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RIGHTS. IF WE WERE COVERED BY THE TENANTS' ACT AS LIVE-BOARDS, YOU WOULDN'T BE ABLE TO DO THAT.

>> MAYOR J. ARREGUIN: I WANT TO ENCOURAGE YOU TO MEET WITH OUR OFFICE. I WOULD LOVE TO MEET WITH YOU. THANK YOU FOR COMING THIS EVENING. NEXT SPEAKER, PLEASE.

>> IT'S NICE TO SEE SOME OF THE OTHER LIVE-BOARDS. AND I WOULD LIKE TO SUGGEST MANY OF THE ISSUES, ESPECIALLY SECURITY ISSUES, MIGHT WELL HAVE, MIGHT WELL HAD BEEN ADDRESSED HAD PARKS AND WATER APPLIED FOR THE ADDITIONAL PERMIT DECADES AGO, WHICH WOULD HAVE PERMITTED AN ADDITIONAL 50 LIVE-BOARDS. DESPITE THE GRIT REQUIRED TO LIVE THERE, IT IS SUBSIDIZED HOUSING. AND NOT TERRIBLY DIVERSE. AND ASKED FOR DEMOGRAPHICS FROM THE CITY. AND DO NOT WISH TO FILE A FLARE REQUEST. IF WE FOCUS ON WOMEN AND MINORITIES, THAT IS NOT THE MAJORITY OF LIVE-BOARDS. IF WE FOCUS ON WOMEN AND SO-CALLED MINORITIES, WE COULD BALANCE IT OUT. IF I COULD SAY ONE MORE THING. \$360,000 EXTRA EVERY YEAR IN REVENUE IF WE HAD DONE THIS IN 1997, BACK OF THE ENVELOPE JUST UNDER \$10 MILLION EXTRA THE DOCKS WOULD BE FULLY REPAIRED. SOMEBODY SHOULD HAVE USED THE CITY RESOURCES WISELY AND INVESTING THEM. THANK YOU VERY MUCH.

>> MAYOR J. ARREGUIN: THANK YOU.

>> GOOD EVENING, CITY MANAGER, MAYOR AND COUNCIL. I AM MRS. SMITH FROM SOUTH BERKELEY. I HAVE SOME CONCERNS. I CAN'T RECALL

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THE DATE THAT B.A.R.T. FINISHED ITS TRACKS. AND THAT THE THEY DAMAGED THE WATER LINE UNDER THE TRACKS. WE HAVEN'T BEEN ABLE TO WATER SOUTH BERKELEY SINCE THAT HAPPENED. INSIDE THAT DOWNGRADING TENTS THEY HAVE AROUND HERE AND THERE, WHICH TAKES AWAY FROM THE BEAUTY OF MY CITY, FOUR OF THE TREES HAVE DIED BECAUSE THERE IS NO WATER THERE TO KEEP THEM WATERED. AND I THINK SO THIS HAS GONE ON TOO LONG. I'M PLEADING WITH YOU TO LOOK INTO THIS. MAY I HAVE SOME TIME?

>> MAYOR J. ARREGUIN: FORTUNATELY, TIME CAN'T BE SEEDED FOR NON-AGENDA PUBLIC COMMENT BUT I CAN LET YOU WRAP UP YOUR COMMENTS. I'M AWARE OF THE ISSUE AND GOING TO SPEAK WITH B.A.R.T. ABOUT IT THIS WEEK.

>> IT'S GONE ON TOO LONG. I HAVE TRASH IN MY NEIGHBORHOOD, FLOWER BEDS NEED TO BE ATTENDED. I NEED HELP IN MY SOUTH BERKELEY.

>> MAYOR J. ARREGUIN: THANK YOU.

>> MAYOR AND COUNCIL, I'M CHARLES CLARK, A RESIDENT OF DISTRICT SIX HAVING BEEN PRICED OUT OF DISTRICT ONE BY A RENT INCREASE OVER A 14-MONTH PERIOD. I URGE YOU TO MAKE APPROVAL OF NEW HOUSING SUPPLY IN THE CITY, YOUR TOP-PRIORITY FOR 2019. RESTRICTING HOUSING SUPPLY INVOLVES LANDLORDS RAISING RENT. YOU KNOW, A DOUBLE-DIGIT PERCENTAGE NOTICE OF INCREASED RENTS NAILED TO A PORCH COAST IN THE DARK OF NIGHT. A TENANT URGENTLY PACKING

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ON CHRISTMAS DAY TO MOVE TO A CHEAPER APARTMENT IS NOT AN ALTERNATIVE FACT. THIS COUNCIL'S ROLE IN RESTRICTING THAT TENANTS OPTION IS NOT A FALSE NARRATIVE. THIS COUNCIL SHOULD BECOME A SOLUTION TO THE BERKELEY HOUSING SHORTAGE.

>> MAYOR J. ARREGUIN: THANK YOU. I CAN THAT'S ALL THE SPEAKERS. THAT COMPLETES PUBLIC COMMENTS. AND WE'LL HAVE NON-AGENDA PUBLIC COMMENT AT THE CONCLUSION OF THE MEETING. WE'LL MOVE TO THE CONSENT CALENDAR. I WANT TO START THE DISCUSSION. LIKE TO SUGGEST THAT ITEM 17, THIS IS A RESOLUTION DENOUNCING AND OPPOSING WHITE NATIONALIST AND NEO-NAZI GROUPS BE MOVED FOR FURTHER DISCUSSION TO THE CONSENT CALENDAR FOR PURPOSE OF REFERRING TO THE AGENDA AND RULES COMMITTEE. IS THERE ANY OBJECTION TO US TAKING THAT ACTION?

>> I OBJECT.

>> MAYOR J. ARREGUIN: OKAY. WE'LL KEEP IT ON THE ACTION CALENDAR. ITEM 18, ADOPTING THE SANCTUARY CONTRACTOR ORDINANCE. I WOULD LIKE TO REQUEST TO CONTINUE THIS ITEM TO THE FEBRUARY 26, CITY COUNCIL MEETING. THE ACTION I'M RECOMMENDING WE MOVE THIS TO CONSENT TO CONTINUE TO FEBRUARY 26. ITEM 18. THERE IS ADDITIONAL INFORMATION THAT THE CITY MANAGER WILL PROVIDE TO COUNCIL. I THINK WE SHOULD HAVE THAT BEFORE WE TAKE ACTION ON THIS ISSUE. SO I WOULD LIKE TO MOVE THIS TO CONSENT FOR PURPOSES OF CONTINUING TO FEBRUARY 26. ANY OBJECTION TO TAKING THAT

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ACTION? HEARING NONE, THAT WILL BE THE ACTION. AND THAT IS ALL.
THANK YOU. COUNCILMEMBER HARRISON, YOU ARE RECOGNIZED.

>> K. HARRISON: THANK YOU. I WOULD LIKE TO MOVE 16A AND B
TO THE FEBRUARY 19THCALENDAR. WE'RE CLOSE IN DISCUSSIONS BETWEEN
THE COMMISSION ON LABOR AND MEMBERS OF THE ADMINISTRATION. SOME
INCLUDED ITEMS FROM THE COMMISSION ARE ALREADY IN EFFECT. SOME
COULD BE DONE AS CONTRACTS ARE RENEWED. OTHERS ARE NOT LEGALLY
POSSIBLE. BUT I THINK WE'RE CLOSE TO AN AGREEMENT. I WOULD LIKE
TO RECOMMEND MOVE IT TO FEBRUARY 19.

>> MAYOR J. ARREGUIN: 16A AND B, AMENDMENTS TO THE LIVING
WAGE ORDINANCE, WE MOVE THAT TO CONSENT FOR PURPOSES OF
CONTINUING IT TO THE NEXT COUNCIL MEETING ON FEBRUARY 19. ANY
OBJECTION TO US TAKING THAT ACTION? HEARING NONE, THAT WILL BE
THE ACTION.

>> STAFF: I WANT TO CLARIFY, 16B IS A CITY MANAGER AND I
HAVE CONFERRED WITH THE CITY MANAGER AND I'M OKAY WITH IT BEING
MOVED. CITY MANAGER ITEMS I HAVE THE ABILITY TO REQUEST
CONSIDERATION AND WE --

>> MAYOR J. ARREGUIN: ITEM 16A AND B ARE CONTINUED TO
FEBRUARY 19. THANK YOU. COUNCILMEMBER DAVILA, YOU ARE
RECOGNIZED.

>> C. DAVILA: WE DIDN'T TALK ABOUT IT DURING IN MEMORY.

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>> MAYOR J. ARREGUIN: I HADN'T RECEIVED A REQUEST FOR ADJOURNMENT IN MEMORY. WE MOVED PAST CEREMONIAL. IF ANY COUNCIL WOULD LIKE TO REQUEST ADJOURNMENT BE ADDED PER GUIDELINES, SUBMIT THE REQUEST IN WRITING PRIOR TO THE COUNCIL MEETING.

>> C. DAVILA: I WOULD LIKE TO ADJOURN IN MEMORY OF THE PALESTINIANS THAT DIED AND FOR THE VICTIMS IN FLORIDA RECENTLY. AND I WOULD LIKE TO MOVE TO ITEM NUMBER 7, TO THE ACTION CALENDAR.

>> MAYOR J. ARREGUIN: ITEM 7, GUIDELINES FOR DEVELOPING AND WRITING CITY COUNCIL ITEMS.

>> C. DAVILA: YES.

>> MAYOR J. ARREGUIN: THAT'S BEEN PULLED. WE'LL TAKE THAT UP AFTER CONSENT.

>> C. DAVILA: AND ALSO, I JUST WANTED TO STATE FOR THE RECORD THAT I SUPPORT ITEM NUMBER 8. THE S.B.24, AS WELL AS 42, S.B.42, ITEM NUMBER 9. I WOULD LIKE TO SUPPORT, EVEN THOUGH THEY ARE ON THE ACTION. I MEAN, THEY ARE ON THE CONSENT. AND THEN, I THINK THAT WAS IT. THANK YOU.

>> MAYOR J. ARREGUIN: OKAY. THANK YOU. COUNCILMEMBER DROSTE.

>> L. DROSTE: THANK YOU. YES, I WOULD LIKE TO REMOVE ITEMS NUMBER 10 AND 11 FROM THE AGENDA.

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>> MAYOR J. ARREGUIN: OKAY, IS THE AUTHOR, COUNCILMEMBER DROSTE IS MOVING 10 AND 11.

>> L. DROSTE: THANK YOU, I WOULD LIKE TO DRAW YOUR ATTENTION TO SUPPLEMENTAL PACKET TWO TO ADD BUDGET REFERRAL FOR ZERO PROJECT TO END PEDESTRIAN INJURIES AND FATALITIES. HOPEFULLY WHEN WE MOVE THE CONSENT CALENDAR, WE CAN REMOVE THE REVISED MATERIAL IN TWO. AND THAT'S ALL I HAVE.

>> MAYOR J. ARREGUIN: OKAY. THANK YOU. ANY OTHER COUNCILMEMBERS ON THE CONSENT CALENDAR? SEEING NONE, TO SUMMARIZE CHANGES TO THE CONSENT CALENDAR. ITEM 7, GUIDELINES FOR DEVELOPING AND WRITING CITY COUNCIL AGENDA ITEMS WAS MOVED TO THE ACTION CALENDAR AND WILL TAKE IT UP AS THE NEXT AGENDA ITEM AFTER WE VOTE ON CONSENT. 10 AND 11, HAVE BEEN REMOVED BY THE AUTHOR. 16A AND B HAS BEEN MOVED TO THE CONSENT CALENDAR FOR PURPOSE OF CONTINUING THE ITEMS TO FEBRUARY 19. ITEM NUMBER 18, ADOPTING THE SANCTUARY CONTRACTING ORDINANCE HAS BEEN MOVED TO THE CONSENT CALENDAR FOR PURPOSES OF CONTINUING THIS ITEM TO FEBRUARY 26. THOSE ARE THE CHANGES TO THE CONSENT CALENDAR. AND WITH THOSE CHANGES AND THE CONSENT CALENDAR AS WRITTEN IN THE AGENDA, WOULD ANYONE LIKE TO ADDRESS ANY ITEM ON THE CONSENT CALENDAR, NOW IS THE TIME? ANY PUBLIC COMMENT ON A CONSENT ITEM?

>> STAFF: 12 IS STILL ON THE CONSENT CALENDAR?

>> MAYOR J. ARREGUIN: YES, IT IS.

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>> STAFF: SINCE I'M THE ONE THAT USUALLY GOES THROUGH OUR CITY MEETINGS AND PUBLISHES THE LIST OF WHAT MEETINGS ARE COMING UP. I WOULD LIKE TO ASK VISION ZERO GETS ANNOUNCED EARLY SO THE PUBLIC CAN ATTEND. I KNOW ALL OF US CARE DEEPLY ABOUT THIS ITEM. AND WE HAVE SOME COMMENTS AND THINGS WE WOULD LIKE TO SHARE IN THE DEVELOPMENT OF THE VISION ZERO PLAN. SO THAT'S MY REQUEST. CAN WE REALLY MAKE A POINT OF GETTING THAT POSTERED ON OUR CITY WEBSITES? PREFERABLY BY THE FRIDAY BEFORE THE MEETINGS SO THAT WE ALWAYS KNOW WHAT'S COMING UP THE NEXT WEEK. THAT IS MY REQUEST.

>> MAYOR J. ARREGUIN: OKAY. THANK YOU VERY MUCH. ANY OTHER SPEAKERS ON THE CONSENT CALENDAR? TWO MINUTES.

>> GOOD EVENING, MAYOR AND COUNCILMEMBERS. MY NAME IS BEN. A FATHER OF A SIX AND FOUR-YEAR-OLD WHO RIDE THEIR BIKES TO SCHOOL ON A DAILY BASIS. THANK YOU FOR TAKING ACTION TO ADVANCED THE CITY'S SHARED VISION OF ELIMINATING TRAFFIC COLLISIONS IN BERKELEY. WALK BY BERKELEY SUPPORTS THE ACTION BEFORE YOU TONIGHT TO CREATE A TASK FORCE TO HOLD COMMUNITY EVENTS THAT ARE WIDELY PUBLICIZED AND INVOLVE MANY ELEMENTS OF THE COMMUNITY. AND HIRE A DEDICATED VISION ZERO COORDINATOR. THESE ARE ALL IMPORTANT STEPS. BUT THIS ACTION AND YOUR PREVIOUS ACTIONS TO ADOPT THE POLICY IN THE FIRST PLACE AND PRIORITIZE IT IN FOR STAFF TO IMPLEMENT ARE ACTUALLY EASY COMPARED TO WHAT IS TO

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COME. DIVISION ZERO COORDINATOR AND TASK FORCE ARE ONLY EFFECTIVE IF COUNCIL PROVIDES THE POLITICAL SUPPORT AND RESOURCES TO MAKE OUR STREETS SAFE. SO WE'RE GOING TO NEED TO REMOVE ON-STREET VEHICLE PARKING AND SLOW DOWN TRAFFIC, WE'RE GOING TO NEED TO ENFORCE LAWS THAT PREVENT DANGEROUS BEHAVIORS ON OUR STREETS. WE'LL NEED YOUR CONTINUED SUPPORT. WE KNOW THE PUBLIC WORKS DEPARTMENT, PUBLIC HEALTH AND POLICE NEED ADDITIONAL RESOURCES TO ADDRESS THE PROBLEM. SO YOU CAN EXPECT TO BE TAKING THOSE ISSUES UP IN THE BUDGET PROCESS. WALK BY BERKELEY SUPPORTS THE CITY'S VISION ZERO EFFORTS.

>> MAYOR J. ARREGUIN: THANK YOU VERY MUCH.

