3 CLAIRE GREENSFELDER: Okay. So I'll just say
4 one more thing. This is a great opportunity. We need
5 to change how we're thinking about this. In California,
6 we often refer to ourselves as first generation or
7 second generation, and people will say, "Wow! You're a
8 third generation." Well, forget it. That is looking
9 through a long window. The Ohlone people are 200
10 generations, 4,000 years of habitation. We need to walk
11 through this differently and realize that we are guests
12 on this land, we are latecomers, but we can love this
13 land and the site, too, and we can do what's really
14 important, change our understanding of what can be done
15 at this place. Don't be tied to a proposal that appears
16 to support economic development at the cost of our own
17 spiritual and cultural heritage. Thank you.

18 (Applause)

19 TOM BEIL: Thanks, Claire.

20 Ruth Orta.

21 RUTH ORTA: I guess I have to take this because
22 I'm too short.

23 My name is Ruth Orta. I'm an Ohlone native.
24 I'm sorry that the City of Berkeley is trying to destroy
25 another spot in California where we've tried to fight to

1 save our land. Those are my ancestors, and I am a
2 grandmother -- I'm a mom, a grandmother, a great
3 grandmother, great, great grandmother. I have
4 five generations living. We are native Ohlones.

5 Whoops, what did I do? You get old.

6 TOM BEIL: We can hear you.

7 RUTH ORTA: Can you?

8 TOM BEIL: Yes, we can.

9 RUTH ORTA: Okay. Good. I'm glad.

10 We're still here. The blood is running from my
11 grandmother, who was a full-blooded native from
12 Pleasanton. My mother was half. She had Spanish on the
13 other half, the ones that came and really took a knife
14 to us. So -- but we have that blood. We're mixed, but
15 I still have Ohlone blood in me. My children do, too.
16 My grandchildren, great grandchildren, and great, great
17 grandchildren, and hopefully, the Creator will let me
18 see six generations. It's possible. The oldest great,
19 great grandchild is going to be seven this year, so
20 maybe if she starts young or --

21 So to get back to the point of our land, we
22 have fought so much to save our sacred sites. The last
23 one was in Mission San Jose that turned us down. It
24 wasn't a big, big deal for those -- the people that go
25 up there. They could -- they could have got

1 transportation and walked part of the way to go up the
2 hill. But we were shot down.

3 Now, Berkeley, you have -- you have a chance
4 here, like everybody says -- is it working? Maybe I
5 have too much electricity in me or something.

6 So you have a chance here, like everyone said
7 before me, to be a model for the world, not just
8 California, to pay attention to the people that nobody
9 even knows lives here. The education system has never
10 taught about us. The history has never put us anywhere
11 that we're here. In fact, I thought I was extinct in
12 the '70s when I seen an article in Kelly Park at
13 San Jose said that the Ohlones were extinct. I went
14 home -- my mom was still living. My mother was born in
15 1902, and she was raised in an orphanage run by the
16 Dominican Sisters. She always told us to be proud who
17 we were, who we are.

18 And I told her, I said, "Mom, they've got us
19 extinct."

20 She said, "That's what the government wanted
21 everybody to think, that we're gone. We're still here."

22 (Applause)

23 RUTH ORTA: Thank you for letting me speak, and
24 hopefully, Berkeley will be a model for the natives.

25 (Applause)

1 TOM BEIL: So I'm going to call four names. If
2 you all can queue up and try to keep it to two minutes,
3 we have a lot of people to get through, and I want to
4 hear everybody.

5 Beverly Dove, Stephanie Manning, Kathleen
6 McLean and Perry Matlock.

7 BEVERLY DOVE: I'm just going to say, as a
8 resident of this planet, my little rabbit slingshot
9 hip-hop has been out and is an animal-wide protector,
10 stands out for sacred sites and wants to say that the
11 animal's connection with the earth and his affinity with
12 the Ohlone people is strong, and he urges you to protect
13 the sacred site.

14 Thank you.

15 STEPHANIE MANNING: Hi. I am a former
16 commissioner, Stephanie Manning, and I wrote the
17 landmark's application for the Shellmound, and I have
18 several objections to the EIR, but the one that really
19 bugs me the most, since we only have two minutes, is on
20 page 83, it says, "Occupation of the site prior to
21 2000 -- occupation of the site began prior to 2000 BCE,
22 and it was occupied for an estimated span of 1300 to
23 1500 years."

24 This is terribly inaccurate, and anyone who
25 provided you with this information should have their

1 credentials questioned. Indeed, if the report preparers
2 were admittedly prejudiced in their preparation and
3 actually prepared the report with approval of the
4 project in mind, they might have made such a statement,
5 keeping in mind the importance of the Shellmound, but
6 they wouldn't do that, right? Many shellmounds are this
7 age, 1300 years, but this Shellmound is the oldest of
8 them all. In 1997, U.C. Berkeley geophysicist B. Lynn
9 Ingram presented a paper which details a more exact age
10 of West Berkeley Shellmound entitled "Differences in
11 radiocarbon age between shell and charcoal from a
12 Holocene shellmound in Northern California." That
13 Shellmound is West Berkeley Shellmound, and it goes on
14 to describe the site's beginnings as 5700 years ago, and
15 the occupation period as 45 centuries, not 13 centuries.
16 45 centuries.

17 I would go on to say that the recognition and
18 the preservation of this mineral site remains intact or
19 with no remains is part of a global movement to preserve
20 sacred sites. Site after site can be listed where an
21 ancient site is allowed to sit without modern
22 developments on top. The ancient city of Ur in Iraq is
23 approximately as old as the West Berkeley Shellmound.
24 The human remains at Ur were removed along ago and yet
25 no shopping mall, no apartment houses, no beer garden in

1 its midst.

2 Thank you.

3 (Applause)

4 KATHLEEN McLEAN: Hi. I'm Kathleen McLean, and
5 I live at 1824 Fifth Street, which is a landmark
6 building, the da Silva House, which was built in 1874 on
7 Ohlone land, and I represent the community of people who
8 live in single-family houses and condos and mixed-use
9 residential houses, not large apartment buildings,
10 within 200 feet of the proposed site, building site. We
11 are probably the only homeowners within a block or
12 two of that site, and there's a little cluster of us
13 right there.

14 So there are two issues --

15 One other thing I want to say before I finish,
16 quickly before I -- I'm introducing myself. I've had 40
17 years of working in museums across country and in South
18 America and Latin America, often on historic sites and
19 often with Native American people, including people at
20 the National Museum of the American Indian, and I've had
21 the privilege of working with a number of Ohlone people
22 here in the Bay Area, and it's been a very enlightening
23 experience for me. And I think that the understanding
24 of native culture, and particularly in California where
25 most native -- we have the largest number -- the largest

1 genocide of native people in the entire United States
2 happened in California. And I think that -- and that's
3 just now coming into the education, into the public
4 education textbooks. We're learning that we have to
5 actually rethink our relationship and our understanding
6 of history. And as historic preservationists, you need
7 to support our reconstruction and rethinking of this
8 history.

9 I think the -- this notion that we need another
10 big-box apartment building all of one-bedroom and
11 two-bedroom apartments, by the way, and some studios, is
12 really misguided. And as other people have said, we've
13 had this really long history, and now because there's
14 this West Berkeley plan, we need, you know,
15 seven stories, five stories and that many buildings. I
16 think that -- I've been to many of the meetings with the
17 developers, and they have said --

18 Just one more sentence, please.

19 -- and they said they're willing to work with
20 us, and I think our original speaker, the woman who
21 spoke first, said we have an opportunity here in
22 Berkeley to do something different, to do something
23 unusual, to be a model for the rest of the world, and I
24 want to say not just a model for Ohlone people, but a
25 model for us all. So please, please help us do that.

1 Thank you.

2 PERRY MATLOCK: Good evening, Landmarks
3 Preservation Committee and everyone here. And yes,
4 we're on Ohlone land. My name's Perry Matlock. I've
5 been a volunteer with the International Indian Treaty
6 Council for over 25 years, more than half my life. I
7 also volunteer with the American Indian Movement and
8 Corrina Gould's group, Indian People Organizing For
9 Change.

