



Rent Stabilization Board

DATE: May 7, 2018

TO: Honorable Members of the Berkeley Rent Stabilization Board

FROM: Commissioners Poblet, Murphy, Chang and Soto-Vigil

SUBJECT: **Recommendation to adopt Resolution 18-08 Supporting the Protection of the West Berkeley Shellmound**

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**RECOMMENDATION:**

To direct Vice-Chair Laverde to send a letter to the Zoning Adjustment Board urging them to protect the West Berkeley Shellmound.

**RESOLUTION 18-08**

**SUPPORTING THE PROTECTION OF THE WEST BERKELEY SHELLMOUND**

WHEREAS, The Ohlone People are the original inhabitants of the land upon which our city was developed, and indigenous people remain an important part of our diverse community; and

WHEREAS, The city of Berkeley has an obligation to honor the West Berkeley Shellmound; and

WHEREAS, Two protections of the Shellmound exist through City resolutions and designations that have yet to be enforced:

1. To preserve the West Berkeley Shellmound City of Berkeley Landmark (Attachment 1, #228 Notice of Decision, February 7, 2000)

2. To conduct meaningful consultation with the Ohlone People before alteration of the West Berkeley Shellmound sacred site (Attachment 2, Resolution No. 67,353 - N.S. Honor Berkeley Shellmound Indigenous Sacred Site)

WHEREAS, California Senate Bill 35 (SB35), a bill that fast-tracks the approval process for developments that meet a minimum affordable housing percentage, fails to protect Californians from the potential impact of new development and deprives our city from participation on decision making regarding how our community will be shaped; and

**Recommendation Supporting Protection of the West Berkeley Shellmound**  
**Page 2**

WHEREAS, After the passage of this bill, the developers of 1900 Fourth St. changed their plans to meet this affordable housing requirement and therefore attain a “by-right” status: the ability to bypass community input and environmental review processes; and

WHEREAS, one of the purposes of the Berkeley Rent Ordinance as identified in Berkeley Municipal Code section 13.76.030 is “to help maintain the diversity of the Berkeley community . . .” and the elected Board has consistently expressed interest in encouraging responsible development of affordable housing; and

WHEREAS, In addition to accelerating displacement concerns throughout California, S B35 is now an imminent threat to the continued existence of this Ohlone sacred site; and

NOW, THEREFORE BE IT RESOLVED that the Berkeley Rent Control Board declares its support for the protection of the West Berkeley Shellmound; and

BE IT FURTHER RESOLVED that the Berkeley Rent Board calls upon all parties to work collaboratively to implement the protection of the West Berkeley Shellmound.



City Planning Department  
Current Planning Division  
Landmarks Preservation Commission

## NOTICE OF DECISION

FOR MEETING OF: February 7, 2000

- PROPERTY ADDRESS: Three blocks bounded by University Avenue, Hearst Avenue, I-880 and 4<sup>th</sup> Street, including: 620 Hearst Ave, 1916 2<sup>nd</sup> St, 1930 2<sup>nd</sup> St, 1920 2<sup>nd</sup> St, 642 Hearst St, 701 University Ave, 1900 4<sup>TH</sup> St and the northbound off-ramp (eastern side) of I-880, the public right-of-ways of 2<sup>nd</sup> St, 3<sup>rd</sup> St and 4<sup>th</sup> Street between Hearst and University Ave, the railroad track bed on 3<sup>rd</sup> St between Hearst Street and University Ave and the strip of land along 3<sup>rd</sup> Street tracks identified as parcel 057-2104-00300 (this is not public right-of-way and has no street address).
- DESIGNATION NOTES: It is important to note that the designation does not include any current above ground buildings, railroad tracks, ties gravel, signal gates, barriers or structures. Designation does include the site itself and all items found subsurface including artifacts from the earliest native habitation, such as but not limited to native tools, ornaments, and human burials. In addition, it would include any Victorian era items, 20<sup>th</sup> century industrial era, including but not limited to artifacts found from the Pioneer Starch & Grist Mill, West Berkeley's first smokestack factory, and the Monarch (later Keystone) Oil Refinery (the Largest refinery of its time east of the Rockies) both of which were located in blocks currently used by Truitt & White Lumber Co. Designation would also include the Strawberry Creek creek bed, both the original course and the current course (both having historical importance ) and native or historic articles found beneath or around Spenger's parking lot (former Willow Grove Park).
- ALSO KNOWN AS: The West Berkeley Shellmound
- OWNERS OF PROPERTY: Frank Spenger, Timothy Hassler, White West Properties, Richard and Charlene DeVecchi, D.J.J.&W. Enterprises(Truitt & White), City of Berkeley, Cal-Trans, Union Pacific Railroad.
- ACTION: Approval of Landmark designation
- APPLICANT: Stephanie Manning

WHEREAS, the significance of Willow Grove Park/ Lower Strawberry Creek play in the history of West Berkeley the natural history of Berkeley, and the native "pre-contact" period of history and