>> GOOD EVENING, MAYOR AND CITY COUNCIL MEMBERS MY NAME IS LESLIE, I'M A MOTHER OF SEVEN -- ACTUALLY SEVEN AND EIGHT-YEAR-OLD. IT'S HARD TO KEEP TRACK. WE AS A FAMILY WALK, BIKE, TAKE TRANSIT AND DRIVE OCCASIONALLY IN BERKELEY. IT IS A SCARY TIME FOR US TO BE AROUND THE CITY OF BERKELEY AND MOVING AROUND IN NON-CAR FORMS OF TRANSPORTATION. THE CITY'S ATTENTION RECENTLY TURNED TO PEDESTRIAN SAFETY IN THE FIRST THREE WEEKS OF JANUARY, WHEN THERE WERE 11 PEDESTRIAN CRASHES INCLUDING HIGH-PROFILE VICTIMS. AND WHILE THESE CRASHES WERE SHOCKING TO MANY, IT WASN'T SURPRISING TO ME AS SOMEONE WHO MOVES THROUGH THE STREETS DAILY AND LOOKS AT DATA FOR A LIVING. WE ACTUALLY IN BERKELEY HAVE AN AVERAGE OF 4.5 PEDESTRIAN AND BICYCLE CRASHES EACH WEEK.

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AS BEN WAS SAYING THIS IS SOMETHING, WE CAN ACT ON NOW BUT WE NEED TO HAVE THE POLITICAL WILL FROM ALL OF YOU GOING FORWARD. WE'VE SEEN VISION ZERO WORK. IT'S GOING TO REPRESENT A PARADIGM SHIFT IN THE WAY WE DEAL WITH OUR STREETS AND THE WAY THAT WE WORK ON ENFORCEMENT, ON OUT REACH, EDUCATION. VISION ZERO IS A DATA-DRIVEN SYSTEMS APPROACH. IT'S NOT REACTIVE TO DIFFERENT PEOPLE SAYING OH, THIS SPOT IS A PROBLEM, THAT SPOT IS A PROBLEM. IT USES THE DATA TO LOOK AT IT. AND YOU ARE GOING TO HAVE TO MAKE POLITICALLY DIFFERENT DECISIONS AND PUT YOUR NECKS OUT THERE TO SAVE LIVES AND HELP PEOPLE NOT BE INJURED CRITICALLY ON THE STREETS OF BERKELEY. WE SUPPORT THIS MEASURE AND ALSO RESOURCES ARE NEEDED AND POLITICAL WILL IS NEEDED MOVING FORWARD. THANK YOU.

>> MAYOR J. ARREGUIN: THANK YOU.

>> I WOULD LIKE TO TAG ONTO THAT LAST COMMENT. I'M A 50-YEAR-OLD WOMAN WHO HAS NEVER DRIVEN A CAR. IT'S PLAUSIBLE TO GO THROUGH LIFE WITHOUT DRIVING. I'M STILL RIDING MY BIKE. IT'S SCARY WHEN YOU HAVE THAT MANY ACCIDENTS IN BERKELEY IN SUCH A SHORT PERIOD OF TIME. I ALSO USE BERKELEY B.A.R.T. AND HAPPEN TO SEE ONE OF THE ACCIDENTS THAT OCCURRED OUTSIDE NORTH BERKELEY B.A.R.T. AND TALKED TO NEIGHBORS ON THE WAY HOME AND EVERYONE SAID IT'S A PROBLEM WITH THE LIGHTING. AND IT IS. THE STREETS IN BERKELEY ARE SOME OF THE DARKEST I HAVE SEEN. PREVIOUSLY I LIVED

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IN NEW YORK, WHERE IT'S VERY, VERY BRIGHT. MOVING TO SAN FRANCISCO WAS KIND OF FRUSTRATING BECAUSE IT'S DIM. BUT BERKELEY TAKES THE CAKE AND I KNOW WE CAN DO BETTER. WE CAN GET THE L.E.D. LIGHT BULBS RIGHT AGAIN. ESPECIALLY ON THE ROAD ENTERING THE MARINA, IT'S A WONDERFUL BIKE PATHS. THERE IS NO LIGHT AND A LOT OF PEOPLE LIVING ON THE SIDE OF THE ROAD AND IT CREATES A SAFETY ISSUE WHEN THERE IS NO LIGHT. IT'S IMPORTANT ESPECIALLY WHEN YOU HAVE THAT MANY INJURIES. THANK YOU SO MUCH.

>> MAYOR J. ARREGUIN: THANK YOU.

>> HELLO, TOM LENT. PART OF WALK BERKELEY. WHAT BEN AND LIZA SAID, IN ADDITION TO THE PUBLIC SAFETY ISSUES, IT'S CRITICAL TO MEET OUR CLIMATE GOALS. MAKING THE STREETS SAFER FOR WALKING AND BIKING IS CRITICAL FOR THE MODE SHIFTING TO MEET OR CLIMATE COMMITMENTS. THANK YOU.

>> MAYOR J. ARREGUIN: THANK YOU. ANY OTHER SPEAKERS ON THE CONSENT CALENDAR?

>> HELLO. REFERRING IF YOU COULD TAKE A LOOK AT THE MAP ON THE SEWER. EXCUSE ME. YOU WILL NOTE THE PROJECT IS HIGHLY BROKEN UP, LIKE 16 SEGMENTS OF SEWERS. I WOULD LIKE TO POINT OUT THAT'S NOT THE WAY SEWERS WORK. THEY ARE LONG, CONTINUOUS THINGS. IF THE CITY IS INTENDING TO USE THE SEWERS, WHY ARE THEY BEING REPLACED IN SMALL SECTIONS? YOU ARE GOING TO LEAVE AN OLD SECTION NEXT TO A NEW SECTION. I ENCOURAGE YOU TO PULL THAT FROM

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THE CONSENT CALENDAR AND ASK THE CITY MANAGER WHY IT'S BROKEN UP INTO SUCH SMALL PARTS. DOING THE WHOLE THING AT ONCE IS MUCH MORE EFFICIENT. THANK YOU.

>> MAYOR J. ARREGUIN: THANK YOU. ANY OTHER SPEAKERS ON ANY CONSENT ITEM? ANY OTHER SPEAKERS ON THE CONSENT CALENDAR? OKAY, THANK YOU, ALL FOR COMING AND COMMENTS. ANY OTHER COUNCILMEMBERS WANT TO BE RECOGNIZED ON THE CONSENT CALENDAR. MOVED BY VICE MAYOR WENGRAF, SECONDED BY COUNCILMEMBER HAHN. ANY FURTHER DISCUSSION ON THE MOTION? ANY OBJECTION TO THE MOTION? HEARING NONE, THE CONSENT CALENDAR IS APPROVED. WE'RE GOING TO GO TO ITEM 7, PULLED FROM THE CONSENT CALENDAR THIS IS A RECOMMENDATION FROM THE AGENDA AND RULES COMMITTEE WHO EMET TO CONSIDER A SET OF GUIDELINES, I WANT TO CLARIFY THEY ARE GUIDELINES NOT REQUIREMENTS TO GUIDE MEMBERS OF THE COUNCIL IN THE DEVELOPMENT OF CITY COUNCIL ITEMS. I KNOW OUR NEW MEMBERS OF THE COUNCIL WHEN I WAS A NEW MEMBER, GUIDANCE WHAT SHOULD GO INTO DEVELOPING A CITY COUNCIL ITEM. WHAT INFORMATION SHOULD BE INCLUDED IN THE BACKGROUND, HOW YOU CALCULATE FINANCIAL IMPLICATIONS, HOW YOU ARE ABLE TO LOOK AT THE RESOURCE ISSUES, THE OPPORTUNITY QUESTIONS THE CITY AUDITOR MENTIONED. THESE NEED TO BE CONSIDERED AS PART OF THE AGENDA ITEM DEVELOPMENT PROCESS. COUNCILMEMBER HAHN TOOK IT UPON HERSELF TO DEVELOP I THINK A REALLY COMPREHENSIVE PROPOSAL TO HELP COUNCILMEMBERS IN GUIDING

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THEM IN THE DEVELOPMENT OF LEGISLATION. AND OUR GOAL IS TO ASK THE COUNCIL TO ADD THIS AS AN APPENDIX TO THE CITY RULES OF PROCEDURE AND ORDER. NOT ADOPT THEM AS REQUIREMENTS, BUT GUIDELINES. I WANT TO RECOGNIZE COUNCILMEMBER HAHN.

>> S. HAHN: I WANT TO CLARIFY I THINK IT COULD BE CONFUSING BASED ON THE CLERK'S RECOMMENDATION THE ENTIRE COUNCIL RULES OF PROCEDURE AND ORDER IS THAT THE OFFICIAL NAME? ARE BEING READOPTED BUT NO CHANGE TO THEM. THE ONLY CHANGE IS THE ADDITION OF THAT APPENDIX. THERE HAVE BEEN SOME QUESTIONS THAT GO TO ELEMENTS OF EXISTING COUNCIL RULES OF PROCEDURE AND ORDER. BUT THOSE WERE NOT CONSIDERED OR REVIEWED BY THE AGENDA COMMITTEE. I WOULD TEND TO AGREE THAT LIKE OUR COMMISSIONERS MANUAL, WE MIGHT WANT TO TAKE A COMPREHENSIVE LOOK BUT THAT DID NOT TAKE PLACE. THE ONLY THING IS THE ADDITION OF THE APPENDIX. I WANT TO EMPHASIS THE POINT THE MAYOR MADE. IF YOU LOOK AT THE FIRST PAGE OF THE ITEM IT SAYS CLEARLY, THE GUIDELINES DO NOT CREATE A REQUIREMENT THAT ALL ITEMS CONFIRM TO EACH ITEM DISCUSSED. RESEARCHED, PRESENTED AND CONSIDERED AS MIGHT BE WARRANTED PRIOR TO MOVING THEM TO A FULL COUNCIL AGENDA. MAJOR POLICY INITIATIVES LIKELY WARRANT CONSIDERATION OF ALL, LESS SIGNIFICANT REQUIRE LESS CONSULTATION. THERE IS THERE TO MAKE IT VERY CLEAR. IT IS NOT A REQUIREMENT. IT'S A GUIDELINE.

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>> MAYOR J. ARREGUIN: THANK YOU. I WANT TO CLARIFY BEFORE WE CONTINUE IN THIS CONVERSATION, WE DID ADOPT ON CONSENT THE REVISED VERSION OF THE VISION ZERO PROPOSAL. SO THANK YOU FOR THE MEMBERS OF THE PUBLIC WHO CAME THIS EVENING AND YOUR SUPPORT ON THIS INITIATIVE. I WOULD LIKE TO MOVE ADOPTION OF ITEM 7. I CAN MAKE A MOTION. IS THERE A SECOND?

>> SECOND.

>> MAYOR J. ARREGUIN: COUNCILMEMBER HARRISON OR DAVILA. I HAVE 7 AND 2. CALLING ON THE ORDER.

>> C. DAVILA: I'M TRYING TO REMAIN CALM, COOL AND COLLECTED BUT I'M ANNOYED WHEN YOU PULL AN ITEM ALL THE COUNCIL MEETINGS I HAVE BEEN TO WHEN YOU PULL AN ITEM, THE PERSON THAT PULLS THE ITEM GETS TO SPEAK FIRST. HOWEVER, I WAS DISRESPECTED ONCE AGAIN BY ALLOWING YOU GUYS TO GO BEFORE ME. JUST WANTED TO MAKE THAT IN THE RECORD BECAUSE IT'S MORE OF AN ANNOYANCE THAT HAPPENS TO ME ALL THE TIME. THANK YOU VERY MUCH. JUST TO GET ON WITH THE SHOW, BECAUSE IT IS A SHOW, ANYWAY. I PULLED THIS BECAUSE THERE QUITE A FEW THINGS I HAD QUESTIONS ABOUT. IT'S JUST -- I HAVE TO TAKE A MINUTE. YOU GUYS JUST ANNOYED ME SO MUCH RIGHT NOW. AND I CAN'T LET THAT GET TO ME. SO I'M GOING TO SMILE AND PRETEND LIKE NOTHING HAPPENED. I HAD QUITE A FEW QUESTIONS. AND ONE OR YOU KNOW, NOW I CAN'T REMEMBER WHICH ONE. I'M SORRY. I'LL LET KATE GO FIRST. GO AHEAD.

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>> MAYOR J. ARREGUIN: COUNCILMEMBER HARRISON.

>> K. HARRISON: COUNCILMEMBER DAVILA. THANK YOU VERY MUCH.

I HAVE A QUESTION, ONE VERY TECHNICAL DETAIL ON LITTLE LETTER I ON THINGS TO BE INCLUDED IN ITEMS. IT TALKS ABOUT, RELEVANT DOCUMENTATION, IT TALKS ABOUT AWARDS OF CONTRACTS, THE AFFIRMATIVE OF THE LOW BIDDER. THAT MAKES IT SOUNDS LIKE WE'RE DIRECTING THE CITY MANAGER HOW TO WRITE HER ITEMS. I THOUGHT THIS WAS HOW TO WRITE OUR ITEMS. SINCE IT'S NOT IN CHANGES I CAN'T TELL WHAT GOT ADDED. THANK YOU.

>> MAYOR J. ARREGUIN: THANK YOU. COUNCILMEMBER DAVILA.

>> C. DAVILA: YEAH, ON PAGE 43, IT SAYS NOT FULLY FORMED. I WOULD LIKE TO KNOW WHAT THAT MEANS. AND THEN ALSO THERE NEEDS TO BE SOMETHING, I THINK I FOUND IT BUT I WASN'T SURE, ABOUT WHEN THE MAYOR AND THE VICE MAYOR AREN'T PRESENT WHO RESIDES. I BELIEVE IT'S --

>> MAYOR J. ARREGUIN: MOST SENIOR MEMBER.

>> C. DAVILA: THANK YOU. THAT'S WHAT I THOUGHT. AND THEN IT SAYS 24 COUNCIL MEETINGS. BUT THAT DOESN'T INCLUDE THE COMMITTEES.

>> MAYOR J. ARREGUIN: COUNCILMEMBER DAVILA I SPOKE WITH YOUR EARLIER.

>> C. DAVILA: I UNDERSTAND.

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>> MAYOR J. ARREGUIN: THE RULES OF PROCEDURE AND NOT TO APPENDIX B. WE CAN TALK ABOUT THE POTENTIAL AND CHANGES TO THE RULES OF PROCEDURE.

>> C. DAVILA: I WOULD LIKE FOR THEM TO GO INTO THE RECORD. THAT'S WHY I PULLED THE ITEM. I THINK UNFINISHED BUSINESS SHOULD BE HEARD AT THE NEXT COUNCIL MEETING NOT UP TO THE DISCRETION OF THE AGENDA COMMITTEE. THAT'S ON PAGE 52. PAGE 53, WHO REVIEWS WHETHER OR NOT TO KEEP A SUBCOMMITTEE OPEN NEEDS TO BE CLARIFIED AND ON PAGE 56, SHOULD ITEMS REFERRED BY THE AGENDA COMMITTEE BE REVIEWED BY COUNCIL BEFORE OR AFTER THEY GO TO A COMMISSION? PAGE 57, WHAT ARE THE REQUIREMENTS FOR A COMPANION REPORT SO THE PUBLIC IS AWARE. PAGE 58, DEFINE SUBSTANTIALLY NEW AND -- I CAN'T SAY THEY WORD RIGHT NOW, RELATED TO THE PUBLIC, ON PAGE 58. YOU CAN FIGURE IT OUT. SUBMIT A COUNCIL ITEM TO HEAR -- I'M SORRY. AND THEN ON PAGE 60, IT DOESN'T TALK ABOUT THE AUDITOR'S COMMENTS. I THINK THAT NEEDS TO BE ADDED TO THE AGENDA SEQUENCE AND THE ORDER OF BUSINESS. AND AFTER ON PAGE 62, SHOULDN'T APPEALS BE FIVE MINUTES RATHER THAN SEVEN? I THOUGHT THAT'S WHAT THEY WERE. ON PAGE 77, SHOULD THE CITY MANAGER SHOULD NOT DECIDE WHETHER SOMETHING IS A SHORT-TERM REFERRAL OR BASED ON A R.E.V. I JUST HAD A QUESTION ABOUT THAT. THOSE ARE THE COMMENTS I WANTED TO MAKE ON THIS ITEM. THANK YOU VERY MUCH.