10 I am just a volunteer. I'm not a
11 representative, nor a spokesperson. I'm the one who
12 gave you this packet of information with the Muwekma
13 Ohlone Nations fact sheet on the cover.

14 Before I go through that, just very quickly, I
15 haven't had a chance to read the whole report, and I do
16 agree with Member Carrie Olson. We need more time to
17 diagnose this. We need several months, at least. Maybe
18 up till March. But it's an inadequate report, and I ask
19 that you reject it.

20 First of all, on page 80, Item 3, Native
21 American Consultation, why has not the Muwekma Ohlone
22 Nations Tribal Council been consulted with? They may
23 not have what's so-called "federal recognition", but
24 they have been federally acknowledged, except the
25 federal government refuses to follow through with the

1 process of giving them federal recognition. They have a
2 tribal council which represents dozens and dozens of
3 families and hundreds and hundreds of individuals and
4 they have not been consulted. I don't see the word
5 "Muwekma" in here anywhere, and that right there makes
6 this completely inadequate because if you were to work
7 with the Muwekma Ohlone Nation, and the City of Berkeley
8 has had a relationship with Rosemary Cambra, who is
9 their elected tribal chairwoman, they met with the City
10 of Berkeley soon to say acting as a representative of
11 the United States Government can have a relationship
12 which is nation to nation with the Muwekma Ohlone
13 Nation, and I bid you to please contact the Muwekma
14 Ohlone Nation, work with Corrina Gould, reject this
15 development, and basically, find designs how this can be
16 kept as, I don't know, dare I say a park or an open
17 space. To build on it is just -- to me, it's just
18 Trumpism. It's just more of this disaster. We have an
19 opportunity to provide that.

20 And very quickly, if you look at this packet,
21 you'll see some of the information about the
22 shellmounds, a map of Randy Milligan's work, an article
23 by Rosemary Cambra about the ancestors, which are still
24 in U.C. Berkeley, and the University refuses to
25 relinquish them for reburial.

1 There's also in this packet, just very quickly,
2 one last piece here is the 1852 survey map which
3 actually shows the West Berkeley Shellmound as a
4 geographical feature. It's a wonder of the world. It's
5 actually a feature on this map. It was used as a
6 navigational aid, and I was here before this commission
7 some 16, 17 years ago with Richard Schwartz and
8 Stephanie Manning when the Shellmound was made a
9 landmark. Please do not allow any development on it.

10 Thanks.

11 (Applause)

12 TOM BEIL: All right. Next up, start with John
13 English and --

14 JOHN ENGLISH: No, I think I have another
15 technical, which I think I'll make my case in writing.

16 TOM BEIL: Okay. All right.

17 Then Billy Trice, Kelly Hammargren, Richard
18 Schwartz and Antoinette Gaggero.

19 BILLY TRICE, JR.: Hello, Commissioner. My
20 name is Billy Trice, Jr. I am an African-American with
21 Cherokee ancestry. I am both an artist and a musician.

22 I am urging you to not give a permit to
23 developers who want to build condominium and mall on top
24 of Ohlone Shellmound site on Fourth Street. The burial
25 site is a resting place in which the Ohlone people are

1 buried as far as 2,000 -- I mean 5,800 years, and it
2 should be off limits. If the human remains were
3 Christian, Jewish or Mormons, I don't think there would
4 be any plans to build condominiums and a mall. I urge
5 you --

6 (Applause)

7 BILLY TRICE, JR.: I urge you, Commissioners,
8 to reject a proposal that would desecrate the Ohlone
9 Shellmound in the name of development.

10 Thank you.

11 (Applause)

12 KELLY HAMMARGREN: Kelly Hammargren. We have
13 heard, already, mention of Standing Rock, and I'm sure
14 many of us have heard of the Dakota Access Pipeline, and
15 last evening a friend forwarded to me, or I saw on my
16 Facebook, of international attention, German press
17 talking about the Dakota Access Pipeline and the
18 treatment of our indigenous peoples. So the world also
19 looks to Berkeley to lead, and here we are hearing from
20 our cultural heritage protectors, and I would like to
21 remind us that we may also get international attention
22 to how we treat this site and how we respond to it.

23 Thank you.

24 (Applause)

25 RICHARD SCHWARTZ: My name is Richard Schwartz.

1 There is no mitigation to destroying this site
2 because it gets destroyed forever.

3 (Applause)

4 RICHARD SCHWARTZ: This is the birthplace of
5 human habitation, not only in Berkeley -- and Berkeley
6 has a very special responsibility here -- but the entire
7 San Francisco Bay. This is the first place people made
8 a village. No one lived anywhere else in the entire
9 Bay Area but this site for a thousand years. And
10 whatever is down there, way down there, is the rarest of
11 rare knowledge, life, culture. We need to honor this,
12 we need to respect this, and most of all, we need to
13 protect it. And we've entrusted you, commissioners.
14 You've landmarked this to protect Ohlone culture.
15 Please, if you -- Berkeley is at a crossroads. Its
16 heart is on trial here. If this project goes through,
17 Berkeley will have no more heart.

18 (Applause)

19 RICHARD SCHWARTZ: In 2003, the federal
20 government determined that this site was eligible for
21 national historic landmark status. In 2003, the State
22 of California determined the same thing. At that point
23 in 2003, the site boundaries were determined by law,
24 okay? They're much larger -- the site boundaries were
25 determined by the latest studies that were at the state

1 repository called CHRIS, northwest information center.
2 This parking lot is in the middle of that site, and we
3 keep hearing the people who did this preliminary EIR
4 talk about there's no Shellmound, there's no Shellmound.
5 CEQA says it's not about the Shellmound; it's about the
6 site. You have a head, a very nice head. But it has no
7 meaning if it's not in relation to your body. The
8 Shellmound is just the head. The village is the body.
9 So don't -- stop looking for the Shellmound. The
10 boundaries were determined. I think it might have been
11 a CEQA violation that the City allowed digging on that
12 site in 2013 because what did it accomplish? They were
13 looking for the site? The site was determined 10 years
14 prior by the federal government. It's on record. I
15 think that's a violation.

16 (Applause)

17 RICHARD SCHWARTZ: If you read the report, the
18 big basis, the big basis of that report that there's
19 "nothing there" is ground-penetrating radar.

20 Now, I've talked to a lot of archeologists, and
21 I've been in that pit that was dug. I've been in the
22 unit that was dug there while it was being dug, and it
23 filled with water. It's near the Bay. And archeologist
24 after archeologist after archeologist, independent
25 archeologists, not on someone's payroll, said that

1 ground-penetrating radar on a wet site is very
2 inaccurate, and yet that archeological report, that was
3 the biggest thing, that we did ground-penetrating radar
4 and there's nothing there. Inaccurate.

5 TOM BEIL: Richard, I'd like to let other
6 people go.

7 RICHARD SCHWARTZ: You got it.

8 TOM BEIL: Thank you.

9 (Applause)

10 ANTOINETTE GAGGERO: Hi. My name is Antoinette
11 Gaggero, and today I've decided that the Mountain View
12 Cemetery, also known as the Piedmont Cemetery, is mine.
13 It's just mine. And I have great, great plans for it.
14 The views are tremendous, so along the top of it I'm
15 going to put an amazing condominium complex. First
16 rate. First rate. Property taxes are going to bring in
17 so much revenue, but the rest of it is perfect. It's
18 perfect for a commercial shopping center. I'm going to
19 bring in big corporation businesses, along with boutique
20 shops. It's going to be great. Of course, we'll have
21 to excavate. We'll have to make room for commercial
22 footings, and then also, there's going to be an
23 underground garage. So we're going to have to bulldoze
24 all the cement structure things there, and we'll have to
25 dig up some graves. But don't worry, we'll put them

1 somewhere.

2 To mitigate this minimal impact, I've decided
3 to leave the Cogswell Monument. After all, he was a
4 philanthropist, and I'd also like to convert the chapel
5 up front into the cultural center to talk about the
6 people who used to be there, including that Crocker guy.
7 You know, the Crocker Bank family. Yeah, we'll make
8 sure we put in a wall for him.