WHEREAS, the West Berkeley Shellmound is most highly significant to native descendants as a sacred burial ground and,

WHEREAS, the Shellmound's cultural resource lies in its age, the fact that it is the oldest and one of the largest mounds established around the bay, that it represents ancient culture, that it was built by the earliest humans in the area and,

WHEREAS, it is recognized that this historical resource has yielded and is likely to yield information important in prehistory or history and,

WHEREAS, the Shellmound plays an important role in the history of the changing shoreline and the change in attitude towards the use of natural resources and,

WHEREAS, on December 6, 1999 a public hearing was opened, duly held and continued to January 3, 2000 and continued again to February 7, 2000 regarding the above property and the Landmarks Preservation Commission, being fully advised, voted to APPROVE the designation of the West Berkeley Shellmound as a City of Berkeley Landmark.

NOW, THEREFORE, be it resolved by the Landmarks Preservation Commission of the City of Berkeley that the decision is deemed final unless it is reversed, upon appeal, by the City Council of the City of Berkeley.

VOTE: 7-0-1

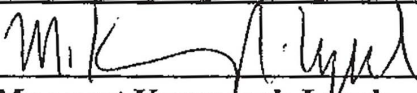
Aye: Edwards, Emmington, Kehlmann, Morse, Olson, O'Malley, Eichenfield

Nay:

Abstain: Dishnica

**DATE NOTICE MAILED: March 10, 2000. THE APPEAL PERIOD EXPIRES (15 DAYS) AT 5 PM: March 27, 2000. As the appeal expires on a Saturday, the deadline is extended to the next business day. Appeal must be filed with City Clerk By This Date.**

ATTEST:

  
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**Margaret Kavanaugh-Lynch**  
Secretary, Landmarks Preservation Commission

cc: City Clerk  
Property Owners  
Redevelopment Agency

**LEGAL LIMITATIONS:**

If you object to this project or any city action or procedure relating to this project application, any lawsuit which you may later file may be limited to those issues raised by you or someone else in the Public Hearing on this project or in written communications presented at or prior to the Public Hearing. The time limit within which to commence any lawsuit or legal challenge related to this (these) application(s) is governed by Section 1094.6 of the Code of civil

Procedure, unless a shorter limitations period is specified by any other provision. Under Section 1094.6, any lawsuit or legal challenge to any quasi-administrative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge which is not filed within that 90-day period will be barred.

**COMMUNICATION ACCESS:**

To request a meeting agenda in large print, Braille, or on audio cassette, or to request a sign language interpreter for the meeting, call (510) 644-6480 (voice) or 644-6915 (TDD); at least FIVE working days notices will ensure availability.

1. Street Address: Three blocks bounded by University Ave., Hearst Ave.,  
I-880 and 4th Street

County: Alameda

City: Berkeley

ZIP: 94710

2. Assessor's Parcel Number:

West side of 2nd St. between  
Hearst and University:

1. 620 Hearst Ave. 057-2105-00105
  2. 1916 2nd St. 057-2105-00203
  3. 1930 2nd St. 057-2105-00401
  4. 1920 2nd St. 057-2105-00503
- (entire block)

East side of 2nd St. between  
Hearst and University (Truitt & White):