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>> MAYOR J. ARREGUIN: OKAY. THANK YOU. COUNCILMEMBER DAVILA, WHEN WE MEET THIS WEEK I'LL GO OVER THESE ISSUES. I THINK YOU RAISED GOOD POINTS ABOUT THINGS WE SHOULD CONSIDER TO BRING BACK AS THE AMENDMENTS TO THE RULE. I APPRECIATE YOUR THOROUGHNESS IN REVIEWING THIS. AND I'M SORRY WE DIDN'T GO TO YOU FIRST, I REALLY AM. COUNCILMEMBER DROSTE.

>> L. DROSTE: THANK YOU. MY QUESTIONS AND STATEMENTS SORT OF ALIGN WITH WHAT THE AUDITOR MENTIONED. MY ONE CONCERN ABOUT THE ITEM WAS AROUND THE COMMON ACTION ITEMS, INCLUDING THE ADOPTING THE FIRST READING OF AN ORDINANCE AND MAKING SURE WE HAVE FULL INFORMATION BEFORE ADOPTING AN ORDINANCE. AND SO HAVING SOME SORT OF LANGUAGE TO ENSURE THAT THE CITY ATTORNEY REVIEWS AN ORDINANCE LANGUAGE BEFORE WE ADOPT IT. I THINK AT LEAST ONE OF THE REASONS WHY, MY UNDERSTANDING WE WENT TO POLICY COMMITTEES TO ENSURE WE WEREN'T INADVERTENTLY BREAKING THE LAW. FOR INSTANCE, IF WE PUT AN ORDINANCE UP FOR A VOTE THAT WASN'T FULLY VETTED. I'M SURE THAT'S WHAT THE INTENTION WAS BUT TO SPECIFY WE HAVE TO HAVE A CITY ATTORNEY REVIEW THE ORDINANCE OR SOME OF THE CHECKS AND BALANCES. OR RATHER THAN ADOPTING AN ORDINANCE OUTRIGHT WE CAN SPECIFY THAT ORDINANCES SHOULD GO TO A POLICY COMMITTEE SO WE CAN GET THAT IDEA OF STAFF AND OPPORTUNITY COST AND FEASIBILITY. FRANKLY, I THINK THAT WOULD BE A BETTER WAY OF POLICY, INSTEAD OF OUT RIGHT ADOPTING IT. THAT

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IS ONE SUGGESTION I WOULD LIKE TO OFFER BUT I WOULD LOVE TO HEAR YOUR FEEDBACK.

>> MAYOR J. ARREGUIN: I AGREE, THESE ARE GUIDELINES. THEY ARE NOT BINDING IN TERMS OF -- I AGREE THAT IF AN ORDINANCE IS TO BE ADOPTED THE CITY ATTORNEY SHOULD BE CONSULTED AND REVIEW THE ORDINANCE. I THINK THAT'S ACTUALLY NECESSARY. IT SHOULD BE REVIEWED TO ENSURE IT'S IN THE LEGAL FORM. I THINK THAT'S AN IMPORTANT THING TO ADD. WE CAN ADD THAT ON PAGE 79 OF THE PACKET UNDER 8 CONSULTATION, OUTREACH, OVERVIEW AND RESULTS AS THE LAST BULLET. IF AN ORDINANCE IS TO BE ADOPTED THE CITY ATTORNEY SHOULD BE CONSULTED. I THINK THAT'S AN IMPORTANT ADDITION. WITH RESPECT TO AUTOMATICALLY ROUTING ORDINANCE WILL REQUIRE AN AMENDMENT TO OUR RULES AROUND POLICY COMMITTEE. I THINK THAT'S SOMETHING WE SHOULD DISCUSS. BUT WE WOULD HAVE TO BRING IT BACK AS A SEPARATE ITEM. COUNCILMEMBER DROSTE, ANYTHING ELSE?

>> L. DROSTE: THAT'S ALL.

>> MAYOR J. ARREGUIN: OKAY. THANK YOU. VICE MAYOR WENGRAF.

>> S. WENGRAF: I WANT TO THANK COUNCILMEMBER HAHN FOR TAKING THE LEADERSHIP ROLE. I HAVE CONCERNS ABOUT THE FISCAL IMPACT. I THINK THAT HISTORICALLY WE HAVE BEEN KIND OF LAX ABOUT LOOKING INTO FISCAL IMPACTS. AND I WOULD LIKE TO SEE US FLESH OUT EXACTLY WHAT WE SHOULD BE INCLUDING IN THOSE FISCAL IMPACTS. VERY OFTEN YOU SEE FISCAL IMPACTS UNKNOWN. AND THEY SHOULD BE

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KNOWN BEFORE WE VOTE ON THINGS. I WOULD LIKE TO SUGGEST WE FLESH THAT OUT A LITTLE BIT. AND I WOULD LIKE TO SUGGEST WE INCLUDE A MODEL, A TEMPLATE IN THIS DOCUMENT SO THAT NEW COUNCIL PEOPLE AND NEW AIDS CAN SEE VISUALLY WHAT A MODEL ITEM SHOULD LOOK LIKE. THAT'S MY SUGGESTION.

>> STAFF: MAY I RESPOND, MR. MAYOR?

>> MAYOR J. ARREGUIN: LET'S WAIT UNTIL AFTER THE COUNCILORS IN THE QUEUE HAVE SPOKEN. COUNCILMEMBER DAVILA.

>> C. DAVILA: I AGREE IT SHOULD BE REVIEWED BY THE CITY ATTORNEY. BUT I THINK THERE SHOULD BE A VERIFICATION THAT EVERYONE CAN SEE SHE'S LOOKED AT IT. SHE NEEDS TO SIGN OFF IN A PUBLIC WAY. I KNOW WHEN I SUBMITTED ITEMS AND THAT'S COME TO QUESTION, MY WORD ISN'T GOOD ENOUGH. SO I THINK THAT WE NEED TO HAVE A WAY TO VERIFY THAT PUBLICLY. SO THAT WE DON'T HAVE TO QUESTION IT.

>> MAYOR J. ARREGUIN: THAT'S A GOOD SUGGESTION. MOST CITIES HAVE A SECTION THAT SAYS APPROVED AS TO FORM AND THE CITY HAS TO SIGN OFF. MAYBE WE CAN CONSIDER THAT.

>> STAFF: I THINK THAT'S AN EXCELLENT IDEA. A LOT OF CITIES HAVE THAT. APPROVED AS TO FORM. SOME SAY APPROVED AS TO FORM AND LEGALITY. THE CAVEAT, THERE NEEDS TO BE SUFFICIENT TIME FOR US TO BE MEANINGFUL LEGAL REVIEWS TO BE ABLE TO SIGN OFF ON IT.

>> MAYOR J. ARREGUIN: OKAY. MADAM, CITY MANAGER.

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>> STAFF: THANK YOU, MR. MAYOR. IN DISCUSSING WHAT THE CITY AUDITOR RECOMMENDED AROUND OPPORTUNITY COSTS, I THINK THAT IS SOMETHING WE NEED TO ADD AS WELL. IT'S NOT FISCAL COST, THESE ARE OPPORTUNITY COSTS, WHAT ARE THE TRADEOFFS TO WHAT WE'RE ASKING TO BE IMPLEMENTED. I THINK IT'S IMPORTANT TO CARVE OUT EXPLICITLY OPPORTUNITY COSTS.

>> MAYOR J. ARREGUIN: I SPOKE TO THE CITY AUDITOR ABOUT THIS. FOLLOWING UP ON THE AUDIT AND MAKE SURE THE SPECIFIC RECOMMENDATIONS MADE TO THE CITY COUNCIL WE'RE CONSIDERING THOSE. WHAT I SAID TO THE CITY AUDITOR IS, IT'S HARD FOR US TO QUANTIFY THIS, WE NEED YOUR HELP AND THE HELP OF STAFF TO GIVE US THE INFORMATION AROUND WHAT ARE THE TRADEOFFS. IF WE DID THIS WHAT ARE THE FINANCIAL IMPLICATIONS, OPERATIONAL IMPLICATIONS. I THINK WE NEED YOUR GUIDANCE TO HELP US COMPLETE THAT INFORMATION.

>> STAFF: CORRECT. WE WERE SPECIFICALLY ASKING THAT IT IS SPELLED OUT IN THE GUIDELINES. THAT OPPORTUNITY COSTS ARE SOMETHING THAT WE WANT TO ACTUALLY BE FOCUSED ON.

>> MAYOR J. ARREGUIN: OKAY. THANK YOU. COUNCILMEMBER DAVILA.

>> C. DAVILA: YEAH, I THINK THOSE OPPORTUNITY COSTS EVEN THOUGH THEY ARE OPPORTUNITY COSTS BUT THEY SHOULD BE DOCUMENTED

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AS WELL. BECAUSE OTHERWISE, IT NEEDS TO BE REALITY-BASED AND HAVE DOCUMENTATION TO SUPPORT IT. THANK YOU.

>> MAYOR J. ARREGUIN: THANK YOU. COUNCILMEMBER HAHN.

>> S. HAHN: THANK YOU SO MUCH FOR ALL THESE GOOD SUGGESTIONS. I'M GLAD EVERYBODY FINALLY GOT A CHANCE TO READ IT. IT'S BEEN A LOT OF AGENDAS. IT'S GREAT TO FINALLY HAVE THE INPUT. ON THE FISCAL IMPACTS, COUNCILMEMBER WENGRAF, YOU SPOKE TO THAT. AND I THINK THE OPPORTUNITY COSTS OR THE POTENTIAL SOURCES OF FUNDS ALSO GOES TO THE FISCAL IMPACTS. I THINK WE CAN FILL IT OUT SOMEWHAT. BUT I WANT TO SAY THERE IS KIND OF A FINE BALANCE. WE'RE TALKING ABOUT THINGS THAT HAVEN'T BEEN APPROVED. I WOULDN'T WANT TO ASK STAFF TO DO A FULL ANALYSIS BECAUSE THEN THEY ARE USING STAFF TIME ON SOMETHING THAT MIGHT NOT EVER HAPPEN. THAT'S WHY THE LANGUAGE IS REVIEW THE RECOMMENDED ACTIONS POTENTIAL. IT WAS MEANT TO SUGGEST THAT A CONVERSATION WAS HAD, MAYBE SOME BALLPARK SENSE OF COSTS. THERE IS ANOTHER ITEM, THAT TALKS ABOUT IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT. DISCUSS HOW THE ACTIONS WOULD BE IMPLEMENTED AND ENFORCES, WHAT STAFFING, INTERNAL OR VIA CONTRACTORS OR CONSULTANTS ARE REQUIRED. THERE IS A COROLLARY TO THE FISCAL IMPACTS. I THINK WE CAN PROVIDE A LITTLE MORE DETAIL. I MIGHT ASK YOU, MADAM CITY MANAGER, I DON'T WANT TO RECOMMEND YOU GUYS

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DO A LEVEL OF WORK THAT IS NOT APPROPRIATE FOR SOMETHING THAT HASN'T BEEN PASSED.

>> STAFF: OUR INITIAL INTENT WHEN WE PROVIDED THE CONCEPT WAS TO PROVIDE A HIGH-LEVEL FINANCIAL OVERVIEW. GET AS CLOSE AS WE CAN TO WHAT THE FINANCIAL IMPACTS WOULD BE. IT'S IMPORTANT TO LOOK AT THE PRIORITIES ALREADY AUTHORIZED AND WHAT WILL BE TRADED OFF AS A RESULT. THAT WILL BE THE PERSPECTIVE IN THE OPPORTUNITY COST AS WELL AS FINANCIAL IMPACT.

>> S. WENGRAF: THE FISCAL IMPACT SAYS REVIEW. THESE ARE SUGGESTIONS, NOT A REQUIREMENT. THE SUGGESTION IS REVIEW THE RECOMMENDED ACTIONS POTENTIAL TO GENERATE FUNDS FOR THE CITY FOR THE SHORT AND LONG-TERM, AS WELL AS THE POTENTIAL DIRECT AND INDIRECT COSTS. WE CAN ADD AND THE POTENTIAL OPPORTUNITY COSTS AND SOURCES OF FUNDING.

>> STAFF: I MEAN IT'S KIND OF BROAD-BRUSH STROKE. I'M NOT SURE WE WANT TO ENUMERATE MORE SPECIFICALLY. BUT I WILL TAKE THE ADVICE OF COUNCILMEMBER WENGRAF WHO BROUGHT FORWARD.

>> STAFF: THE LAST SENTENCE, TO SAY THE OPPORTUNITY COST AND IMPACTS TO EXISTING PRIORITY SAID. SO THAT WE UNDERSTAND WHAT WE'RE TRADING OFF.

>> S. WENGRAF: WE ENVISIONED THAT WE WOULD NEED TO GO OUT AND GET ADDITIONAL FUNDING. IT'S NOT ALSO A ZERO-SUM GAME. I WOULD LIKE TO CONSIDER HOW WE MIGHT OBTAIN ADDITIONAL FUNDING TO

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NOT DISPLACE THE OTHER. I WILL WORK ON VERY QUICKLY, ON THE LANGUAGE THERE. BUT I WANT TO GO TO THE CITY ATTORNEY CERTIFICATION. THESE GUIDELINES ARE SUGGESTED GUIDELINES. AND IF WE'RE TRYING TO CREATE A REQUIREMENT, I'M NOT SURE IT GOES IN HERE. WE COULD JUST SAY WE SUGGEST THAT IF YOU HAVE AN ORDINANCE, YOU GET THE CITY ATTORNEY CERTIFICATION. OR WE MIGHT DECIDE TO PLACE IT SOMEWHERE ELSE. I'M FINE WITH INCLUDING IT NOW. WE CAN ALSO MAKE A REQUIREMENT LATER.

>> MAYOR J. ARREGUIN: I THINK WE SHOULD INCLUDE IT BUT IT MAY REQUIRE SEPARATE RULES OF PROCEDURE. WE SHOULD PROBABLY DISCUSS IT AT THE AGENDA AND RULES COMMITTEE. THERE ARE A NUMBER OF POTENTIAL RULE CHANGES DISCUSSED IN THE CONTEXT OF THIS ITEM. WE SHOULD TAKE THAT UP WITH THE COMMITTEE AND BRING IT BACK FOR ACTION. MADAM CITY ATTORNEY?

>> STAFF: SOUNDS LOO LIKE A GOOD IDEA.

>> S. WENGRAF: ON ITEM 8 ON PAGE 79 OF THE PACKET, THE LAST BULLET POINT UNDER 8 OR HIGHER UP IF YOU WANT THAT, WOULD SAY, IF AN ORDINANCE IS TO BE ADOPTED, THE CITY ATTORNEY SHOULD BE CONSULTED AS TO FORM AND LEGALITY? FORM AND LEGALITY AND I CAN SAY AND CERTIFICATIONS OF FORM?

>> MAYOR J. ARREGUIN: APPROVED.

>> STAFF: I DON'T KNOW.

>> MAYOR J. ARREGUIN: THE CITY TO REVIEW --

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>> STAFF: AS TO FORM AND LEGALITY.

>> MAYOR J. ARREGUIN: THAT'S IT.

>> S. WENGRAF: AND THEN FISCAL IMPACTS, TRY NOT TO HAVE SUCH A LONG RUN-ON SENTENCE. WE'LL KEEP WHAT WE HAVE, REVIEW THE RECOMMENDED ACTION, POTENTIAL TO GENERATE FUNDS FOR THE CITY IN SHORT AND LONG-TERM AND DIRECT AND INDIRECT COST. ALSO CONSIDER OPPORTUNITY COSTS AND POTENTIAL, WHAT DO YOU SAY? DISPLACEMENTS?

>> STAFF: POTENTIAL IMPACTS TO EXISTING PROJECTS.

>> S. WENGRAF: AS WELL AS POTENTIAL SOURCES FOR FUNDING.