9 Are we excited about this? No. Are we
10 bristling? Can we -- can we imagine doing that? No.
11 No. That is appalling. That is appalling. People, in
12 general, would never conceive of this idea, yet, as it
13 was brought out because we can't see what's there, you
14 know, like there's no beautiful houses that have, you
15 know, like the people in them still, there's not all
16 these monuments and obelisks, you know. So that's why
17 I'm going to put the museum up front.

18 Anyway, if we're feeling bad about this project
19 that I have in mind, then I really, really hope and urge
20 you to feel just as bad as building all that I wanted to
21 do on that cemetery on this sacred land. I think that
22 it is really, really important to remember that building
23 businesses, any kind of capitalism, all of that, this is
24 manifest destiny. This is manifest destiny. And to
25 allow, to approve the continuation of this project is

1 perpetuating manifest destiny.

2 TOM BEIL: Thank you.

3 (Applause)

4 TOM BEIL: Loa, Angel Heart, Jessica Abbe and
5 Carol Thompson.

6 LOA NIUMEITOLU: My name is Loa Niumeitolu.
7 I'm an immigrant from Tonga. Much love and gratitude to
8 the Ohlone of this land.

9 You will see, Commissioner Tom Beil, that I
10 have an Emeryville address there, but I raised my son
11 here as a single parent in Berkeley. I fought to live
12 here with the high rent rates and high cost of living,
13 and gratefully, he's gone to Berkeley public schools,
14 and today he's at U.C. Santa Cruz. I mean, these are
15 really humble things for me and my family coming from
16 the Pacific. And so it is with great gratitude and
17 humility that I also just am part of this group, and
18 with the Ohlone and under the leadership of leaders like
19 Corrina Gould and Ruth.

20 So why I fought to have my son go to Berkeley
21 public schools is because when we came, we grew up in
22 Utah, and lots of love to Utah. It's a beautiful place
23 with really good people, but there were many things that
24 I wasn't able to get there when I was growing up there
25 that I got here in Berkeley.

1 Berkeley is a place that's worth fighting for.
2 It's a place that people care about social justice. I
3 mean, to be here is just so humbling, that people care
4 about indigenous issues. So that was something worth
5 giving my son, and in coming to Berkeley, I was able to
6 have the opportunity to work with and to meet indigenous
7 people, to meet the Ohlone, and to follow their lead and
8 to see what's going on with them and to learn about --
9 as an immigrant coming to this country, being that it
10 was so overwhelming, to learn what it means to be a
11 person of a land, to learn what it means to be with
12 people, and to come together on a Thursday night and to
13 meet with the Commission and to talk about how we could
14 save this sacred site.

15 So I just stand up here -- my time is done. I
16 just stand up here and urge you to reject this, and
17 Standing Rock has come here to Berkeley, and to continue
18 this tradition that we have in Berkeley, to stand for
19 social justice and to stand up for each other, and
20 especially to make it right with our indigenous people,
21 the Ohlone.

22 Thank you.

23 (Applause)

24 ANGEL HEART: Hello. My name is Angel Heart,
25 and I'm here on behalf of Sacred Sites Protection &

1 Rights of Indigenous Tribes addressing the Commission
2 today.

3 First of all, I'd like to thank the Ohlone
4 people for allowing me to be on their land. Sacred
5 Sites Protection & Rights of Indigenous Tribes is an
6 organization of an indigenous and earth peoples
7 dedicated to preserving traditional Native American
8 cultural and spiritual freedom, and this includes the
9 protection of sacred sites.

10 I had written some stuff out, but I don't want
11 to say the same thing over and over that's already been
12 spoken, so I echo that in my letter which I will provide
13 you a copy of.

14 But I would like to reiterate that on
15 December 15, 2015, Berkeley City Council signed
16 Resolution Number 67328 implementing the United Nations
17 Declarations on the Rights of Indigenous Peoples. I'm
18 sure they were speaking of something specific, maybe, at
19 that time, but I'd like to reiterate, too, that the
20 UNDRIP, an article in here, number 6, says that everyone
21 has a right to recognition -- that everyone has a right
22 to recognition everywhere as a person before the law.
23 That doesn't mean that the Ohlone peoples should have
24 recognition for you to hear them when they're talking
25 about their sacred sites. They're not -- "recognized"

1 doesn't mean that that place is not a sacred place or
2 that it's not historical.

3 Therefore, Article 12 says that, "No one shall
4 be subjected to arbitrary interference with his privacy,
5 family or home." When you're disrupting -- if you are
6 considering disrupting the sacred site, you're going
7 against the very article that you're representing on
8 number 12 here, which says that, "No one should be --
9 have to deal with interference of their family or home."

10 Those ancestral remains are the Ohlone people's
11 family, and if you could please remember that, and to
12 also think how would you like it if your ancestral
13 remains were being disturbed in the name of progress,
14 especially on somewhere where the City has already
15 designated as a landmark.

16 Thank you.

17 (Applause)

18 JESSICA ABBE: Hello. My name is Jessica Abbe.
19 I'm a Berkeley resident. I don't enjoy public speaking,
20 and I -- but I feel this is so important that I had to
21 speak tonight.

22 I'm a graduate of U.C. Berkeley's Graduate
23 School of Journalism for many years. I was a producer
24 of a show called Bay Area Backroads. I'm an independent
25 documentary film maker. My children went to Berkeley

1 High. My husband and I work together as filmmakers. He
2 would be here tonight, but he's at Standing Rock. And
3 the subject of our films is native people's sacred sites
4 and their conflicts with modern uses. And I think we
5 use the wrong criteria to judge projects like this.
6 It's a little bit backwards for Berkeley to take a
7 project brought by a developer and try to figure out if
8 there's significance to this site.

9 I think Berkeley should decide that this site
10 is significant, and it's difficult to do this because to
11 do this, we have to confront our own relationship with
12 the California genocide, and that is very hard for all
13 of us. It is really hard to realize that our settler
14 ancestors in this state killed really good people, and
15 we have not had a process of truth and reconciliation in
16 this country, and I think there's a tremendous hunger
17 for it. So I hope you will listen to these pleas as
18 people are saying for Berkeley to be a leader. This is
19 an important moment.

20 I also want to say something about the word
21 "sacred" because this is not an Indian word; it's a word
22 that comes from Europe, and its use to describe this
23 site, I think, is a little problematic. It's a deep
24 cultural significance that I'm going to leave to Ohlone
25 people and others to try to convey to the commissioners,

1 but I appreciate you letting me speak, and thank you
2 very much.

3 (Applause)

4 CAROL THOMPSON: Good evening. My name is
5 Carol Thompson. I am not a resident of Berkeley, but I
6 am a planning commissioner for the City of Pinole, and I
7 couldn't help but say something about this project.

8 First of all, I don't need to remind you
9 people, because you deal with this, that a developer
10 buying a piece of property in California, or I think in
11 the United States, doesn't give them a right to build,
12 especially if it's a project that is so wrong for the
13 city of Berkeley.

14 There is numerous inadequacies in the CEQA
15 document. I'll file a letter and submit it.

16 I also wanted to mention that some of you may
17 be aware, but the City did hire Garcia & Associates in
18 2002 to find the West Berkeley site, and there are
19 undisturbed cultural remains in the parking lot. Again,
20 the reference to the body and the head, you know, there
21 are things there, and we can't zero in on this
22 one little area and say there's nothing there.

23 Another point: I am Chickasaw, and my great,
24 great grandma was Choctaw, and we were forced off our
25 lands in 1837. And in Tupelo, Mississippi, they put

1 freeways and buildings and schools and desecrated our
2 homeland, and in Native American culture, we try to look
3 seven generations ahead. Our decisions aren't based on
4 what's happening today; it's down the road. And you
5 people have an opportunity to change history in this
6 particular instance, and I hope that in 150 years,
7 there's not someone like me standing before a commission
8 saying, "Gosh, I wish you would have done something
9 different." So if anything's going to happen, it's
10 going to happen in Berkeley, so you guys have got to do
11 this.