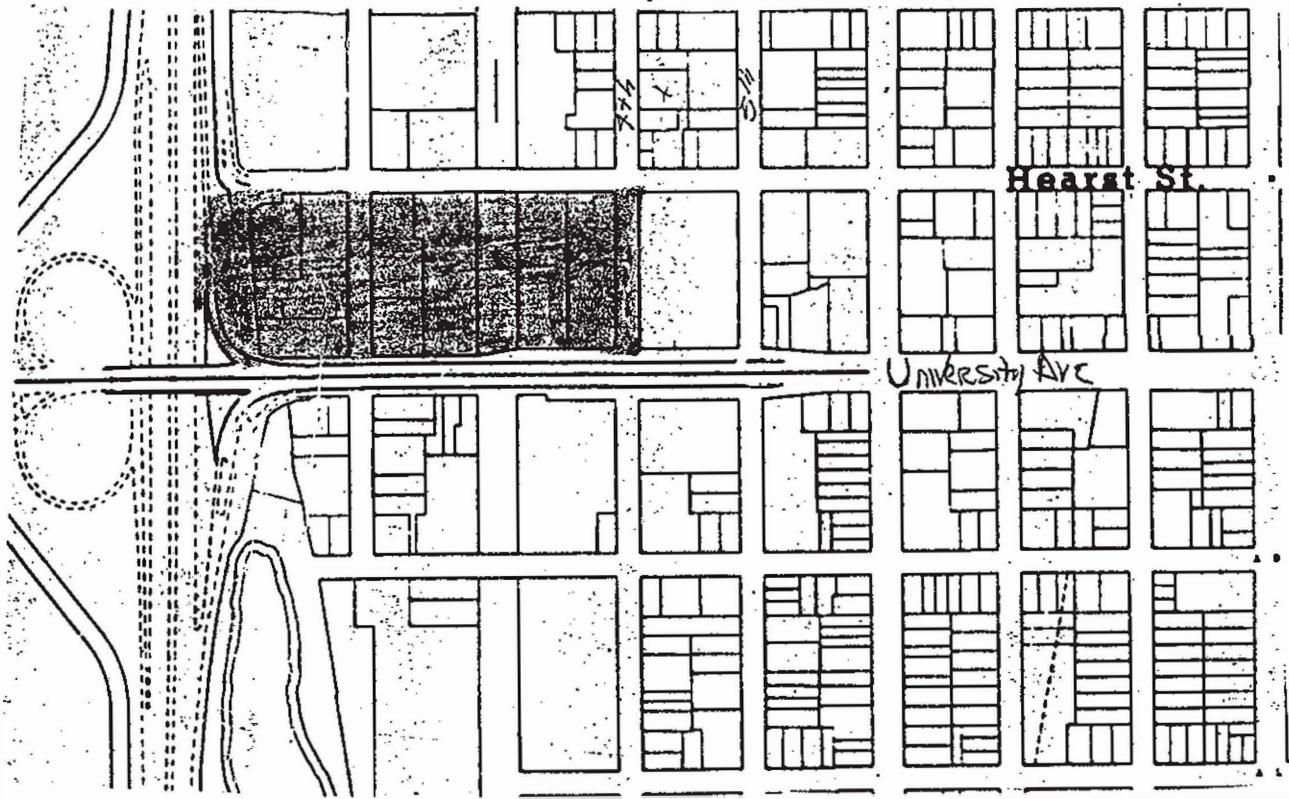
5. 642 Hearst Ave. 057-2104-00203
  6. 3rd Street (strip of land along tracks) 057-2104-00300
- (entire block)

Spenger's Parking Lot:

7. 1900 4th St. 057-2101-00103
  8. 701 University Ave. 057-2101-00500
  9. 3rd St. 057-2101-00600
- (entire block)

10. Northbound off-ramp I-880 (no parcel number)

In addition, this application includes:  
the northbound offramp on the eastern side of the Freeway and  
2nd Street, 3rd Street, the railroad trackbed on 3rd Street and  
4th Street between University Avenue and Hearst Ave.



RESOLUTION NO. 67,353–N.S.

HONOR BERKELEY SHELLMOUND INDIGENOUS SACRED SITE, UC BERKELEY  
RETURN ANCESTRAL REMAINS TO OHLONE PEOPLES

WHEREAS, the Peace and Justice Commission advises the City Council on all matters relating to the City of Berkeley's role in issues of peace and social justice (Berkeley Municipal Code (BMC) Chapter 3.68.070); and

WHEREAS, the City of Berkeley adopted Ordinance 5,985-N.S., the "City of Berkeley Human Rights Ordinance, 1990" adopting a human rights policy based on articles 55 and 56 of the United Nations Charter; and

WHEREAS, on May 19, 2009, the Berkeley City Council passed a resolution to recognize and endorse the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 1; and

WHEREAS, Article 32, 2 of UNDRIP states, "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources"; and

WHEREAS, the Berkeley Shellmound is designated as a City of Berkeley Landmark; and

WHEREAS, the Berkeley Shellmound is held sacred by the Ohlone Peoples, the original peoples of this land; and

WHEREAS, continuous development has altered and desecrated much of the Berkeley Shellmound.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley considers the principles agreed to in the United Nations Declaration on the Rights of Indigenous Peoples to pertain to and apply in the City of Berkeley.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley recognizes that many of these principles have been violated continually and egregiously by European and U.S. settlers and governments in the Bay Area, including the right of indigenous peoples to self-determination, to be free of discrimination, protection from forced assimilation or destruction of their culture, and "the right to maintain, protect, and develop the past, present, and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, (and) ceremonies", and the right to redress, including restitution, developed in conjunction with indigenous people, with regard to such property taken without their free, prior and informed consent.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley affirms that defense of indigenous rights, culture, and dignity are a public value of the City, with benefits that redound to every City resident, and should, therefore carry great weight in the City's land use and development, public planning, landmarking, and zoning.

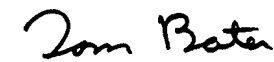
BE IT FURTHER RESOLVED that free, prior, and informed consent of the Ohlone and other indigenous peoples of the region should be integral to any alteration planning for the Berkeley Shellmound sacred site, in accordance with the provisions of the United Nations Declaration on the Rights of Indigenous People, and all parties should follow the principles of the Declaration with respect to the West Berkeley Shellmound site.

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

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

Noes: Bates.

Absent: None.



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Tom Bates, Mayor

Attest:

  
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Mark Numainville, City Clerk