>> MAYOR J. ARREGUIN: OKAY.

>> S. WENGRAF: DOES THAT WORK FOR EVERYBODY? I THINK ADDING ANOTHER SENTENCE WOULD BE OKAY.

>> MAYOR J. ARREGUIN: YOU ARE PUTTING THAT OUT THERE.

COUNCILMEMBER HARRISON IS NEXT, UNLESS THERE IS ANYTHING ELSE YOU WOULD LIKE TO ADD, COUNCILMEMBER HAHN? OKAY. COUNCILMEMBER HARRISON.

>> K. HARRISON: I WOULD LIKE TO DISCUSS THE OPPORTUNITY COST MORE RATHER THAN VOTING ON IT NOW. I THINK IT'S CONFUSING. THERE MIGHT BE DISPLACED WORK BEING DONE BY SOMEONE TEMPORARILY. FOR EXAMPLE, WITH THE CERTIFICATION OF PATHWAYS, IT REQUIRES MANY AND IT TAKES TIME FOR THE STAFF. BUT IT ALSO MEANS RESOURCES AREN'T SPENT ON OTHER THINGS. I DON'T THINK WE'RE REFLECTING THE NUANCE HERE. THIS IS WHAT I DO FOR A LIVING, IS

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WORK WITH ME ON HOW TO DESCRIBE LEGISLATION. I WANT IT MORE
THOUGHT OUT. I'M FEELING UNCOMFORTABLE LIKE WE'RE SUDDENLY DOING
IT.

>> S. HAHN: THAT SIMILAR ADDITION OR ALL THE AMENDMENTS?

>> THAT ONE IN PARTICULAR.

>> STAFF: IT'S UP TO THE AGENDA COMMITTEE IF THEY WANT TO
CONSIDER IT LATER. I'M NOT COMMITTED TO IT. I THINK IT'S A GOOD
IDEA. BUT I ALSO AGREE IT COULD BE INTRODUCED MORE
COMMUNICATIONS. I'M HAPPY TO INCLUDE IT OR NOT.

>> MAYOR J. ARREGUIN: MADAM CITY MANAGER.

>> STAFF: THANK YOU, MR. MAYOR. ONE OF THE ISSUES THAT WE
DEAL WITH ON A REGULAR BASIS IS HOW TO ADDRESS YOUR PRIORITIES
IN A WAY THAT WE ARE RESPONSIVE AND MEET YOUR EXPECTATIONS. SO
WITHOUT TAKING INTO CONSIDERATION OPPORTUNITY COSTS AND THE
TRADEOFFS TO INTRODUCING NEW PRIORITIES ON TOP OF MY PRIORITIES
MAKING IT A CHALLENGE FOR US TO MEET YOUR EXPECTATIONS, WE NEED
TO BUILD IN SOMETHING THAT ALLOWS US TO ADDRESS THE TRADEOFF FOR
ADDING ON NEW INITIATIVES ON TOP OF EXISTING INITIATIVES WITHOUT
TAKING INTO CONSIDERATION THE IMPACTS ON THE EXISTING PRIORITY
SAID AND STAFF.

>> MAYOR J. ARREGUIN: BUT IF IT'S NOT, IT'S AN R.B.
PROCESS. IT DOESN'T MEAN IT'S GOING TO BE ADOPTED BY THE COUNCIL
OR RANKED HIGHLY AND MADE PART OF THE STRATEGY PLAN. I THINK OF

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THE COMMITTEE PROCESS IS TO HAVE THE DISCUSSION WITH STAFF TO DO THE ANALYSIS. IN FACT, IT WAS IN THE GUIDELINES.

>> STAFF: NOT EVERYTHING GOES TO R.R.B.

>> MAYOR J. ARREGUIN: ORDINANCES DO. MOST SUBSTANTIVE ITEMS GO TO THE POLICY COMMITTEE.

>> STAFF: ARE THEY GOING TO GO DIRECTLY TO A POLICY COMMITTEE, I THINK THAT WAS COUNCILMEMBER DROSTE'S QUESTION.

>> MAYOR J. ARREGUIN: IN PRETTY MUCH ALL CASES ORDINANCES GO TO A POLICY COMMITTEE. I DON'T KNOW WHEN IT WOULDN'T.

>> STAFF: THE OPPORTUNITY COSTS, WE CAN OUTLINE THOSE REGARDLESS OF YOU HAVING IT STATED IN YOUR GUIDELINES IF THAT IS A PROBLEM. I THINK MOVING FORWARD FOR US TO BE EFFECTIVE WE HAVE TO OUTLINE WHAT THE TRADEOFFS ARE FOR LOOKING AT NEW PRIORITIES ON TOP OF EXISTING PRIORITIES.

>> MAYOR J. ARREGUIN: UNDERSTOOD. WE NEED A LIST OF WHAT THOSE PRIORITIES ARE IN THE CONTEXT OF DOING THE ANALYSIS. I THINK THIS ISSUE WE NEED TO TALK ABOUT A LITTLE BIT MORE. I RECOMMEND WE REFER THIS OPPORTUNITY COST QUESTION TO THE AGENDA COMMITTEE FOR US TO HAVE A MORE SUBSTANTIVE DISCUSSION AND HAVE MORE RULES IN THE FUTURE AROUND THE ISSUE. COUNCILMEMBER KESARWANI.

>> R KESARWANI: THANK YOU. IN RESPONSE TO COUNCILMEMBER HARRISON CONCERN ABOUT THE OPPORTUNITY COSTS. THESE ARE

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GUIDELINES, AND I APPRECIATE THE COMMENTS OF THE CITY AUDITOR, AS WELL AS THE CITY MANAGER. BUT I THINK THAT'S SOMETHING WE NEED TO CONSIDER WHAT WE MIGHT NOT BE ABLE TO DO AS A RESULT OF A NEW INITIATIVE. BUT I'M ALSO FINE WITH REFERRING THIS TO THE AGENDA COMMITTEE FOR FURTHER DISCUSSION IF THAT'S WHAT THE MAJORITY WOULD LIKE TO DO.

>> MAYOR J. ARREGUIN: THANK YOU. COUNCILMEMBER DAVILA.

>> C. DAVILA: APPARENTLY, THIS WAS A GOOD ITEM TO PULL SINCE WE HAD SO MUCH DISCUSSION. ANYWAY, I THINK I AGREE WITH COUNCILMEMBER HARRISON AS FAR AS THE OPPORTUNITY COSTS. TECHNICALLY EVERYTHING THAT WE HAVE DONE SO FAR HAS HAD AN OPPORTUNITY COST AND THE CITY HAS TOLD US ABOUT WHAT THEY ARE GOING TO FOREGO. SO I'M KIND OF -- YOU KNOW, IT'S SOMETHING WE NEED TO CONSIDER. AND I THINK THAT AS A COUNCIL WE SHOULD DISCUSS IT. NOT JUST ONE LITTLE COMMITTEE. BECAUSE -- YEAH. I JUST WANT TO PUT THAT INTO THE RECORD. THANK YOU.

>> MAYOR J. ARREGUIN: OKAY. COUNCILMEMBER HAHN.

>> S. HAHN: THINKING ABOUT THIS MORE, THIS IS THE FIRST TIME THIS IDEA WAS BROUGHT FORWARD. I'M FEELING MORE STRONGLY IT WOULD BE GOOD TO SEND TO THE COMMITTEE AGENDA FOR CONVERSATION. WITH THE INTENT IT WOULD COME BACK TO US AS A FULL COUNCIL. IT WOULD JUST BE A QUESTION THAT IS PRELIMINARY EXPLORED. IN THINKING ABOUT THIS, I DON'T THINK IT'S THE ROLE OF ONE

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COUNCILMEMBER WHO COMES UP WITH A CONCEPT TO DECIDE WHAT THAT WOULD DISPLACE. THAT SEEMS TO ME TO BE A FULL COUNCIL FUNCTION TO DECIDE THAT AFTER THEY HAVE ADOPTED IT. I THINK IT WOULD BE QUITE -- SORT OF PUTTING THE CART BEFORE THE HORSE FOR ONE COUNCILMEMBER TO SAY, THIS IS THE PROGRAM THAT I'M ADOPTING AND THIS IS THE PROGRAM THAT I THINK WE SHOULD DISPLACE. I WOULD RATHER BRING IT, HAVE THE ITEM ADOPTED. IT MAY BE CHANGED. COUNCIL MAY REJECT IT. LET'S SAY IT'S ADOPTED, WE HAVE THE R.B.B. PROCESS, WHICH IS ESSENTIALLY THE PROCESS THAT I BELIEVE COUNCILMEMBER DROSTE BROUGHT TO US THAT HAS BEEN QUITE GOOD AT GETTING US TO DO THE SORTING AND WHAT STAYS AT THE TOP. I THINK THERE COULD BE A BROADER DISCUSSION BECAUSE THAT'S AN ORDERING OF COUNCIL REFERRALS AND DOESN'T GO TO THINGS THAT ARE ALREADY BEING DONE BY THE CITY THAT HAS BEEN DISPLACED. I FEEL LIKE I WOULD LIKE TO PUT THIS AT THE AGENDA COMMITTEE. I THINK NOT SURE THIS IS THE RIGHT JUNCTURE OR PERSON TO BE DOING THAT ANALYSIS. I'M NOT GOING TO INCLUDE THAT CONCEPT. BUT I WILL --

>> MAYOR J. ARREGUIN: WE CAN REFER AS PART OF THE MOTION TO THE AGENDA AND RULES COMMITTEE.

>> S. HAHN: I WOULD LIKE TO REFER THE QUESTION. I THINK IT'S A GOOD QUESTION FOR THEM TO CONSIDER AND COME BACK WITH A RECOMMENDATION IF THEY HAVE ONE. AND BUT I WILL INCLUDE THE

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LANGUAGE ABOUT LOOKING FOR AT POTENTIAL SOURCES OF FUNDING TO CONSIDER.

>> MAYOR J. ARREGUIN: LEGAL FORM.

>> S. HAHN: YES. THAT ONE UNCHANGED FOR HOW WE READ IT IN.

>> MAYOR J. ARREGUIN: OKAY. COUNCILMEMBER DROSTE.

>> L. DROSTE: THANK YOU FOR THE CLARIFYING COMMENTS. I THINK WE'RE GETTING TO A GOOD PLACE. I WANTED TO FOLLOW-UP ON THE MAYOR'S COMMENTS AROUND ORDINANCES BEING REFERRED TO COMMITTEES, THE VAST MAJORITY OF ORDINANCES GETTING REFERRED TO A COMMITTEE. AT LEAST THAT'S THE INTENTION. CAN WE STATE THAT IN THE ITEM UNLESS IT'S HEALTH OR LIFE SAFETY?

>> MAYOR J. ARREGUIN: I WOULD LIKE TO REFER THAT TO THE AGENDA COMMITTEE AS WELL. THAT WOULD NEED TO BE AN AMENDMENT TO THE GUIDELINES. OR THE POLICY COMMITTEE. ADOPTED A SET OF GUIDELINES ON DECEMBER 11, AROUND ESTABLISHING COMMITTEES, FOCUSING THE COMMITTEES, WHAT ITEMS GET ROUTED TO A COMMITTEE. THAT WOULD NEED TO BE AN AMENDMENT TO THE GUIDELINES. MAYBE WE CAN REFER THAT TO THE AGENDA COMMITTEE. COUNCILMEMBER BARTLETT.

>> B. BARTLETT: WE DON'T EMBRACE TOO MUCH FRICTION BETWEEN THE CREATIVE IMPULSE OF AN ELECTED AND THE PEOPLE AND WHAT CAN WE DO AS A BODY. I'M WORRIED WE MAYBE LAIRING ON TOO MANY BARRIERS BETWEEN DELIBERATING ON AN IDEA. I WANT TO BE ON THE

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RECORD FOR URGING A BIT OF CAUTION WHEN OUR NEW-FOUND ENERGY TO REVIEW EVERY IOTA OF EVERYTHING WE'RE GOING TO DO NOW.

>> MAYOR J. ARREGUIN: THE MOTION AND WE'RE GOING TO GO TO PUBLIC COMMENT. THE MOTION IS TO ADOPT ITEM 7 WITH SOME AMENDMENTS, THE AMENDMENT WOULD BE ON PAGE 79 IN THE PACKET UNDER SECTION 8, CONSULTATION/OUTREACH OVERVIEW AND RESULTS. TO ADD A BULLET AT THE BOTTOM OF THE SECTION WHICH WOULD READ, IF AN ORDINANCE IS TO BE ADOPTED, COMMA, THE CITY ATTORNEY SHOULD BE CONSULTED TO FORM AND LEGALITY. UNDER SECTION 12 FISCAL IMPACT, WHICH WOULD READ, COUNCILMEMBER HAHN.

>> S. HAHN: REVIEW THE RECOMMENDED ACTION TO GENERATE FUNDS OR SAVINGS FOR THE CITY IN THE SHORT AND LONG-TERM AND POTENTIAL DIRECT AND INDIRECT COST AND EXPLORE POTENTIAL SOURCES OF FUNDING.

>> MAYOR J. ARREGUIN: I REFERRING TO THE AGENDA AND RULES COMMITTEE THE ISSUE AROUND ANALYZING AND QUANTIFYING AND PRESENTING THE OPPORTUNITY COST ASSOCIATED WITH ORDINANCES, CODE AMENDMENTS. I WELCOME CITY AUDITOR TO BE PART OF THAT DISCUSSION. IT'S AN IMPORTANT DISCUSSION TO HAVE. THAT WILL BE SENT TO COMMITTEE, AS WELL AS TO REFER A POTENTIAL AMENDMENT TO THE RULES OF PROCEDURE REQUIRES ALL ORDINANCES BE AUTOMATICALLY REFERRED TO A COMMITTEE. LET'S GO TO PUBLIC COMMENT ON ITEM 7,

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WOULD ANYONE LIKE TO ADDRESS THE COUNCIL ON THAT ITEM? NOW IS THE TIME.

>> LISTENING TO THE DISCUSSION AND THE BACK AND FORTH HERE, IT SEEMS LIKE THIS ISN'T QUITE READY FOR PRIME TIME YET AS WE MIGHT SAY. I THINK IT SHOULD GO BACK AND BE REVIEWED IN MORE DETAIL. AND COME TOGETHER IN A FINAL FORMAT, AS EMBARRASSING AS THAT MIGHT BE IN THE PRESENTATION. I THINK THAT SHOULD BE THE STEP. THANK YOU.

>> MAYOR J. ARREGUIN: OKAY. THANK YOU. ANY OTHER SPEAKERS ON ITEM 7?

>> YES, PLAYING OFF THE LAST COMMENT. WHAT IS READY FOR PRIME TIME IS ANY PROPOSAL COMES FROM THE COUNCIL TO TAKE ACCOUNT OF THE FACT THERE ARE TRADEOFFS. AND I THINK LOCATING THAT IN FISCAL IMPACTS WOULD BE THE WRONG THING TO DO BECAUSE YOU NEED TO THINK ABOUT THE IMPACT OF AN ACTION ON MORE THAN JUST THE DOLLARS AND CENTS. IT SHOULD BE FOR EXAMPLE, STAFFING AND OTHER PRIORITIES AND OTHER THINGS. FRANKLY, WHEN I WAS READING THE DOCUMENT I WAS THINKING IF YOU HAVE TO PICK ONE PLACE, MORE LIKE IN ITEM 10. AND THE IDEA BEING THAT YOU ARE THINKING OF THE BROAD PICTURE AS TO WHAT THE IMPACT OF YOUR ACTIONS WILL BE. I THINK THAT IDEA HAS COME.

>> MAYOR J. ARREGUIN: OKAY. THANK YOU. MADAM CITY AUDITOR.