12 (Applause)

13 TOM BEIL: Chris Oakes, Rebecca Crump, Shay
14 Sullivan and Lisa Dettmer.

15 CHRIS OAKES: Hello. My name is Chris Oakes.
16 I'm from the Chahta Foundation of Oklahoma. My
17 ancestors come from Oklahoma, and before that, from
18 Mississippi. We have a burial mound there, and it's
19 called Nanih Waya, and it's a state park. It's more
20 than any sort of landmark; it's a protected place. No
21 building anywhere around it. It's got a huge circle
22 that goes far beyond the mound site that's protected.
23 We even have fences that are set back hundreds and
24 hundreds of feet from the mound, itself, so that people
25 can see it and enjoy it, they can pray there, and they

1 can go there, but the whole area is protected. That's
2 Mississippi.

3 My father moved here when he was a young man
4 and he came to Berkeley, and he came to Berkeley
5 specifically because this is a beautiful place. This is
6 a place that was one of the most progressive places in
7 the entire United States. Me and my brother were the
8 first generation that was born outside of Choctaw Nation
9 in as long as since our origin story, and he was okay
10 with that. My granddad had a hard time with it. He was
11 okay with that because it was Berkeley. It was a
12 special place. It was a place that was just the cream
13 of the cream. It was the best of the best. It was
14 progressive. It was somewhere different. It was
15 somewhere that he was proud to have us born, even though
16 we weren't born in our traditional territory.

17 Now, I'm going to read this. Since I have 14
18 font, I'll be done in no time. There's a lot of things
19 in the EIR. There's a lot of different comments. I'm
20 practically writing a dissertation for the comment
21 period. This is just a short bit because it's
22 important.

23 It is my opinion, and I believe, that there's
24 conflict of interest with Mr. Andy Galvan who appears to
25 be sitting on all sides of the table for this project.

1 Mr. Galvan wears several hats. He is not currently
2 wearing a hat right now, I might add.

3 The first hat that he wears is that of the
4 monitor for this site by the Native American Heritage
5 Commission, as per the guidelines of CEQA and AB-52. It
6 is Mr. Galvan's job, while wearing his NAHC hat, to keep
7 an eye out for cultural remains, and to oversee the
8 excavations to make sure that human remains, artifacts,
9 or culturally significant items are not unearthed.

10 Mr. Galvan then wears another hat, which is the
11 hat that he wears as the paid consultant for Archeo-Tec,
12 the archeological consulting company that wrote a report
13 for this, which is the report that is in the EIR. Not
14 what Richard Schwartz says, not all the other documents,
15 not the other ones that people have quoted here tonight
16 about the varying ages of the Shellmound, about the
17 Garcia & Associates report that was pulled out.

18 TOM BEIL: I'm sorry. Can you --

19 CHRIS OAKES: It will be -- I've just got to
20 get through this. All right.

21 They attempted to disprove that this is the
22 location of the Shellmound, convenient for the
23 developers that hired Archeo-Tec, when they paid them
24 for their report.

25 The third hat that Mr. Galvan wears, without

1 counting that actual hat that he might be wearing, is
2 the hat that he wears as a member of the Ohlone Tribe,
3 Incorporated, which his father founded, and I believe he
4 plays a leadership role currently. When it is part of
5 tribal consultation process under CEQA and AB-52, he
6 proposes a part of mitigation for the site that the
7 Ohlone Cemetery, through Ohlone Tribe, Incorporated,
8 accept \$75,000 towards their cemetery. It appears to
9 me, and it is my opinion, that this constitutes a clear
10 conflict of interest.

11 Mr. Galvan's organization started by his
12 family, the Ohlone Cemetery, is the recipient of the
13 mitigation project for this project, which is money,
14 cash, which Mr. Galvan proposed, as opposed to the other
15 options presented by the developer for language or for
16 scholarships. He proposed this option.

17 The other two hats, though, are the most
18 troubling. On one hand, he is the one who is looking
19 out for cultural remains, bones and artifacts, and on
20 the other hand, he is paid by the firm that, in my
21 opinion, is there to prove that those are not there.
22 One could suspect this for the reason -- for this being
23 that they do not want to cause problems by encountering
24 these artifacts. It is my opinion that this is a very
25 troubling conflict of interest.

1 The City of Berkeley has been approached by
2 other people who have current applications for the
3 Native American Heritage Commission and who have also
4 talked to LSA on other projects. They have also
5 recently met with, but not been officially consulted by,
6 the City and by the developer, and it is my belief that
7 another party without these conflicts of interest,
8 especially one who is not paid on multiple sides of the
9 table, should be the monitors and should be the ones who
10 are involved in this project. My monitor language has a
11 lot of things going on, but thank you four your time.

12 (Applause)

13 REBECCA CRUMP: Hello. Thank you for listening
14 to us. My name is Rebecca, and I want to acknowledge
15 that I am a settler here on Ohlone land. My ancestors
16 just happen to be European and Malmok, and I want to
17 second what Antoinette said. If there were a cemetery
18 of people like me, white, this would not be happening.
19 There's just no way this would be happening. This
20 sacred site is older than the pyramids. That just blows
21 my mind. I didn't know that before I moved out here.

22 And this place is sacred. You have heard that
23 from the Ohlone people that are still here that have
24 come today to speak out, from their allies that are
25 speaking out. You know what is underground there.

1 Bodies have come out, ancestors are there, and there's
2 no question about it. And it should not matter that
3 these artifacts are not intact anymore. That is
4 ridiculous to even consider. Of course they're intact.
5 The settlers that disturbed them before harmed them. It
6 just is appalling, and I just want you to use your
7 hearts and do the right thing, protect this sacred,
8 sacred place.

9 (Applause)

10 SHAY SULLIVAN: I'm going to speak to the
11 European descendants because I'm not going to speak for
12 the Ohlone. They can speak for themselves.

13 I'm a dispossessed Fitzsimon Sullivan. I am an
14 Island person that came to Ireland. Our land was
15 dispossessed and we were taken off our land and moved.
16 When we got to this country, we were, in a lot of ways,
17 alike. We set for colonialism was to help remove
18 indigenous people, and that's a history we have to stand
19 still, as was already mentioned. That's our history,
20 and we are into dismantling, we are into our future. If
21 we are wanting to be the people that we ask ourselves to
22 be in the mirror every morning, then we have to look at
23 the reflection back in our own histories, and our own
24 histories displaced, murdered and helped anticipated
25 genocide, and to undo that, holding up the sacred

1 project and this land as sacred land and belonging to
2 the Ohlone people is what you need to do.

3 (Applause)

4 LISA DETTMER: Hi. My name is Lisa Dettmer. I
5 work at 1929 Martin Luther King Jr. Way in Berkeley.

6 I don't want to just repeat what other people
7 have said, but I do want to say that historically, the
8 land was stolen from the native people by committees,
9 much like this one, who sound very civilized and believe
10 they are simply following neutral bureaucratic rules.
11 But it seems to me that the language you're using is
12 being used to obscure what is really happening.

13 You have set it up so that the cultural history
14 of the Ohlone won't qualify within the now grounding you
15 have laid out by claiming there are no archeological
16 remains because they have been removed is like saying
17 there's no pollution that can occur because the land has
18 already been polluted.

19 The real question should be: What is it that
20 Berkeley can do to honor the Ohlone? I guess I want to
21 know from this committee, is this a rubber stamp for the
22 economic interest of developers? And is this public
23 comment section just a formality?

24 Thank you.

25 (Applause)

1 TOM BEIL: Beverly Shalom, Matt Bernarding,
2 Morgen and Claire Bohman.

3 BEVERLY SHALOM: Hi. My name is Beverly
4 Shalom, and my grandparents are Jews from Syria, and
5 everybody really said what I was going to say. I guess,
6 you know, I just want to emphasize the point that people
7 of all faiths -- of any faiths would be devastated to
8 have the burial grounds of their ancestors desecrated.

9 As a Jew, my people know that kind of pain, and
10 actually, there is a prohibition in Jewish faith around
11 moving ancestral remains from one place to another.
12 There are a few exceptions, and condos and -- condos and
13 malls is not -- are not those exceptions.