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>> STAFF: I WANT TO THANK YOU ALL FOR TAKING SOME OF MY THOUGHTS INTO CONSIDERATION. ON THIS SPECIFIC ITEM OF OPPORTUNITY COSTS AND I WILL HAPPILY HAVE DISCUSSIONS AT THE, IS IT THE RULES COMMITTEE THIS IS BEING REFERRED TO? MY PERSPECTIVE IS THAT AT SOME POINT IN TIME, SO I'M NOT WEDDED TO WHEN THAT DISCUSSION ABOUT HOW THE TRADEOFFS ARE IMPACTED, WHAT THE OTHER WORK THAT HAS TO GET PUT ON HOLD OR DE-PRIORITIZE HAPPEN. I'M NOT ENTIRELY SURE. THAT'S UP TO THIS BODY TO DECIDE. BUT THE FACT IT'S CONSIDERED WHEN AN ORDINANCE, BEFORE THE ORDINANCE GETS PASSED. BECAUSE THERE ARE IMPACTS AFTER AN ORDINANCE GETS PASSED. SO MY -- THAT ULTIMATELY IS WHAT I THINK SHOULD BE DONE. THAT IS CONSIDERED BEFORE THE ORDINANCE IS PASSED AND THAT IS WHAT THE HEART OF THE RECOMMENDATION IS BEHIND THE CODE ENFORCEMENT AUDIT.

>> MAYOR J. ARREGUIN: ANY OTHER SPEAKERS ON ITEM 7? THANK YOU FOR YOUR COMMENTS. COUNCILMEMBER DAVILA, BEFORE WE VOTE.

>> C. DAVILA: I WANT TO STATE WHEN THE CITY ATTORNEY REVIEWS AS TO FORM AND LEGALITY THAT IT REQUIRES A SIGNATURE. I DON'T KNOW HOW THAT WORKS.

>> MAYOR J. ARREGUIN: THAT'S A RECOMMENDATION. WE'LL HAVE TO TALK. THE CITY MANAGER I GUESS WILL TALK TO THE CITY ATTORNEY AND CONSIDER THE INPUT HOW WE OPERATIONALLIZE IT. I THINK THAT'S A GOOD SUGGESTION, COUNCILMEMBER. CITY MANAGER?

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>> STAFF: WE'LL DISCUSS HOW WE IMPLEMENT.

>> MAYOR J. ARREGUIN: THE AMENDMENT IS ASKING, THESE ARE GUIDELINES FOR COUNCILMEMBERS DRAFTING ITEMS. YOU SHOULD THINK ABOUT CONSULTING THE CITY MANAGER, THE CITY ATTORNEY, INCORPORATING THESE PARTICULAR ISSUES IN YOUR ITEMS. THINK ABOUT HOW YOU TALK ABOUT IMPACTS. I MEAN, THESE ARE GUIDELINES. WE'LL HAVE TO OPERATIONALIZE SOME OF THESE THINGS. I THINK THAT'S INPUT FOR THE CITY MANAGER AND CITY ATTORNEY. OKAY, COUNCILMEMBER WENGRAF.

>> S. WENGRAF: I THINK THAT UNDER 3, RECOMMENDATIONS, THERE IS A WHOLE LIST OF POSSIBLE RECOMMENDATIONS. INSTEAD OF IT BEING ADOPT FIRST READING OF AN ORDINANCE, IT SHOULD BE CONSIDER ADOPTION OF AN ORDINANCE. BECAUSE ACTUALLY, WE'RE WHAT WE'RE TALKING ABOUT HERE IS DISCUSSING AND DOING A BIT OF WORK BEFORE WE TAKE THAT ACTION. SO I WOULD SUGGEST THAT. AND THE SAME WITH EVERYTHING ELSE. I THINK THAT THE WHOLE THRUST OF THESE GUIDELINES SHOULD BE THAT WE, AS A COUNCIL, HAVE TO CONSIDER THE RAMIFICATIONS OF OUR SUGGESTED ACTION BEFORE WE ACTUALLY TAKE ACTION. AND SO I WOULD LIKE TO MODIFY THE LANGUAGE TO SUGGEST THAT DIRECTION.

>> STAFF: JUST TO PUT THIS IN CONTEXT. PROPOSED ORDINANCE, PROGRAM POLICY, GO TO A POLICY COMMITTEE. AT THE POLICY COMMITTEE, WE'RE GOING TO HAVE THIS DISCUSSION WITH STAFF, DO

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THE ANALYZE, WHEN THE RECOMMENDATION IS MADE TO COUNCIL IT WILL HAVE THAT IN THERE. AND WE CAN DECIDE IF WE ADOPT IT OR NOT. ONCE IT'S ADOPTED IT GOES TO THE R.B.B. PROCESS. IF IT'S HIGHLY RANKED, ALIGNING BUDGETARY RESOURCES, THEN IT'S IN THE STRATEGIC PLAN. I THINK IT'S IMPORTANT TO KEEP THAT IN CONTEXT. THERE IS GOING TO BE THE ANALYSIS. IT'S GOING TO HAPPEN AT THE POLICY COMMITTEE. THESE ARE GUIDELINES. I JUST WONDER HOW MUCH DO WE NEED TO GET INTO THE DETAILS WHEN IT'S INTEGRATED IN THE PROCESS.

>> STAFF: ARE YOU SUGGESTING THE RECOMMENDATION SHOULD BE REFER TO XYZ POLICY COMMITTEE?

>> MAYOR J. ARREGUIN: RIGHT NOW IT, COULD BE SHORT-TERM REFERRAL, REFER TO THE CITY MANAGER, AND THEN THAT'S AS YOU REMEMBER THE AGENDA RULES COMMITTEE, IT'S ON THE AGENDA AND WE VOTE TO POLICY COMMITTEE. IT GOES STRAIGHT TO THE COMMITTEE.

>> STAFF: WHAT I'M SUGGESTING IS THAT THE RECOMMENDATION BE TO REFER IT TO A POLICY COMMITTEE. YOU ARE SAYING WE DON'T HAVE TO BECAUSE WE'RE GOING TO DO IT ANYWAY?

>> MAYOR J. ARREGUIN: YEAH. COUNCILMEMBER HAHN.

>> S. HAHN: FIRST OF ALL, I'M DELIGHTED AFTER GOING FROM NO GUIDANCE TO A WHOLE LOT OF GUIDANCE THAT MY COLLEAGUES WANT PERFECT GUIDANCE. SO REALLY, NO, I THINK IT DOES SPEAK TO THE FACT WE HAVE BEEN A LITTLE AWASH AND THERE HAVEN'T BEEN A LOT

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OF, THIS WAS INTENDED AS LIKE SORT OF AS YOU ARE CREATING AN ITEM OR IF YOU ARE A COMMITTEE MEMBER AND YOU ARE LOOKING AT AN ITEM, YOU MIGHT FLIP THROUGH AND SAY TO YOURSELF, GIVEN HOW BIG OF AN ITEM OR POLICY CHANGE THIS IS, WHICH OF THESE THINGS SHOULD I REALLY BY DOING? TO CREATE A REALLY WELL-THOUGHT, TRUTHFULLY BAKED ITEM THAT WILL BE GOOD FOR THE CITY AND I THINK WILL GAIN THE SUPPORT OF MY COLLEAGUES. IT DEFINITELY IS NOT INTENDED TO BE THE END ALL AND BE ALL. YOU CAN DO MORE THAN WHAT'S IN THE GUIDELINES. I WANTED TO SAY, COUNCILMEMBER WENGRAF, THAT ON THIS ITEM 3, IT IS, WE SAY IT'S THE RECOMMENDATION, RIGHT? WE HAVE THAT AS A HEADING. THESE HEADINGS ARE ACTUALLY BASICALLY INTENDED TO BE THE HEADING ON YOUR ITEM. AND SO, ALL THIS SAYS IS COMMON ACTION OPTIONS. YOU MIGHT WRITE IT UP DIFFERENTLY. THE POINT OF THE LIST IS THESE ARE THE TYPES OF THINGS YOU CAN ASK COUNCIL TO DO. I THINK ADDING AS A BULLET POINT REFER THE ITEM TO A COMMITTEE. THAT'S AN OVERSIGHT ON MY PART. THAT COULD BE ANOTHER ACTION THAT YOU COULD REQUEST. I'M HAPPY TO ADD THAT. BUT AGAIN, THIS IS NOT INTENDED TO BE COMPREHENSIVE. IT IS RECOMMEND ADOPTION OF A RESOLUTION. SO THERE IS A SORT OF CONSIDER-ELEMENT TO IT. IT'S THE WAY WE HAVE ALWAYS DONE IT. I WANT TO BE CLEAR THIS LIST WAS NOT LIKE YOU SHOULD WRITE IT LIKE THIS. IT IS HERE IS STUFF THE COUNCIL, HERE ARE ACTIONS COUNCILS TAKE. HAPPY TO ADD RECOMMEND REFERRAL TO

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SUCH AND SUCH COMMISSION OR TO A -- SUCH AND SUCH POLICY COMMITTEE OR TO A POLICY COMMITTEE. I THINK THAT'S A GOOD ADDITION. WE MIGHT COME UP WITH MORE. BUT AGAIN, NOT INTENDED TO BE DEFINITIVE.

>> MAYOR J. ARREGUIN: COUNCILMEMBER DROSTE.

>> L. DROSTE: MAYBE ONE WAY WE CAN ADDRESS THE CONCERNS EXPRESSED IS UNDER WHERE IT SAYS CLEAR ACTIONS TO BE TAKEN AND THEN SOME OF THE BULLET POINTS SAY ADOPT A FIRST READING. MAYBE WE BE STRIKE TO BE TAKEN AND SAY CLEAR STATEMENT OF ACTION RECOMMENDED. AND THAT WOULD ALLEVIATE --

>> I HAD IT ON MY PAGE.

>> MAYOR J. ARREGUIN: PERFECT.

>> L. DROSTE: THANK YOU.

>> MAYOR J. ARREGUIN:

>> S. HAHN: PEOPLE CAN BRING SUGGESTIONS TO THE AGENDA COMMITTEE AND MAKE THEM BETTER OVER TIME.

>> MAYOR J. ARREGUIN: OKAY. MOTION IS TO APPROVE ITEM 7, ADDING APPENDIX B TO THE CITY COUNCIL RULES OF PROCEDURE, GUIDELINES FOR DEVELOPING AND WRITING COUNCIL AGENDA ITEMS, WITH THE FOLLOWING AMENDMENTS ON PAGE 77 UNDER RECOMMENDATION OF THE PACKET, WOULD READ CLEAR AND SUCCINCT STATEMENT OF ACTIONS RECOMMENDED. THAT'S THE FIRST SENTENCE IN THAT SECTION. STRIKE, TO BE TAKEN. ADDING A LAST BULLET, AMONGST THE OPTIONS TO REFER

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TO A COUNCIL POLICY COMMITTEE AS AN OPTION. ON PAGE 79 IN THE PACKET, ADDING A BULLET UNDER SECTION 8, WHICH WOULD READ IF AN ORDINANCE IS ADOPTED THE CITY ATTORNEY SHOULD BE CONSULTED AS A FORM AND LEGALITY, SECTION 12, CAN YOU READ.

>> S. HAHN: AT THE END OF THE FISCAL IMPACT WE STRIKE THE PERIOD AND IT WOULD SAY, AND POTENTIAL SOURCES OF FUNDING.

>> MAYOR J. ARREGUIN: OKAY. THAT'S THE MOTION. AND THE REFERRALS TO THE AGENDA RULES COMMITTEE. LET'S CALL THE ROLL ON THE MOTION. [ROLL CALL VOTE]

>> R KESARWANI: YES.

>> C. DAVILA: ABSTAIN.

>> B. BARTLETT: YES.

>> S. HAHN: YES.

>> S. WENGRAF: YES.

>> R. ROBINSON: YES.

>> L. DROSTE: YES.

>> MAYOR J. ARREGUIN: YES. MOTION CARRIES. THANK YOU ALL FOR YOU COMMENTS. WE IDENTIFIED WAYS TO FURTHER REFINE THE POLICY PROCESS AND IT'S A WORK IN PROGRESS. THOSE HERE FOR THE APPEAL BEAR WITH ME. WE'RE GOING TO DO ITEM 7 -- 17 RATHER. THIS IS THE RESOLUTION TO DENOUNCE OPPOSE WHITE NATIONALIST GROUPS. COUNCILMEMBER DAVILA. AND THEN WE'LL GO TO PUBLIC COMMENT.

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>> C. DAVILA: THANK YOU. BASED ON A BILL PASSED IN TENNESSEE HOUSE ASSEMBLY, THAT'S WHAT THIS ITEM IS. BERKELEY HAS THE RESPONSIBILITY TO PROTECT THE RIGHTS OF RESIDENTS, WORKERS, STUDENTS AND FROM THE VIOLENCE OF HATE GROUPS OF HATE OF THESE GROUPS. THIS RIGHT IS MORE IMPORTANT THAN PROTECTING THE RIGHTS OF WHITE NATIONALIST NEO-NAZI GROUPS WITH THE INTENT OF PREJUDICE VIOLENCE. WE HAD NUMEROUS TIMES WHEN PEOPLE HAVE COME TO THE CITY TO CREATE HAVOC. WE NEED TO CHANGE THAT. THE STATE OF CALIFORNIA OPPOSES THE RIGHT OF LOCAL GOVERNMENTS TO NOT ALLOW MILITIAS TO GATHER AND PREVENT GROUPS WHO ARE ORGANIZING TO ENACT RACIAL BIAS, HOMOPHOBIC, WHILE INTIMIDATING WORKERS, RESIDENTS AND STUDENTS. THAT WAS MY INTENT, TO ADOPT A RESOLUTION TO DENOUNCE AND OPPOSE WHITE NATIONALIST AND NEO-NAZI GROUPS, INCLUDING THEIR ACTIONS. THANK YOU.

>> MAYOR J. ARREGUIN: LET'S GO TO PUBLIC COMMENT. WOULD ANYONE LIKE TO ADDRESS ITEM 17? NOW IS THE TIME.

>> MY NAME IS AIDEN HILL. I'M A FORMER CANDIDATE FOR BERKELEY CITY COUNCIL. I WOULD LIKE TO THANK COUNCILMEMBER DAVILA FOR BRINGING THE ITEM TO OUR ATTENTION. U.C. BERKELEY HAD A LAWSUIT WITH THE COLLEGE REPUBLICANS. THE SETTLEMENTS THAT SAID TO THE PROTEST IN WHICH THEY CAME TO U.C. BERKELEY IN 2016, WITH THE INTENT TO OUT UNDOCUMENTED STUDENT. AND THEN THE U.C. BERKELEY RIOT POLICE WERE INVOLVED. I THINK THIS INCLUDING MY

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OWN DISENFRANCHISEMENT FROM THE UNIVERSITY AND DISPLACEMENT FROM BERKELEY AS A WHOLE COULD HAVE BEEN STOPPED IF THESE PEOPLE DIDN'T HAVE THE PLATFORM OR STAGE TO CONDUCT THEMSELVES IN BERKELEY. I WENT TO THE STOP THE HATE RALLY IN AUGUST LAST YEAR. AND I SAW THERE WAS A MILITARIZED PRESENCE TO PROTECT WHITE NATIONALIST GROUPS USE THE CITY HALL PLAZA NEAR SHATTUCK WAY. I THINK THAT THE CITY OWES IT TO THE MANY NON-FASCIST WHO DO PROTECT THE CITY, WHO DO PROMOTE SANCTUARY CITY POLICIES. KEEPING PEOPLE WITHIN THEIR HOUSES, RATHER THAN PROTECTING THE RIGHTS OF THOSE WHO WISH TO DISRUPT PEACE. I THINK THE CITYWIDE BENEFIT GREATLY PROTECTING A RESPONSIBLE SPEECH. I HOPE THAT THE COUNCIL WILL PASS THIS MEASURE TODAY. THANK YOU.

>> MAYOR J. ARREGUIN: THANK YOU. ANY OTHER SPEAKERS ON THIS ITEM?

>> AS THE DAUGHTER OF A WORLD WAR II SURVIVOR I WANT TO THANK COUNCILMEMBER DAVILA FOR BRINGING THIS FORWARD. AND I WOULD LIKE TO SAY I ATTENDED ONE OF THE MARCHES TO SHOW SUPPORT FOR PEOPLE AGAINST [INDISCERNIBLE] IN BERKELEY. AND I HAD THE HONOR OF MARCHING BEHIND A MAN IN HIS 90S WHO IS A HOLOCAUST SURVIVOR WHO LOST ALL OF HIS SIBLINGS. AND I WAS VERY MOVED BUT IT WAS SCARY AND UNNERVING TO BE IN THE BAY AREA AND TO KNOW THAT PEOPLE FILLED WITH HATE ARE COMING HERE AND MAKING PEOPLE FRIGHTENED. I THINK IT'S IMPORTANT AND I WANT TO SAY THANK YOU.

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>> MAYOR J. ARREGUIN: OKAY. THANK YOU. ANY OTHER SPEAKERS ON ITEM 17?

>> I LIVE IN BERKELEY. AND WANT TO SPEAK IN SUPPORT OF THIS MEASURE. I ALSO MARCHED IN THE RALLIES TO SPEAK OUT AGAINST THE HATE THAT WAS COMING TO BERKELEY. AND I REALLY COMMEND THE CITY COUNCIL FOR STANDING UP TO THIS UNCONSCIONABLE BEHAVIOR. THERE IS NO PLACE FOR IT IN OUR CITY. THANK YOU.

>> MAYOR J. ARREGUIN: ANY OTHER SPEAKERS ON ITEM 17? ANYONE ELSE? THANK YOU FOR YOUR COMMENTS. WE'RE BRINGING IT BACK TO COUNCIL. VICE MAYOR WENGRAF.

>> S. WENGRAF: THANK YOU, COUNCILMEMBER DAVILA, FOR BRINGING THE ITEM FORWARD, AND THANK YOU, COUNCILMEMBER BARTLETT FOR YOUR COSPONSORSHIP. I'M VERY MUCH IN SUPPORT OF THE INTENT OF THE ITEM. I DO HAVE SOME CONCERNS ABOUT SOME OF THE LANGUAGE AND THE TEXT OF THE ITEM. I THINK IT NEEDS TO BE-- WE NEED TO BE VERY SENSITIVE TO HOW WE EXPRESS OUR CONCERNS ON THIS. FOR THAT REASON, I WOULD LIKE TO REFER IT TO THE AGENDA AND RULES COMMITTEE.

>> MAYOR J. ARREGUIN: IS THAT A MOTION?

>> S. WENGRAF: YES.

>> MAYOR J. ARREGUIN: THE MOTION TO REFER TO THE AGENDA AND RULES COMMITTEE, IS THERE A SECOND? SECONDED BY COUNCILMEMBER HAHN. THANK YOU, COUNCILMEMBER HARRISON.

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>> K. HARRISON: I WAS GOING TO SUGGEST THIS BE SENT TO THE AGENDA RULES COMMITTEE TO ACT ON AND BRING BACK TO COUNCIL. RATHER GO BACK. I'M IN FAVOR OF THE LANGUAGE IN THE ITEM ITSELF. I THINK IT'S EXCELLENT. THERE IS A COUPLE OF THINGS IN THE DESCRIPTION OF THE ITEM I HAVE CONCERNS WITH THAT WOULD LIKE TO CLEAR UP. I LIKE THE WAY THE RESOLUTION ITSELF IS WRITTEN. I DON'T WANT TO GET LOST. THE INTENTION IS TO DEAL WITH IT AND SEND IT BACK TO COUNCIL.

>> MAYOR J. ARREGUIN: BECAUSE THIS ITEM DOESN'T FIT NEATLY INTO IS A PARTICULAR BOX, THIS IS ONE OF THOSE SORTS OF EXCEPTIONAL ITEMS THAT IS WITHIN THE JURISDICTION OF THE AGENDA AND RULES COMMITTEE TO DISCUSS AND TAKE ACTION ONTO BRING IT BACK TO COUNCIL. I BELIEVE THAT IS YOUR MOTION?

>> S. WENGRAF: YES.

>> MAYOR J. ARREGUIN: ANY OTHER COUNCILMEMBERS?
COUNCILMEMBER BARTLETT.

>> B. BARTLETT: I WANT TO THANK COUNCILMEMBER DAVILA FOR BRINGING THIS FORWARD. I WANT TO STATE FOR THE LISTENING AUDIENCE, THEY MAY NOT BE AWARE OF WHAT THE CONCERNS ARE. THESE ARE GENERALLY, I GUESS AROUND FIRST AMENDMENT ISSUES THAT NEED TO BE CRAFTED CAREFULLY. BECAUSE WHEN YOU ARE FAVORING ONE GROUP OVER ANOTHER IT'S PROBLEMATIC. THE AGENDA WOULD INTEND TO ALIGN

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THIS WITH THE FIRST AMENDMENT. WHILE MAINTAINING OUR EFFORTS TO
STANDING A TAPE. THANK YOU.

>> MAYOR J. ARREGUIN: COUNCILMEMBER DAVILA.

>> C. DAVILA: THE CITY ATTORNEY ALREADY REVIEWED THIS AND
DID NOT MAKE ANY -- HAD ANY DISCUSSION ABOUT FIRST AMENDMENT. I
JUST WANTED TO PUT THAT IN THE RECORD. IF SHE HAS A COMMENT ON
THAT, THAT WOULD BE GREAT.

>> STAFF: THANK YOU, COUNCILMEMBER DAVILA. I DID HAVE A
CHANCE TO LOOK AT THE VERSION THAT YOU SENT ME. I THINK IT WAS A
FEW WEEKS AGO. I SUGGESTED A MODIFICATION BECAUSE THERE WAS SOME
LANGUAGE THAT I THOUGHT COULD POTENTIALLY BE PROBLEMATIC. I
THINK THERE IS LANGUAGE IN THE STAFF REPORT THAT IT WOULD BE
GOOD TO SORT OF TAKE A FRESH LOOK AND MODIFY BECAUSE I THINK IT
COULD BE CONSTRUED IN A WAY THAT COULD CAUSE LEGAL ISSUES. I
THINK THE SUGGESTION TO TAKE IT TO COMMITTEE MIGHT BE A GOOD
IDEA.

>> C. DAVILA: MAY I?

>> STAFF: JUST TO CLARIFY YOUR POINT I LOOKED AT THE
LEGISLATION AND MODIFIED, I SUGGESTED MODIFICATIONS THAT YOU DID
TAKE UP.

>> C. DAVILA: YEAH, WE -- IT WAS A BARE-FLOOR RESOLVE WE
ELIMINATED FOR THE REQUEST. HOWEVER, WE SENT IS TO THE CITY
ATTORNEY, CITY ATTORNEY REVIEWS IT. WE DO HER RECOMMENDATION,

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AND NOW IT HAS TO GO BACK? I MEAN, WHAT IS UP WITH THAT? I DON'T UNDERSTAND WHY IT DIDN'T GET THOROUGHLY LOOKED AT PREVIOUSLY. I MEAN, THAT IS AN ISSUE FOR ME. WE JUST DECIDED THAT WE'RE GOING TO -- AND YOU ARE GOING TO SIGN-OFF ON IT.

>> STAFF: JUST TO BE CLEAR, I WOULD SIGN OFF ON THE LEGISLATION, NOT THE STAFF REPORT. I THINK THE LANGUAGE THAT NEEDS TO BE LOOKED AT CLOSELY AND REVIEWED IS IN THE STAFF REPORT FOR THIS PARTICULAR ITEM. [MULTIPLE SPEAKERS]

>> STAFF: I MEANT TO SAY COUNCIL REPORT. SORRY ABOUT THAT.

>> C. DAVILA: OKAY. INTERESTING SERIES OF EVENTS. THANK YOU.

>> MAYOR J. ARREGUIN: I APPRECIATE YOU BRINGING THIS TO US COUNCILMEMBER DAVILA. THIS IS A RECOMMENDATION. IT'S UP TO COUNCIL TO ADOPT OR AMEND. I THINK WE'RE ALL STRONGLY AGAINST WHITE NATIONALISM AND NEO-NAZI, WHEN OUR CITY WAS THE GROUND ZERO FOR THE HATE GROUPS. I THINK WE ABSOLUTELY SHOULD ADOPT A RESOLUTION. I WILL NOTE WE HAVE ADOPTED SEVERAL OTHER ITEM EXPRESSING THE SAME SENTIMENTS. I WANTS TO MAKE SURE WE GET THE LANGUAGE RIGHT. IT'S VERY CAREFULLY CRAFTED BECAUSE I DON'T WANT OUR CITY TO BE A TARGET OF THESE GROUPS USE OUR CITY AS A PLATFORM FOR HATE. I WANT TO MOVE THIS FORWARD. BUT I THINK WE NEED ADDITIONAL TIME TO WORK WITH THE COMMITTEE AND WITH YOU TO CONSIDER AMENDMENTS. COUNCILMEMBER HARRISON.

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>> K. HARRISON: I SOMEWHAT SHARE COUNCILMEMBER DAVILA'S FRUSTRATION. THE RESOLUTION IS FINE AND HAS BEEN VETTED. COUNCIL WRITE UPS HAVE NO FORCIVE LAW. WHATEVER IS SAID IN THE DESCRIPTION OF THE ITEM IS NOT THE ITEM. THE ITEM IS THE RESOLUTION. I STILL THINK IT'S IMPORTANT TO BE CAREFUL IN THE DESCRIPTIONS. SEND IT TO REVIEW AND MAKE CHANGES TO THE WRITE-UP. I WANT YOU TO CLARIFY A COUNCILMEMBER'S DESCRIPTION HAS NO COURSE OF LAW.

>> MAYOR J. ARREGUIN: IT'S THE LEGISLATIVE HISTORY.

>> K. HARRISON: I WOULD LIKE TO GO TO THE CITY ATTORNEY.

>> STAFF: NOT A STAFF REPORT, A COUNCIL REPORT DOESN'T HAVE A FORCE OF LAW. I GUESS IT KIND OF DEPENDS. BECAUSE IF IT INFORMS THE LEGISLATION, SOMEONE COULD LOOK TO THAT FOR INTENT. BUT YOUR POINT, THE MOST IMPORTANT THING TO LOOK AT IS THE LEGISLATION ITSELF, WHICH IS USUALLY A RESOLUTION OR THE ORDINANCE.

>> K. HARRISON: YOU WOULD AGREE THE INTENT LANGUAGE AND THE LEGISLATIVE HISTORY IS IMPORTANT IN UNDERSTANDING A RESOLUTION?

>> STAFF: CORRECT.

>> K. HARRISON: THANK YOU.

>> MAYOR J. ARREGUIN: COUNCILMEMBER HAHN AND THEN I WOULD LIKE TO VOTE.

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>> S. HAHN: AS A RETIRED ATTORNEY MYSELF I HAVE TO SAY THAT I ALSO SUPPORT THE INTENT HERE AND I ALSO HAVE CONCERNS ABOUT SOME OF THE, ACTUALLY SOME OF THE WORDS AND RECOMMENDATIONS, THE PLACEMENT IN THE SENTENCE. AS WELL AS SOME OF THE THINGS IN THE BACKGROUND PORTION. AND I THINK THE REAL REASON, THE REASON WHY I WANT TO MAKE SURE THIS IS SCRUBBED IS BECAUSE IF WE GET IT WRONG, THEN WE GET SUED AND MAYBE WE LOSE. HOW DOES THAT ACHIEVE OUR GOAL? I JUST THINK IT'S WORTH A LITTLE MORE TIME AND EFFORT TO MAKE SURE THAT THE MESSAGE THAT GOES OUT TO THE WORLD IS OUR MESSAGE AND THAT THERE IS NOT A COUNTER MESSAGE THAT COMES IN THE FORM OF A LAWSUIT. THAT WOULD STEAL THE SHOW. AND I WANT TO MAKE SURE OR EXPRESSION IS THE ONE THAT GOES FORWARD.

>> MAYOR J. ARREGUIN: VICE MAYOR WENGRAF.

>> S. WENGRAF: JUST TO REASSURE COUNCILMEMBER DAVILA, IT IS MY INTENT THAT THE AGENDA COMMITTEE TAKE THIS UP FIRST THING AND RETURN AS SOON AS POSSIBLE TO COUNCIL WITH THIS ITEM. AND WITH THAT, I WOULD LIKE TO CALL THE QUESTION.

>> MAYOR J. ARREGUIN: OKAY, LET'S CALL THE ROLL ON THE MOTION, WHICH IS REFER THE ITEM TO THE AGENDA AND RULES COMMITTEE. [ROLL CALL VOTE]

>> R KESARWANI: YES.

>> C. DAVILA: PASS.

>> B. BARTLETT: YES.

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>> K. HARRISON: YES.

>> S. WENGRAF: YES.

>> R. ROBINSON: YES.

>> L. DROSTE: YES.

>> MAYOR J. ARREGUIN: YES.

>> C. DAVILA: ABSTAIN.

>> STAFF: MOTION CARRIES.

>> MAYOR J. ARREGUIN: MOTION CARRIES, THANK YOU. LET'S GO TO ITEM 13, THIS IS A PUBLIC HEARING TO IMPLEMENT RESIDENTIAL PREFERENTIAL PARKING ON SECTIONS OF FIFTH STREET AND MARTIN LUTHER KING JR. WAY. I BELIEVE WE'LL HAVE STAFF JOIN US ON THIS ITEM. DOES STAFF HAVE A PRESENTATION OR AVAILABLE FOR QUESTIONS?

>> STAFF: WE'RE AVAILABLE FOR QUESTIONS.

>> MAYOR J. ARREGUIN: OKAY. THANK YOU. I WOULD LIKE TO OPEN THE PUBLIC HEARING ON ITEM 13, TO IMPLEMENT R.P.P. ON SECTIONS OF FIFTH STREET AND MARTIN LUTHER KING JR. WAY. WOULD ANYONE LIKE TO ADDRESS THE CITY COUNCIL AS PART OF THIS PUBLIC HEARING? NOW IS THE TIME. ANYONE WISH TO ADDRESS THE COUNCIL ON IMPLEMENTING R.P.P. ON SECTIONS OF FIFTH STREET AND MARTIN LUTHER KING JR. WAY. ANY TESTIMONY? SEEING NONE, I WILL CLOSE THE PUBLIC HEARING. AND BRING IT BACK TO THE COUNCIL. AND DO WE NEED TO CLOSE THE PUBLIC HEARING? I MOVE TO CLOSE THE PUBLIC HEARING ON THIS ITEM, IS THERE A SECOND.

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>> SECOND.

>> MAYOR J. ARREGUIN: SECONDED BY COUNCILMEMBER DROSTE. ANY OBJECTION TO THE MOTION? HEARING NONE, THE MOTION CARRIES. NOW, IN ORDER FOR COUNCIL TO DISCUSS THIS ITEM, ANY QUESTIONS OR MOTION FROM THE COUNCIL? COUNCILMEMBER DAVILA.

>> C. DAVILA: IS THERE ANY LOW-INCOME MODIFICATIONS FOR R.P.P.?

>> STAFF: AT THIS TIME THERE ARE NONE TO MY KNOWLEDGE.

>> MAYOR J. ARREGUIN: ANY OTHER QUESTIONS OR MOTION? ANYONE MOVE THE STAFF RECOMMENDATION?

>> SO MOVED.

>> MAYOR J. ARREGUIN: MOVED BY COUNCILMEMBER HAHN, SECONDED BY COUNCILMEMBER ROBINSON. ANY FURTHER DISCUSSION ON THE MOTION? ANY OBJECTION TO THE MOTION? HEARING NONE, THE MOTION CARRIES UNANIMOUSLY. STAFF RECOMMENDATION APPROVED ON ITEM 13. THANK YOU. NOW WE'LL GO TO ITEM 14, AN APPEAL OF ZONING ADJUSTMENTS BOARD DECISION REGARDING 1155 TO 1173 HEARST AVENUE. MR. CLERK?