14 So I really -- you know, I really feel like
15 each one of you, you know, ought to think about how you
16 would feel if a sacred site of your -- of yours or, you
17 know, of your ancestors, you know, was, you know,
18 desecrated because of some big money-making endeavor
19 and, you know, I just want to voice my opposition to
20 this and -- and I want to thank the Ohlone people for
21 this beautiful land that we live in.

22 (Applause)

23 MATT BERNARDING: I just want to voice my
24 respect for Corrina Gould and Ruth Orta, who spoke
25 earlier, and acknowledge you as their original

1 inhabitants of this land and as elders, and I follow
2 your leadership and I respect your example, and I learn
3 from it every time I see you and you speak, so thank
4 you.

5 In terms of this commission, I don't really
6 understand what your powers are, or what authority you
7 have, but I urge my voice in support of the other voices
8 here and of the Ohlone to use all -- everything at your
9 disposal to block this project and to return the
10 stewardship of the land to the Ohlone. That includes
11 whatever vote you have as part of this body, as well as
12 showing up at City Council or Zoning Commission,
13 speaking on behalf, as well as any lawyers that you
14 know, any framework within the apparatus that can block
15 this desecration and return rightful stewardship of this
16 land.

17 It's more than -- it's about -- at this point,
18 we're just trying to stop the bleeding in terms of the
19 genocide that's ongoing, and it's in Berkeley and it's
20 across the United States and it's across the world, it's
21 so many places where people are being removed from their
22 land where their sites are being desecrated, where the
23 waters and the natural life of the planet is being
24 attacked, and so it's happening here. There's not a lot
25 of TV cameras here, but everybody should be very

1 concerned about this, and stopping the bleeding is the
2 first thing, and then beginning the real healing will
3 take generations, but I think we can do it. And I'm
4 always heartened by all the people that I meet and I see
5 at these type of gatherings, and I pray for this.

6 So thank you.

7 (Applause)

8 CLAIRE BOHMAN: Good evening. My name is
9 Reverend Claire Bohman, and I'm the President of the
10 Temple of the Waters. We're a multi-faith organization
11 here throughout the Bay Area, including here in the land
12 of Huichin, and so I want to take a moment and give
13 thanks to the elders in this room, Corrina, Ruth, and
14 all the Ohlone elders here. Thank you for the honor of
15 doing worship on your land. Thank you.

16 As a person of faith, I want to voice my
17 opposition to this development. I think this is really
18 devastating that this is even being proposed. This is a
19 sacred site. If this was a historic church, if this was
20 a Christian institution, if this was, you know, a Jewish
21 sacred site, a Muslim sacred site, even, would this be
22 happening? Would this even be proposed? No. I think
23 the answer is no. And so I -- as a person of faith, as
24 somebody who honors and respects the faith of many
25 people, all people, I think it's important for us to

1 recognize the sacredness and the devastation that any
2 further development on this site would cause.

3 In addition to being a pastor, I'm also a
4 chaplain at a local hospital, and I want to tell you
5 that every day, every day, I see how important it is for
6 human beings to have the right to touch their loved ones
7 when they die, to be with them. For those traditions
8 that they've practiced to be honored, to have a place to
9 go to honor the dead is so key for so many people in
10 healing, in grieving and surviving.

11 And so I want to invite everyone here,
12 including the representative from LSA here, I really
13 want to invite you to just take a moment and think about
14 those you love who have died. Think about what it might
15 be like if somebody wanted to develop and build condos
16 where they're buried.

17 So I lift up prayers for you, my brother, and I
18 lift up prayers for all the people that you work with,
19 and I lift up prayers for everyone here on this
20 committee, for the City of Berkeley, that we may do the
21 right thing and block this development and honor this
22 sacred site in the way that the Ohlone people have asked
23 us to. Amen.

24 (Applause)

25 MORGEN: I am Morgen with IWW, Industrial

1 Workers of the World. We represent recycling workers,
2 textile workers here in the Bay Area, as well as movie
3 theater workers, and I am here as a member and a
4 delegate to say that I'm opposed to this project, and
5 I've been going around and talking to different
6 construction workers, union and non-union, that do not
7 want to work on this development. And if -- you know,
8 I -- this is just disgusting that this is even proposed.
9 I'm trembling right now in sorrow and rage that this has
10 even come up.

11 You know, Corrina is a great friend of mine.
12 Ruth, I know her, and I have respect for all Ohlone
13 people here, and I'm a settler here. It's a blessing to
14 stand here on this land, and to know that these people
15 want to desecrate, like, what was so spoken to be the
16 heart of Berkeley to -- you know, the Shellmound,
17 it's -- like, we, as settlers, can't even comprehend how
18 sacred this is. Like the feeling of sorrow and rage
19 that we have, or discomfort that we have, that I have
20 right now, is nothing compared to the discomfort and
21 rage and the terrible atrocities that have happened on
22 this land.

23 So I urge you to do whatever you can in your
24 power, like some of you said earlier, you know, even
25 beyond this meeting, you know, vote, but also -- in

1 opposition on this project, but also join the community
2 and labor to say no to this development and do
3 everything, even outside of your position today, to
4 stand to protect this historical site and this cultural
5 landmark. And if you don't, then we're going to have a
6 big movement to make sure that you don't -- that this
7 development doesn't happen anyways. And I'll get every
8 union worker in the Bay Area and non-union worker that I
9 can to make sure that we picket and shut down this site.
10 I will not allow this project to happen, and I don't --
11 I don't think anybody with a good heart will. So -- and
12 like -- yeah. And I'm going to end it on that.

13 (Applause)

14 TOM BEIL: Okay. Next, Squiggy, J. Miakoda,
15 Emelia Martinez and Tim Lee.

16 SQUIGGY RUBIO-HALE: Hi. I am also an
17 uninvited settler and guest on the land for which I am
18 grateful to be here and to live on, and I thank
19 everybody who has spoken so far, and I really appreciate
20 and agree with everything that everybody has said so
21 far, and I don't have anything, really, to add, but I
22 just want to reiterate that I really believe you really
23 need to protect the Ohlone sacred sites and respect the
24 Ohlone people as caretakers and guardians of their land.

25 Thank you.

1 (Applause)

2 TOM BEIL: Thank you.

3 JILL MIAKODA TAYLOR: My name is Jill Miakoda
4 Taylor. I am a settler. I am a settler because my
5 people are Cherokee and Blackfoot, and thanks to the
6 trail of tears, we left our land and had to find a new
7 place to live.

8 I am also a settler because my people are of
9 African descent and were forcibly taken in the name of
10 profit to be here in this country. I am also a settler
11 because my people are Irish and Italian and they came
12 here as immigrants in order to pursue opportunity. So
13 the legacy of all of this I'm responsible for. I'm
14 accountable to it, and I am here to speak from that
15 place.

16 I am also a resident of Berkeley, California.
17 I am a business owner. My company is called Fierce
18 Allies. I teach groups how to have fiercely honest
19 dialogues about all of the things that we need to know
20 and talk about but we are avoiding because they are
21 uncomfortable.

22 We cannot afford to avoid these conversations
23 anymore, and I am so proud to be in a room full of
24 people. This is why I moved to Berkeley, because of
25 people like this. I could not find a place where I

1 could speak and be who I am until I came here, and I am
2 afraid that this is going to make me not proud to be a
3 resident. So I am here to make sure I stay proud.

4 The two things I want to add is, as I heard
5 people speaking how -- they were determining whether or
6 not this has a less-than-significant impact, and I'm
7 curious to know how we're measuring less than
8 significant when we're talking about uprooting, you
9 know, ancestral and sacred lands. I think that if
10 anything is uprooted, it's significant. So I don't know
11 where the "less" gets measured. I invite you to look at
12 the math on that.

13 I'd also like to say that the wealth of the
14 city is built on stolen land. The least we can do is
15 honor the land upon which our wealth is built.