>> STAFF: BEFORE WE GET TO THAT, I APOLOGIZE, WE NEED TO TAKE A CAPTIONER BREAK. WE'LL BE BACK IN 10 MINUTES. AND THEN WE'LL GET TO ITEM 14. THANK YOU ALL FOR WAITING PATIENTLY. [10-MINUTE BREAK]

>> MAYOR J. ARREGUIN: MEMBERS WILL HAVE FIVE MINUTES TO ADDRESS CITY COUNCIL, AND THE APPLICANT WILL HAVE FIVE MINUTES

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TO ADDRESS THE COUNCIL, AND THEN WE'LL OPEN UP FOR PUBLIC COMMENTS. GIVEN THE NUMBER OF SPEAKERS, EACH SPEAKER WILL HAVE 1 MINUTE TO ADDRESS THE CITY COUNCIL. TIME CAN BE YIELDED TO A SPEAKER FOR A MAXIMUM OF 4 MINUTES PER SPEAKER. SO IF YOU HAVE THREE OTHER SPEAKERS THAT YIELD YOU THE MINUTE, YOU CAN HAVE 4 MINUTES. THAT'S THE PROCESS FOR PUBLIC TESTIMONY. THEN WE'LL BRING IT BACK TO THE COUNCIL, AND THE COUNCIL WILL DISCUSS AND POTENTIALLY TAKE ACTION ON THE APPEAL. SO I'D LIKE TO RECOGNIZE TIMOTHY BURROUGHS, DIRECTOR OF PLANNING AND DEVELOPMENT.

>> LESLIE IS GOING TO WALK THROUGH A BRIEF PRESENTATION, AND WE'RE -- AND WE'LL BE HAPPY TO ANSWER ANY QUESTIONS.

>> 2016 TO 2018. ON AUGUST 23, 2018, THE ZONING ADJUSTMENTS BOARD APPROVED THE USE PERMIT TO DEVELOP TWO PARCELS LOCATED IN 1155 THROUGH 1173 HEARST STREET. THIS INCLUDED THE RENOVATION OF SEVEN EXISTING DWELLING UNITS, ALL OF WHICH ARE CURRENTLY OCCUPIED. THERE ARE THREE RENT-CONTROLLED DUPLEXES AND ONE SINGLE FAMILY DWELLING. IT ALSO INVOLVES CONSTRUCTION OF THREE NEW TWO-STORY DUPLEXES THAT WOULD BE OFFERED AS COMMON INTEREST DEVELOPMENT OR CONDOMINIUMS. THERE WILL BE A TOTAL OF 13 UNITS, 13 OFF STREET PARKING SPACES, AND APPROXIMATELY 5,000 SQUARE FEET OF USABLE OPEN SPACE. HERE IS A VICINITY MAP. AS YOU CAN SEE, THE PROJECT IS LOCATED ONE BLOCK EAST OF SAN PABLO AVENUE AND ONE BLOCK NORTH OF UNIVERSITY AVENUE. IT'S IN THE R2A

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DISTRICT, WHICH IS ALSO LOCATED -- IT'S AN AREA OF MIXED ZONING DISTRICTS, WITH THE LOWER DENSITY ZONING OF R2 TO THE NORTH AND TO THE EAST R2A, NCR3 AND R4 TO THE SOUTH, THEN IT'S SURROUNDED BY THE CW AND C1, THE COMMERCIAL DISTRICTS ALONG THE AVENUE OF THE CORRIDORS. HERE IS A PROPOSED SITE PLAN. NORTH IS TO YOUR RIGHT, FIRST AVENUE IS TO YOUR LEFT. THE KIND OF BROWNISH BUILDINGS ARE THE EXISTING BUILDINGS AND THE PURPLE BUILDINGS ARE THE PROPOSED DUPLEXES. THE PARKING AREA IS IN THE MIDDLE, AND THE USABLE OPEN SPACE SURROUNDS IN THE LIGHT GREEN, IF YOU CAN DECIPHER THAT. THE CITY DETERMINED THAT THE PROJECT WAS CATEGORICALLY EXEMPT FROM CEQA AS A 32 INFILL DEVELOPMENT PROJECT AS THE MAJORITY OF THE APPEAL POINTS ARE RELATED TO CEQA, AND THE APPELLANTS CONTEND THE PROJECT IS NOT ELIGIBLE FOR AN EXEMPTION. I'M GOING TO GO THROUGH A LITTLE CEQA 101 VERY BRIEFLY. CEQA GUIDELINES INCLUDE A LIST OF CLASSES OF PROJECTS THAT HAVE BEEN DETERMINED NOT TO HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND ARE EXEMPT INTEREST PROVISIONS OF CEQA. CATEGORICAL EXEMPTIONS ARE DESCRIPTIONS OF TYPES OF PROJECTS WHICH THE SECRETARY OF THE RESOURCES AGENCY HAS DETERMINED DO NOT USUALLY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT. CATEGORICAL EXEMPTIONS ARE NOT ABSOLUTE. THERE ARE EXCEPTIONS TO THE EXCEPTIONS, DEPENDING ON THE NATURE AND LOCATION OF THE PROJECT. CEQA GUIDELINES INCLUDE A LIST OF EXCEPTIONS THAT

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REQUIRE A PROJECT TO GO THROUGH THE CEQA PROCESS, EVEN IF IT OTHERWISE MEETS THE CRITERIA OF THE CATEGORICAL EXEMPTION. ALL THE APPEAL POINTS ARE LISTED IN DETAILS ALONG WITH STAFF RESPONSES TO THEM IN THE STAFF REPORT; SO FOR THE SAKE OF BREVITY IN THIS PRESENTATION, THE APPEAL POINTS ARE CONDENSED INTO GENERAL TOPICS. THE FIRST APPEAL POINT IS THAT THE PROJECT DOES NOT QUALIFY AS A CLASS 32 IN-FILL EXEMPTION. CLASS 32 MUST, AMONG OTHER THINGS, BE ADEQUATELY SERVED BY ALL REQUIRED UTILITIES AND PUBLIC SERVICES. THE PUBLIC SERVICES THAT THE APPELLANTS ARE SAYING IS NOT ADEQUATE WOULD BE THE UTILITY INFRASTRUCTURE, WHICH WOULD BE THE STORM DRAIN SYSTEM, WHICH IS LOCATED IN THE PRIVATE -- THE PUBLIC RIGHT-OF-WAY. STAFF WISHES TO CLARIFY THAT PONDING AND REAR YARD AREAS DOES NOT MEAN THAT A PUBLIC UTILITY ON THE PUBLIC RIGHT-OF-WAY IS NOT ADEQUATE. STAFF ALSO WISHES TO CLARIFY THAT A LOT OF WATER IN THE FLOW ALSO DOES NOT MEAN AN ADEQUACY OF THE STORM DRAIN SYSTEM. STAFF WENT OUT AGAIN TO VISIT THE SITE ON JANUARY 16, 2019. IT WAS A TIME OF HEAVY RAINS. ONE OF THE APPELLANTS WAS OUT THERE AS WELL. AS CAN BE SEEN IN THE PHOTO ON THE LEFT, WATER WAS FLOWING QUITE BRISKLY IN FRONT OF THE PROJECT SITE. THERE IS A LOT OF WATER, BUT IT WAS FLOWING, AND IT RUNS TO THE CATCHMENT BASEMENT -- EXCUSE ME, AT THE NORTHEAST CORNER OF HEARST AND SAN PABLO AVENUE, WHERE IT ENTERS FREELY. AGAIN, WITH FOLLOW-UP

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CONVERSATIONS WITH THE PUBLIC WORKS STAFF, THE FACT THAT IT IS RUNNING AND ENTERING THE STORM DRAIN SYSTEM MEANS THE SYSTEM IS WORKING. THE PUBLIC WORKS DIRECTOR CONFIRMED THAT A LOT OF THE CITY IS DESIGNED WITH SURFACE FLOWS AND NOT UNDERGROUND FLOWS, SO THE FACT THAT IT IS NOT PONDING WATER IS THE FACT THAT IT IS WORKING SUFFICIENTLY, AND PUBLIC WORK STAFF HAS NO CONCERNS OF THE ADDITION OF SIX ADDITIONAL DWELLING UNITS ON THIS SYSTEM. THE SECOND APPEAL POINT WAS THAT THE LOCATION-BASED EXCEPTION APPLIES. THIS EXCEPTION SAYS THE PROJECT IS LOCATED IN A SENSITIVE SITE. CEQA LAW ACTUALLY SAYS THAT THE LOCATION BASE EXCEPTION DOES NOT APPLY TO CLASS 32 IN-FILL DEVELOPMENT PROJECTS, SO THIS APPEAL POINT IS NOT RELEVANT. THE APPELLANTS HAVE ALSO STATED THAT THE SITE MAY BE QUALIFIED AS A WETLAND. HOWEVER, IT IS NOT LOCATED ON THE NATIONAL WETLANDS INVENTORY, NOR IS THERE ANY EVIDENCE IN THE RECORD OF THE REQUIRED SOIL, PLANT LIFE, FISH, OR WILDLIFE COMMUNITIES REQUIRED TO MEET THE DEFINITION OF A WETLANDS. THE THIRD APPEAL POINT IS THAT THE HISTORIC RESOURCE EXCEPTION APPLIES. THERE WAS TESTIMONY, BOTH WRITTEN AND AT THE PUBLIC HEARING IN FRONT OF ZAB, THAT THE SITE WAS THE SITE OF THE ORIGINAL CHEZ PANISSE GARDEN. IF THERE IS AN ORIGINAL CHEZ PANISSE GARDEN, IT IS NOT A DESIGNATED LANDMARK BY THE CITY. ADDITIONALLY, A SEARCH OF THE CALIFORNIA HISTORICAL RESOURCE INFORMATION SYSTEM SHOWS THAT NO CULTURAL RESOURCES ARE

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ASSOCIATED WITH THIS SITE. AND ADDITIONALLY, THE PROJECT IS SUBJECT TO THE CITY STANDARD CONDITIONS OF APPROVAL REGARDING TRIBAL CULTURAL RESOURCES, ARCHAEOLOGICAL RESOURCES, HUMAN REMAINS, AND PALEONTOLOGICAL RESOURCES. THESE CONDITIONS ENSURE IF SUCH RESOURCES ARE ENCOUNTERED DURING DEVELOPMENT THAT THE WORK WILL STOP, THEY WILL BE IDENTIFIED, AND CEQA PROCESSES AND BEST PRACTICES WILL BE FOLLOWED. THE FOURTH APPEAL POINT IS THAT THE SIGNIFICANT EFFECT EXCEPTION APPLIES. THIS IS A TWO-PRONGED TEST, SO I'M GOING TO READ THIS ONE OUT LOUD. A CATEGORICAL EXEMPTION SHALL NOT BE USED FOR AN ACTIVITY WHERE THERE IS A REASONABLE POSSIBILITY THAT THE ACTIVITY WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT DUE TO UNUSUAL CIRCUMSTANCES. THE CALIFORNIA SUPREME COURT HAS STATED THAT TO ESTABLISH AN UNUSUAL CIRCUMSTANCE, YOU MUST SHOW THAT THE PROJECT HAS SOME FEATURE THAT DISTINGUISHES IT FROM OTHERS IN THE EXEMPT CLASS SUCH AS ITS SIZE OR LOCATION. SO UNDER THE FIRST PRONG OF THE SIGNIFICANT EFFECT EXCEPTION IS THE UNUSUAL CIRCUMSTANCE, WHICH THE APPELLANTS HAVE STATED CONTEND THAT THE FLOODING, THE TOPOGRAPHICAL DEPRESSION, AND THE HISTORIC TRACE OF THE STRAWBERRY CREEK UNDERNEATH IS THE UNUSUAL EXCEPTION. ON THE GIS MAP, THE CITY IS ACTUALLY STRIATED FROM EAST TO WEST WITH TRACES OF HISTORIC CREEKS AND UNPROTECTED CREEKS. I HAVE PROVIDED A SNAPSHOT HERE THAT IS A LITTLE UNCLEAR. IT IS ALSO FOUND ON PAGE

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7 OF THE STAFF REPORT, IF YOU'RE ABLE TO LOOK AT THAT MORE CLEARLY. BUT THE CITY IS STRIATED WITH HISTORIC CREEKS. THE NUMBER OF PROPERTIES THAT OVERLAY THESE CREEKS IS NUMEROUS. THE EXTENT OF FLOODING AND RETENTION OF WATER IN THESE AREAS DOES VARY, BUT IT IS NOT UNCOMMON THROUGHOUT THE CITY. IN FACT, DISCUSSIONS WITH PUBLIC WORKS STAFF, THEY IMMEDIATELY LIST A HANDFUL OF SITES OFF THE TOP OF THEIR HEADS, INCLUDING THE CORNER OF UNIVERSITY AND SAN PABLO AVENUE, DERBY STREET NEAR MARTIN LUTHER KING JR. STREET, DERBY STREET BETWEEN SHATTUCK AND TELEGRAPH AVENUE, AND THE AREA AROUND MALCOLM X SCHOOL SOUTH OF ASHBY AVENUE AND WEST OF THE ASHBY BART STATION, AMONG OTHERS. WHILE THERE IS FLOODING IN THE AREA THAT HAPPENS DURING THE RAINY SEASON, THIS IS NOT AN UNUSUAL CONDITION TO THIS PROJECT SITE NOR TO THE CITY AS A WHOLE. THE SECOND PRONG IS THE SIGNIFICANT EFFECT PORTION OF THE SIGNIFICANT EFFECT EXCEPTION. THE APPLICANT, BECAUSE OF THE CONDITIONS WITHIN THE SITE, WHICH ARE WELL KNOWN, SUBMITTED, ALONG WITH THE PROJECT APPLICATION, A HYDROLOGY ASSESSMENT THAT WAS PREPARED BY A LICENSED ENGINEER THAT INCLUDED RECOMMENDATIONS. THIS HYDROLOGY ASSESSMENT WAS PEER REVIEWED BY A LICENSED ENGINEER, AND CERTAIN ADDITIONAL RECOMMENDATIONS WERE INCLUDED. THESE ARE ALL CONDITIONS OF APPROVAL AND INCLUDE THE DESIGN OF A GRASS SWALE THAT WILL MOVE PROPERTY FROM THE EAST PROPERTY LINE TO THE PARKING LOT AND A

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DRAINAGE CHANNEL FROM THE PARKING LOT TO THE CURB TO THE PUBLIC DRAINAGE SYSTEM. THE ASSESSMENT STATED THAT THE IMPLEMENTATION OF THESE MEASURES WILL ACTUALLY IMPROVE DRAINAGE ON THE PROJECT SITE AND PERHAPS ON THE NEIGHBORING PROPERTIES. THE FIFTH APPEAL POINT IS THAT IF THE CATEGORICAL EXEMPTION DOES INDEED IMPLY THAT APPROPRIATE CONDITIONS MUST BE IMPOSED TO ENSURE NON-DETRIMENT, STAFF WHOLEHEARTEDLY AGREES WITH THIS STATEMENT. THE PROJECT IS SUBJECT TO THE CITY'S STANDARD TOXIC CONDITIONS REQUIRING SOIL AND GROUNDWATER MANAGEMENT PLAN AND STORMWATER REQUIREMENTS THAT ENSURE THAT ANY SOIL CONTAMINATION FOUND ON SITE AGAIN IS RETAINED AND/OR DISPOSED OF IN AN APPROPRIATE MANNER WITHOUT ENTERING THE STORM DRAIN STORMWATER SYSTEM. PUBLIC WORKS CONDITIONS REGARDING SURFACE WATERS, ALSO TO PREVENT POLLUTION IN SEDIMENT FROM ENTERING THE WATER SYSTEM, THE DRAINAGE PLAN PER THE HYDROLOGY ASSESSMENT WITH ADDITIONAL DESIGNED DOCUMENTATION PER THE PEER REVIEW, AS WE DISCUSSED. STAFF RECOMMENDATION IS THEREFORE TO UPHOLD ZAB'S DECISION AND IMPROVE THE PROJECT. NOTHING IN THE APPEAL WAS NEW INFORMATION THAT HADN'T BEEN BROUGHT BEFORE ZAB AND THEY HADN'T DISCUSSED AND ANALYZED. THE ZAB DETERMINED THAT THE PROJECT MEETS THE PURPOSES OF THE DISTRICT, MEETS THE HOUSING ELEMENT GOALS, IS IN COMPLIANCE WITH ALL STATE AND LOCAL ENVIRONMENTAL REQUIREMENTS, WILL INCORPORATE A DRAINAGE SYSTEM THAT IS EXPECTED TO IMPROVE