16 Thank you.

17 (Applause)

18 EMELIA MARTINEZ BRUNDAGH: Hi. I'm Emelia
19 Martinez Brundagh. I live in Oakland right now. I
20 previously lived in Berkeley, but I'm not a resident;
21 I'm a settler. I'm a young person. I've kind of
22 been -- I've been, actually, following the footsteps of
23 my ancestors trying to figure out where to land, and
24 one of the first things that made sense for me to do
25 when I moved to the Bay Area -- when I moved to the

1 Bay Area was to find native leaders, to find the native
2 folks that lived on this land to offer up my services.
3 I don't know how to be on this earth without trying to
4 be in right relationship to the people that lived here
5 before me, to my ancestors, and I don't think any of us
6 really know. So I'm not asking you all, or you all, or
7 anybody to really know, but I need us, I need us -- we
8 all need us to be listening and to create more space,
9 more time. It doesn't matter who was referenced having
10 given permission, whatever. We've heard so many voices
11 here today that are in opposition. If one person, if
12 one body was found, if -- we all need to go and stand
13 behind that person. So this shouldn't be even a
14 question.

15 Thank you for listening.

16 (Applause)

17 TIM LEE: Dear honorable council members, thank
18 you for letting me speak, and I think it's a noble thing
19 that you guys are listening to everyone's voices,
20 especially in this day and age with the past election.

21 First of all, I want to ask, where are the
22 developers? Where are they in this room? They're
23 hiding. They're hiding behind greed and money. They
24 know what they're doing, and they know that it's wrong,
25 and we know what's good and we know what's right and

1 what should be done.

2 And I want to thank the Ohlone people. I'm
3 honored to be in the presence, and I just want to say
4 that, you know, we have to do what's right, and like
5 Richard said earlier, Berkeley's our crossroads. The
6 heart is on the line, and we stand as a model for the
7 rest of the nation in terms of doing what's right and
8 what's noble.

9 Thank you.

10 (Applause)

11 TOM BEIL: Krystof, Pennie Opal Plant, Effie
12 and Ya-Nah.

13 KRYSTOF LOPAUR: My name is Krystof. I want to
14 say, first, I'm honored to be in the presence of Ohlone
15 people here, and I also want to say I'm an organizer of
16 the Gill Tract. That's up the road. We have something
17 of very recent experience with CEQA and lawsuits where
18 we seek to try to stop the development on our land, so I
19 want to go back.

20 I said I'm honored to be in the presence of
21 Ohlone people, and I said "people". That's plural. I
22 want to point you -- let me just preface this quickly.
23 I am saying this all because in a CEQA process, it's
24 very important to get legal objections to Draft EIRs on
25 record so that, for purposes of future litigation, you

1 know, objections have been entered into the record.

2 So I'm going to give you three objections to
3 the CEQA right now. All of them are based on AB-52,
4 which is referenced over there by the presenters, which
5 I think has been drastically unmet. I want to also
6 point out it's a new law, so it's also untested in terms
7 of, you know, the legal system and the courts. So this
8 would be a very interesting thing for you all to take to
9 court.

10 I said, "Ohlone people." There's a sentence
11 here on page 81, and it says, "Therefore, the City and
12 the Ohlone Indian Tribe consider this consultation
13 process to be complete for this project." That's based
14 on two people: Shannon Allen, right, and Andrew Galvan.

15 Now, you have more Ohlone people here and you
16 have more people from Berkeley here telling you they
17 don't think this consultation process is complete. I
18 think you can project this on the Draft EIR and not
19 Ohlone.

20 But the second thing is the purpose of that
21 consultation is to establish tribal cultural resources,
22 and the purpose of that law was to put into practice the
23 reality that you cannot have an archeologist or a ground
24 survey or radar establish what is the cultural
25 significance of a piece of land or a resource. Now,

1 that's in the law. It's not just a matter of opinion;
2 it's in law, and that consultation is supposed to
3 establish it.

4 Now, in this document, you have mitigation
5 measures, you have a consultation, but you have no
6 listing of the actual tribal resources, the tribal
7 cultural resources you're obligated to have listed in
8 here that came out of that consultation process. So
9 what did they talk about? If there's no tribal
10 consultation resources in here for me to evaluate, how
11 do I know there's not going to be a significant impact?

12 Last, the purpose of this, again, AB-52, you
13 can read through the -- you can read through it, but
14 over and over people talk about an ongoing consultation
15 process. How do you finish the process? How do you
16 consider the process complete after three meetings with
17 two people that haven't established any tribal cultural
18 resource, and you have a whole community here telling
19 you, "Hey, there's a lot of tribal cultural resources
20 there. There's a lot of significance to the community
21 and the tribe"? So I think you need to do a careful
22 review of AB-52. I don't think it's been properly
23 met -- the requirements have been properly met in the
24 EIR, and I think you open yourself up to a lawsuit if
25 you approve this EIR.

1 (Applause)

2 PENNIE OPAL PLANT: I don't know if I'm going
3 to use this 'cause I have a pretty big voice and it
4 keeps going on and off.

5 So my name is Pennie Opal Plant. I own
6 Gathering Tribes on Solano Avenue. I'm Yaqui, Mexican,
7 Choctaw, Cherokee and European. My family's been in the
8 Bay Area since the 1930s, and I also want to pay my
9 respects to my Ohlone relatives, who are friends of
10 mine.

11 You have an amazing opportunity, each one of
12 you. You have the opportunity to do something at this
13 historic moment in time when the whole world is looking
14 at Standing Rock and understanding the indigenous
15 horrific things that have happened to our relatives here
16 for 500 years. People are becoming educated. People
17 are starting to understand what's been happening, and
18 they're rising up. There are thousands and thousands
19 and thousands and thousands and thousands of people at
20 Standing Rock. There are a couple of thousand veterans
21 on their way there right now. And to miss this
22 opportunity, this moment in time, to step forward and do
23 the correct and proper thing would be such a shame for
24 each one of you, as individual people, to choose
25 capitalism and commerce in that cycle that is so

1 damaging to the world, that cycle that is premised on
2 endless war when we live on a finite planet. That
3 system is what's destroying the very earth, the air, the
4 water and the soil that we need to survive.

5 You have a wonderful opportunity to do the
6 right thing, and if you don't do the right thing here, I
7 can tell you that my Ohlone relatives will be
8 heartbroken. They have been heartbroken already by
9 things that have happened in their lifetimes. They're
10 right here. Look at them. Do you want to break their
11 hearts?

12 My other role as a woman, as an indigenous
13 woman, is I'm a cofounder of Idle No More SF Bay. We
14 organized, in support of Standing Rock, a couple --
15 three different actions in San Francisco. The one on
16 November 15th had 5,000 people there. The one the day
17 before yesterday -- was that yesterday? It was on the
18 30th -- had over 300 people there. This really busy
19 time flows in a big river, and I can tell you that if
20 you -- if this project goes through, we will have
21 thousands of people there. We will stop the machine
22 from working because we understand that -- we have a job
23 to serve and protect, and I promise you, and I pray that
24 you do the right thing so that I don't have to take on
25 another big project, because I will, in defense of my

1 relatives.

2 Thank you.

3 (Applause)

4 EFFIE RAWLINGS: Good evening. My name is
5 Effie Rawlings, and I am a preschool teacher at the Gill
6 Tract Farm, and I am here to tell you a story on behalf
7 of my class, our class.

8 A few weeks ago, our friend, Frank Herrera, who
9 is also an Ohlone person who couldn't be here tonight
10 because he's on his way to Standing Rock, came to the
11 farm to tell us about his people, and he lit sage and he
12 blew it, and we smelled it, and we felt the people of
13 that place with us there in that moment, and we were all
14 so quiet, much more quiet than we usually are. And we
15 felt our roots going down into the soil and the roots
16 coming up into us.

17 And he told us about how he lived, how they
18 lived, his people, and he told us that they call the
19 animals "sister" and "brother", and it was so amazing
20 because right in that moment, a turkey came down, and we
21 couldn't help it. We shouted, "Sister turkey, brother
22 turkey!" And we thought about them differently from
23 then on, and we thought about our place differently, and
24 we thought about ourselves differently, and we knew how
25 special that place was for us and for a long time

1 before. And we felt a lot of love for that place, and
2 we wanted to take care of it, and we want it to be well.
3 And we still call out when we see the turkey, and we
4 say, "Sister turkey! Brother turkey! Sister/Brother
5 turkey."

6 Please use the power that you have to help me
7 and everybody here and the future generations who are
8 connected to their place.

9 (Applause)

10 YA-NAH MANDUJANO: My name is Ya-Nah, and I
11 came from Sacramento. I was born in Berkeley, but I
12 came here because I figured the Shellmound is a
13 cemetery, and I'm Wintun and Miwok, and my grandmother
14 was Miwok from Amador County, and she's the first one to
15 not be allowed to be buried in the cemetery of the
16 family there because somebody wants to build a casino,
17 which is so similar that I thought, "Well, I have to
18 come here and see what's going on," and you guys all
19 seem reasonable.

20 I'm really grateful that this group, you're the
21 Cultural Commission -- Preservation Commission, and not
22 the Archeological Preservation Commission because it
23 really has to do with the entire culture of California
24 Indians, and I think that we have seen -- well, not just
25 California Indians, because we have seen what happened

1 in Standing Rock and we're seeing what's on the table,
2 what's planned, what's happened in California. And, of
3 course, laws in California started out making it easier
4 to completely crush our cultures, our nations, and so
5 that's the direction that the momentum has our laws and
6 everything going.

7 So I would like to encourage you guys -- you
8 seem sensible, like I said -- to use things like the
9 UNDRIP to really shift the tides on that so that the
10 cultural place, for instance, I don't -- I don't know
11 how to convey, but, like, something that seems
12 insignificant to non-natives can be incredibly
13 significant to a native tribe or a native nation. Like
14 if you take one person, they might not represent any
15 kind of measurable percent of California, but if you
16 take one person, it might be -- it might be an entire
17 tribe, or it might be, you know, a very significant
18 portion of a very unique and irreplaceable tribal
19 culture.

20 So those kinds of things truly activate the
21 change that has happened. I'd like to encourage you
22 guys to listen to people here.

23 Thank you.

24 (Applause)

25 TOM BEIL: Okay. Janice, Tiny, and if we can

1 finish up with Elliott and Denny Abrams, if they're
2 still here.

3 TINY: Yeah, hello, everybody.

4 So first of all, the whole concept of landmark
5 is rooted in the center colonial laws that perpetuated
6 the genocide. Who gets landmarked? What gets
7 landmarked? My elder Ohlone sister, Corrina, talked
8 first about how you spent the first part of the meeting
9 talking about a house, a house that was built with wood
10 and concrete, and how those kinds of things get
11 landmarked, but what's a landmark? What is a landmark,
12 really?

13 And I'm just curious on how we can talk and say
14 a lot of words and talk about a lot of things, but we're
15 talking about people's elders and ancestors who are
16 buried in the ground, which is -- the word
17 "desecration", it rolls off our tongue so easily, but
18 what does it really mean? It means the destroying of
19 the people who came before us, the people that birthed
20 us, and we're talking about the destruction and the
21 perpetuation of, basically, thousands of years, and
22 hundreds of years of settler colonial genocide.

23 So as many people have said before tonight,
24 this topic has already been very deeply discussed, but I
25 am speaking here as a person who was homeless on these

1 streets with my mom, who was criminalized and
2 police-harassed for years, and that happens again down
3 at another Ohlone site, down at the Gilman on-ramp.
4 There are guns being drawn on unhoused people.

5 Why am I bringing that up? Because the concept
6 of landmarking is an elitist, rich sector, colonial
7 concept that has nothing to do with the protection of
8 humans or the protection of poor people or the
9 protection of indigenous peoples who were the first ones
10 here. So this entire building, this entire structure
11 and this entire meeting, to me, feels like a
12 desecration.

13 Now, I know that you all probably are more
14 conscious people. I have a sense that because you're
15 related to the university and you're conscious and you
16 know some stuff, and maybe you're part of academia,
17 you're not going to continue that perpetuation. But I
18 also wonder how many of you have your hands in the
19 pockets of the developers, and I wonder how many of you
20 are sitting there questioning these lines on papers and
21 these ridiculous ideas when we're talking about the
22 deaths and the desecration of lives.

23 And as so many other people have said, as
24 Krystof has said, and the brother over here talking
25 about the CEQA, that's just a piece of paper, and the

1 lies that have been perpetuated on indigenous peoples by
2 pieces of paper has been for hundreds of years.

3 So let's stop that now. Now. You have the
4 ability to do that. Am I right? Please speak back to
5 me. I need an answer. Do you have some kind of power
6 in this process, Landmark people? Yes? Can I get a
7 nod, please? 'Cause I can't talk to people and nothing.
8 You have no power? As an advisory?

9 CARRIE OLSON: We cannot --

10 THE WITNESS: Oh, you can't talk to me. Okay.
11 That's right. This is a settler colonial structure.
12 You can't talk to people.

13 Okay. Well, anyway, I hope you have heard me,
14 and I do believe -- I guess I'm the last person.

15 Maybe all of you could put your hand on Mother
16 Earth on this Ohlone land as an act of respect to our
17 Ohlone ancestors upon whose land we are standing and to
18 have a moment of silence as we close this night for
19 people who can't speak for themselves.

20 Thank you.

21 (Applause)

22 DENNY ABRAMS: Hello. My name is Denny Abrams.
23 We're the developers down the street.

24 It's interesting you learn more and more about
25 the Ohlone Tribes which, like many of us in the town, we

1 are not aware of.

2 There's two issues I'd like to address.
3 One that Carrie brought up, which is with regard to the
4 notice. I agree with you, Shannon, about how unfair it
5 is to get a notice on Thanksgiving week. I called the
6 director of planning. Of course, she was out for
7 Thanksgiving week.

8 CARRIE OLSON: Of course.

9 DENNY ABRAMS: I tried to go to the permit
10 center, and it was closed for 10 days. Who are you
11 kidding? This is not a 60-day, normal period that we
12 would have from February through March, and I ask you
13 right now to ask Mark Rose to increase that period to
14 something like February 1, February 15 so we can hire
15 our consultants to read this massive book on traffic, on
16 all kinds of things.

17 And I ask you, Mark, will you increase that
18 period? Okay. There is your answer there.

19 So I think it's highly unfair that this was
20 presented Thanksgiving week. It's almost devious.
21 You've got Thanksgiving, you've got New Years. Half the
22 staff -- the staff doesn't work on Fridays. I mean,
23 this is ridiculous. Anyway, that's one point.

24 The second point is I think the Landmark
25 staff -- Committee has to explain to the public what

1 happened here. Is this landmarked or is it not? I know
2 when we approach a landmarked house, it's like we can't
3 even touch the thing. So what is going on here, and why
4 was the developer not informed about the monumentality
5 of this landmark status on the land? I don't get it.
6 Why did you let the developer spend a million bucks
7 designing this thing when, in fact, it's landmarked? If
8 we have --

9 (Applause)

10 DENNY ABRAMS: If we ever were approached to
11 buy or purchase a house that was landmarked, I mean, we
12 would jump through hoops trying to figure out what
13 cannot be done to this thing. So I don't know why the
14 developers thought that they could just overturn this
15 landmarked status, and I wish you would address that,
16 how it came into being, how solid is it, what is it
17 about.

18 Second issue, if you do happen to overturn it
19 and let them build, you made us jump through hoops. We
20 designed the other side of the street, and I think we
21 delivered the city a beautiful design in keeping with
22 the rest of Fourth Street, keeping the skies open,
23 making a beautiful place for people. We respected the
24 Spenger building. We didn't build higher than the
25 Spenger sign. That was conscious to make the Spenger

1 building --

2 ANDREW GALVAN: But you got an exemption from
3 CEQA in dumping five human remains --

4 TOM BEIL: Please.

5 ANDREW GALVAN: -- on that project that you
6 were the architect on.

7 DENNY ABRAMS: Yes, that's right.

8 ANDREW GALVAN: And you got an exemption from
9 CEQA.

10 TOM BEIL: You're out of turn.

11 DENNY ABRAMS: We didn't have to do CEQA 'cause
12 we only added 7500 square feet. Do you understand that?
13 Maybe you don't.

14 So --

15 ANDREW GALVAN: You dug up five people.

16 TOM BEIL: Please.

17 Denny, can you finish up and see if anybody
18 else wants to speak?

19 DENNY ABRAMS: Yeah, yeah. Five people.
20 Right.

21 The other issue I want to address is this EIR
22 does nothing to address the buildings across the street.
23 They are 75 feet high. And the Spenger building is --
24 the sign is 30 feet. 31 feet. The new building that we
25 built on the corner is 30 feet. So there it is. You're

1 paying no attention to a building that you were emphatic
2 about landmarking, and they're causing shadows to it and
3 minimizing its significance. You need to address that.

4 Thank you.

5 (Applause)

6 TOM BEIL: Anyone else? Mr. Galvan? Do you
7 want to say something?

8 ANDREW GALVAN: No.

9 TOM BEIL: All right.

10 What's your name?

11 MICHAEL HORSE: Michael Horse. Respects to the
12 elders here.

13 I've been listening to all this. I can see
14 that there's grandfathers and grandmothers and
15 fathers --

16 AUDIENCE MEMBER: Could you speak in the
17 microphone?

18 MICHAEL HORSE: -- and uncles and aunties here.

19 I've been a youth worker for most of my life,
20 and I found out that kids, sooner or later, they'll find
21 out the truth. If this city allows this to happen,
22 one day your grandkids and your great grandkids or your
23 nephews, they're going to say, "Really? You allowed
24 them to build condominiums and designer soap stores and
25 \$12 snow cone places on the holy land of these people

1 that are still here?" And they will feel great shame.
2 Trust me, and you will never get that back.

3 (Applause)

4 JANICE GLOE: I had a card in, so -- how does
5 this work?

6 I am Janice Gloe. I have lived in Oakland and
7 the Bay Area all my life. It's a beautiful place, and
8 we should honor the history and not make major changes
9 as this development.

10 But first I want to acknowledge my dear
11 friends, the Ohlone elders, Ruth Orta, Corrina Gould,
12 and all of the Ohlone people here and everywhere.

13 We are on Ohlone land. We are guests on this
14 land, so let's be good guests. Let's be good guests.
15 Please, don't develop that land. Please keep it the way
16 it is. Let's do that. Let's show respect to all the
17 Ohlone people who are here now, here in the future, in
18 the past. Please consider this in your hearts, honor
19 the Ohlone people, work with the Ohlone people, and
20 please honor the ancestors.

21 Thank you.

22 (Applause)

23 TOM BEIL: I think with that, we might close
24 public comment, and if commissioners want to take a
25 break.

1 CARRIE OLSON: I would like to make a motion
2 that we continue public comment to the next meeting and
3 that -- but we close comment for this evening.

4 Is that okay language with you?

5 PAUL SCHWARTZ: I'll second it.

6 TOM BEIL: All in favor?

7 Opposed?

8 Abstained?

9 CARRIE OLSON: But I'd like to make a comment
10 to the public while they're here. Would that be okay?

11 Okay. So I want to talk about process and what
12 our part in this is, but first of all, I'd like to thank
13 you so much for coming out tonight. Listening to each
14 and every one of you was special to each and every
15 one of us.

16 I've lived in Berkeley all my life, and I honor
17 this earth. And I probably am about as Berkeley as you
18 get. So I really, really thank you for coming. I thank
19 Denny for coming. I'm not sure that all of you are
20 aware just what Denny has done for our city, but Fourth
21 Street is his baby. So he is very -- has been very
22 respectful of the street and very careful about how it
23 has developed, and it's really quite interesting to
24 watch how that happened.

25 So we have in front of us a document. We

1 are -- this document is guided by the California
2 Environmental Quality Act, and there are specific things
3 that the City has to do to move this document through
4 its process. We have to comment. We are charged with
5 commenting on this document. It's a draft. A final
6 version will eventually come out. Once the final comes
7 out, there's no more commenting. The only time to
8 comment is now, between now and January 12th.

9 I encourage everyone to contact their council
10 members, our new mayor, and request that the time period
11 be continued, if that's what you think should happen.
12 We don't have the power to change that, not our
13 commission. In fact, the comments that we make, they
14 don't even become -- we aren't a decider in terms of
15 this document. That's the Zoning Adjustments Board.

16 There will be a meeting of the Zoning
17 Adjustments Board --

18 Anyone know the date?

19 Next Thursday night. I encourage folks to go
20 out and comment to them because they will be the
21 deciders to decide if this document is adequate or not.

22 Now, all that said, I know my comments are
23 going to be about 10 pages long, and hearing you all
24 tonight and getting documents like this really help me
25 to formulate what I want to say, so that's important.

1 But comments on an EIR are pretty specifically done, and
2 one fellow got up and spoke to that because he's been
3 involved with the EIR comments before, and if you don't
4 put your comments in in ways that can be responded to,
5 they get left behind.

6 Now, that doesn't mean you shouldn't speak out,
7 because your voices become a collective voice that
8 affect people's decision making down the road. So this
9 commission actually has another role it will play.

10 Because this is a landmark site, this commission does
11 design review over anything that happens there. I
12 happen to be the only person left on this commission who
13 was part of the landmarking of this site. It's really
14 interesting to hear someone get up and speak about
15 landmarking and what an inappropriate word that is
16 because "landmark" was the first royal term given to
17 people who came to South Carolina from England. They
18 were called landmarking. So it's -- I never quite put
19 two and two together before.

20 But this is a cultural resource, so I'm going
21 to try and refrain from using the word "landmark".
22 Nevertheless, we recognize this as a cultural resource,
23 not that stupid little pink building, the site. And the
24 site was symbolic of a much larger site, and the
25 information we heard in those hearings we had was just

1 amazing and eye opening to me. And a lot of people are
2 going to be hearing what you say for the first time.
3 It's really important that you say it, and I appreciate
4 you coming tonight. I do.

5 Our landmark ordinance -- that's what it's
6 called -- our landmark ordinance does not use the word
7 "integrity". So the fact that remains on that site has
8 been disturbed, that's not part of our ordinance,
9 because a lot of the buildings in Berkeley have been
10 changed. So we don't look at whether or not something
11 is pristine or perfect. We look at what -- what is
12 there, and does it convey the meaning of what it
13 originally was. And some people can't look beyond the
14 flatland. I'm going to have really specific questions
15 that involve the flatland that was Emeryville, because
16 that land was flat. But we know what came out of that
17 land.

18 So I'm going to hold off on my comments for
19 tonight, but I encourage everyone to take the time over
20 the next month and read this document. I would like to
21 point out a glaring inaccuracy in this document that I
22 expect staff can help us with. The landmark application
23 is not in this document. The notice of decision is not
24 in this document. We can't possibly make any decision
25 without understanding that.

1 If the Chris Dore report is available for the
2 public, we should have the Chris Dore report. I do not
3 understand why this was ever, ever, ever drilled into
4 again, because that was done. And that -- that
5 document, which we had at the time, was really
6 interesting, and I tried to find it, and I wasn't able
7 to do so.

8 AUDIENCE MEMBER: It's in the comment section
9 of the NOP, the actual report.

10 CARRIE OLSON: Yeah, and so far I've only
11 gotten through the 32 pages that are the cultural
12 resources section. So staff will tell us where those
13 are and should tell us where those are so we can find
14 them.

15 But thank you for coming.

16 TOM BEIL: Anyone else?

17 Thank you all very much for coming. We will
18 move on.

19 (9:57 p.m.)

20 ---o0o---

1 REPORTER CERTIFICATE

2 I, April Dawn Heveroh, Certified Shorthand
3 Reporter No. 8759 in and for the State of California, do
4 hereby certify that the foregoing is a full, true and
5 correct transcript of the proceedings taken to the best
6 of my ability by me, a duly certified shorthand
7 reporter.

8 I further certify that I am not interested
9 in the outcome of said action, nor connected with, nor
10 related to any of the parties in said action, nor to
11 their respective counsel.

12 IN WITNESS WHEREOF, I have hereunto set my
13 hand this _____ day of _____, 2017.

14
15 _____
16 APRIL DAWN HEVEROH
17 CSR NO. 8759
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