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DRAINAGE CONDITIONS IN THE AREA, AND IS SUBJECT TO STANDARD CONDITIONS OF APPROVAL TO ENSURE NON-DETRIMENT. ADDITIONALLY, THE PROJECT RETAINS EXISTING RENT CONTROL OF THE UNITS AND PROTECTS EXISTING TENANTS. FROM THE BEGINNING, STAFF AS WELL AS THE APPLICANT WORKED WITH THE RENT CONTROL BOARD TO REVIEW THE PROJECT AND TENANT PROTECTIONS. THE RENT CONTROL BOARD RECOMMENDED TWO CONDITIONS OF APPROVAL, WHICH WERE NUMBER 15 AND NUMBER 18. ONE WAS THE PROOF OF VOLUNTARY MOVE OUT OR RELOCATION OF THE TENANTS PRIOR TO ISSUANCE OF A BUILDING PERMIT, AND THE SECOND WAS NOTIFICATION PRIOR TO CONSTRUCTION FOR ALL TENANTS. WHEN ZAB REVIEWED THE PROJECT, THEY BOLSTERED THESE CONDITIONS AND ADDED FURTHER ADDITIONS TO IT AS WELL AS ADDED THREE MORE CONDITIONS THAT WOULD PROVIDE FOR INTERIM TENANT PARKING DURING CONSTRUCTION, THAT WOULD PROVIDE FOR TEMPORARY RELOCATION FOR ANY OF THE TENANTS DURING ANY CONSTRUCTION RELATED TO ANY PERMIT ON THE PROJECT, AND TO HAVE NEIGHBORHOOD CONSTRUCTION MEETINGS EVERY SIX MONTHS DURING THE DURATION OF THE PROJECT. ONE OF THE CONDITIONS, WHICH IS THE TENANT RELOCATION CONDITION, NUMBER 15, STAFF HAS INCLUDED IN YOUR STAFF REPORT BUT REMIND YOU HERE WE WOULD LIKE TO SUGGEST THE FOLLOWING ADDITIONS OR EDITS BE MADE TO FURTHER STRENGTHEN THE CONDITION BY REMOVING AMBIGUITIES AND TO ENSURE THAT REGULAR MAINTENANCE AND REPAIR CAN OCCUR ON THE

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UNITS DURING THIS TIME. I'M HERE FOR ANY QUESTIONS THAT YOU MAY HAVE. OH, I'M SORRY. YES, I'LL LEAVE THAT UP.

>> MAYOR J. ARREGUIN: THANK YOU. WE'LL HOLD OUR QUESTIONS TILL AFTER THE PUBLIC HEARING. SO WE'LL NOW PROCEED TO THE PUBLIC HEARING, AND I'D LIKE TO GIVE THE APPELLANTS FIVE MINUTES TO ADDRESS THE CITY COUNCIL. WHO WILL BE REPRESENTING THE APPELLANTS? SIR, PLEASE COME -- IS SOMEBODY GOING TO DO THE SLIDE SHOW?

>> WE SPOKE TO STAFF AND THE CITY. WE HAVE THE SLIDE SHOW, SO WE'LL PRESENT THEM HERE.

>> MAYOR J. ARREGUIN: OKAY.

>> GOOD EVENING, COUNCILMEMBERS AND MR. MAYOR. MY NAME IS HOSSEIN SAFARI, AND I AM SPEAKING FOR APPELLANT RAIN SUSSMAN TO EXPLAIN, ALONG WITH DR. PAZ HERE, WE WILL EXPLAIN THE -- THIS PROJECT IS SUBJECT TO CEQA BECAUSE THE SIGNIFICANT EFFECT EXCEPTION APPLIES. THE FIRST SLIDE. THANK YOU. THE EXCEPTION APPLIES, AS STAFF SAID, ONE, IF THERE'S AN UNUSUAL CIRCUMSTANCE. AND THAT IS TO SAY IF THE PROJECT HAS SOME FEATURE THAT DISTINGUISHES IT FROM OTHERS IN THE EXEMPT CLASS. AND TWO, IF THERE IS A REASONABLE POSSIBILITY OF A SIGNIFICANT EFFECT ON THE ENVIRONMENT. SECOND SLIDE. SO THIS SITE IS UNUSUAL BECAUSE IT'S LOCATED OVER A NON-ENGINEERED BURIED CREEK, AND IT FLOODS SEASONALLY. AT THE ZAB HEARING, STAFF AGREED THAT CEQA'S UNUSUAL

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CIRCUMSTANCES LANGUAGE APPLIES. MS. MENDEZ, REFERRING TO THE CEQA LANGUAGE, SAID THAT WE COULD ALL AGREE THAT IT APPLIES. AND IN FACT IT DOES. EVEN THOUGH THERE MAY BE OTHER SITES IN THE CITY THAT FLOOD, THIS SITE IS UNIQUE -- IT'S NOT UNIQUE, AND IT DOESN'T HAVE TO BE UNIQUE. IT'S UNUSUAL. BECAUSE IN-FILL PROJECTS ARE NOT TYPICALLY BUILT OVER BURIED CREEKS THAT ARE NON-ENGINEERED AND ALSO FLOOD SEASONALLY. SO IT IS UNUSUAL. WE SATISFIED THE FIRST REQUIREMENT. WE ALSO SATISFIED THE SECOND REQUIREMENT, AND THAT IS THAT THERE IS CONSIDERABLE EVIDENCE THAT THERE MAY BE A SIGNIFICANT EFFECT ON THE ENVIRONMENT BECAUSE OF THE SUBSURFACE HYDROLOGICAL CONDITIONS OF THE SITE, WHICH ARE BEING IGNORED BY THE PROPOSED DEVELOPMENT PLAN. AND DR. PAZ WILL NOW SPEAK TO THOSE.

>> THANK YOU. GOOD EVENING, COUNCILMEMBERS. MY NAME IS DR. LUCAS PAZ. I WORK WITH TERRAPHASE ENGINEERING, AND I'VE BEEN REVIEWING THE SITE CONDITIONS THE LAST COUPLE YEARS ON BEHALF OF THE APPELLANT. THIS SLIDE I HAVE UP SIMPLY SHOWS A CREEK MAP. THERE ARE MULTIPLE CREEK MAPS THAT SHOW THAT THE SITE IS UNDERLYING BY THE NORTHERN BRANCH OF STRAWBERRY CREEK, AND THAT'S PRETTY CLEAR IN THE RECORD. I ALSO HAVE IN THIS SLIDE A MAP THAT'S PREPARED BY THE ASSOCIATION OF BAY AREA GOVERNMENTS THAT SHOWS THE SITE IS WITHIN AN AREA THAT'S SUSCEPTIBLE TO LIQUEFACTION AS WELL. THE SITE IS BASICALLY -- IT IS SENSITIVE

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AND UNUSUAL BECAUSE IT'S SUBJECT TO RECURRENT FLOODING. IT'S LOCATED OVER A NON-ENGINEERED BURIED CREEK, AND THERE ARE NO UNDERGROUND STORM DRAINS THAT SERVE THE AREA. THE URBAN CREEKS COUNCIL PREVIOUSLY EVALUATED THE SITE AND DETERMINED THE NORTHERN BRANCH OF STRAWBERRY CREEK WAS FILLED WITH NON-ENGINEERED SOIL AND DEBRIS AND CLASSIFIED IT AS FILLED WETLAND AND SEISMICALLY UNSTABLE AND SUBJECT TO LIQUEFACTION. THIS IS SUPPORTED BY THE MAP I JUST SHOWED. FURTHER MORE, THE SITE SPECIFIC HYDROLOGIC CONCERNS REQUIRED ADDITIONAL CAREFUL ATTENTION. THERE ARE NO RECORDS OF STORM DRAINS IN THE AREA. THERE IS WHAT I ASSUME IS A FLUCTUATING SHALLOW GROUNDWATER TABLE THAT COMES TO THE SURFACE AND CAUSES THE FLOODING DURING WET WEATHER PERIODS AS A SUBSURFACE IS SATURATED. THE PROPOSED PROJECT WILL INCREASE RUN-OFF AND WILL DECREASE SUBSURFACE AND SOIL STORAGE, AND THE SITE SPECIFIC SOILS AND GROUNDWATER DATA IS NEEDED TO EVALUATE THAT, AND ENHANCED GEOTECHNICAL AND GROUNDWATER INVESTIGATION WOULD BE NEEDED TO ADDRESS THIS, AND THAT'S WHAT WE'RE SUGGESTING. THE APPLICANTS' ASSESSMENTS TO DATE AND THE PERIOD TO DATE IS ONLY FOCUSED ON SURFACE RUN-OFF. AND THAT'S ONLY HALF THE STORY. THIS IS -- HYDROLOGY IS A COMPLICATED SUBJECT, AND IT'S NOT -- YOU CAN'T SIMPLY CONSIDER SURFACE RUN-OFF IN ISOLATION WITH THE SUBSURFACE. SO THAT'S SOMETHING THAT NEEDS TO BE CONSIDERED. THE PROJECT COULD IMPACT

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SUBSURFACE FLOW PATHWAYS, AND SO WHAT'S NEEDED IS AN ENHANCED GEOTECHNICAL AND SHALLOW GROUNDWATER INVESTIGATION TO CHARACTERIZE THE EXISTING SUBSURFACE AND DESIGN APPROPRIATE MITIGATION TO AVOID IMPACTS. AND SO I HAVE PREPARED SOME CONCEPTUAL CROSS-SECTIONS THAT SHOW EXISTING CONDITIONS AND THE POTENTIAL EXISTING CONDITION EXISTS. SO THESE ARE NOT ACTUAL DEPTHS IN EXTENT OF THESE FEATURES, BUT WHO COULD BE OCCURRING. SO THIS IS AN EXAMPLE OF A BURIED CREEK LINE, A VERTICAL SLICE THROUGH THE SUBSURFACE ON SITE FROM EAST TO WEST, AND IT SHOWS THAT YOU HAVE A SITUATION WHERE YOU HAVE A GROUNDWATER TABLE THAT FLUCTUATES. AND DURING THE WINTER, HEAVY RAIN PERIODS, THE GROUNDWATER TABLE COMES TO THE SURFACE AND MOVES FROM EAST TO WEST IN THE REGIONAL GROUNDWATER FLOW DIRECTION. SO IF THAT PREFERENTIAL FLOW PATHS, SOME OF WHICH MAY BE NEAR THE SURFACE AND SOME MAY BE AT DEPTH, THOSE COULD BE IMPACTED BY THE CONSTRUCTION OF THE PROJECT. SO THIS LAST SLIDE SIMPLY SHOWS THAT IF THE PROJECT WERE TO BE CONSTRUCTED, IT COULD CAUSE LOCALIZED GROUNDWATER MOUNDING THAT COULD IMPACT THE RESIDENTS AS WELL AS THE ROADWAY. I'LL LEAVE IT AT THAT.

>> MAYOR J. ARREGUIN: THANK YOU. THERE MAY BE QUESTIONS AFTER THE PUBLIC TESTIMONY. THANK YOU VERY MUCH. I'D LIKE TO GIVE THE APPLICANT FIVE MINUTES TO PRESENT TO THE CITY COUNCIL. AND WHO WILL BE REPRESENTING THE APPLICANT? MR. RHODES.

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>> GOOD EVENING, MR. MAYOR, MEMBERS OF THE CITY COUNCIL. I WANT TO THANK THE STAFF FOR THE GRUELING WORK THAT'S BEEN ACCOMPLISHED WITH THIS PROJECT, AND THANK YOU ALL FOR THE OPPORTUNITY TONIGHT TO SHARE THIS PROJECT WITH YOU. THIS HAS BEEN A THREE-YEAR ODYSSEY. IT'S BEEN CONFUSING FOR US, AND SO I KNOW IT HAS HAD TO HAVE BEEN CONFUSING FOR OUR NEIGHBORS AND OUR RESIDENTS AS WELL. BUT HOPEFULLY MOST OF THE CONFUSION IS GONE, AND WE CAN MOVE FORWARD WITH THE PROJECT. NEXT SLIDE. WE APPRECIATE THAT THERE HAVE BEEN CHANGES WITH THIS PROJECT DUE PRIMARILY TO INTERPRETATIONS OF NEW STATE DENSITY BONUS LAW PROVISIONS. THE ORIGINAL PROJECT WAS 18 UNITS, AND ALL THE DARK BLUE BUILDINGS ON THE LEFT-HAND SIDE OF THE SCREEN WERE THREE-STORY PROPOSALS. AFTER WE WERE INFORMED BY THE CITY STAFF LAST SUMMER THAT IN ORDER TO PROCEED WITH THE DENSITY BONUS PROJECT, ALL OF OUR EXISTING TENANTS WOULD HAVE TO MOVE OUT AND REQUALIFY AND WIN THE LOTTERY TO MOVE BACK INTO THEIR UNITS, WE DECIDED WE COULD NOT GO FORWARD WITH THAT PROJECT. WE COULD NOT STOMACH THE IDEA THAT THESE RESIDENTS WOULD HAVE TO MOVE OUT. THAT WAS NOT OUR INTENT. IT'S NOT OUR INTENT NOW. AND SO WE REVISED THE PROJECT DOWN TO 13 UNITS. THERE'S NO DENSITY BONUS. IT'S ALL TWO STORIES. AND THE PROJECT SUBSTANTIALLY COMPLIES WITH THE ZONING ORDINANCE, AND WE'LL GET BACK TO THAT IN A MINUTE. I'M NOT GOING TO GO THROUGH ALL THE DETAILS EXCEPT TO

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SAY THAT THIS IS A VERY TRANSIT-ORIENTED LOCATION. IT'S RIGHT THERE AT THE INTERSECTION OF SAN PABLO AVENUE AND UNIVERSITY AVENUE. AND THERE'S FULL SERVICES WITHIN WALKING DISTANCE AND ALL KINDS OF TRANSIT. WE ALSO SHOW THE BUILDING FOOTPRINTS, WHICH AS YOU CAN SEE ARE NOT AS TIGHTLY PACKED AS SOME OF THE SINGLE FAMILY CONDITIONS DIRECTLY TO THE EAST OF THE PROJECT, WHICH IS WHERE THE APPELLANTS ARE. SOME OF THEM PRIMARILY. NEXT SLIDE. I AM SORRY ABOUT THE CONFUSION THAT OUR RESIDENTS HAVE HAD TO GO THROUGH IN THE UPS AND DOWNS WITH THE PROJECT, BUT LAST SUMMER, WE REVISED OUR APPLICATION. WE SENT A LETTER TO ALL OF OUR RESIDENTS, AND WE SENT A LETTER TO THE CITY, INCLUDING THE RENT BOARD, CITY STAFF, AND THE ZONING ADJUSTMENTS BOARD. WE COMMITTED, AND I'M HERE TO TELL YOU RIGHT NOW, THAT WE ARE NOT PROPOSING TO ELIMINATE ANY RENT-CONTROLLED UNITS. WE ARE NOT PROPOSING TO DISPLACE ANY OF OUR RESIDENTS. THAT'S OUR COMMITMENT. AND WE MADE IT IN WRITING. IT'S A CONDITION OF APPROVAL. WE ALSO WENT EVEN FURTHER. WE SAID THAT WHILE YOU ARE RESIDENTS ON OUR PROPERTY, WE WILL NOT CONVERT TO CONDOMINIUMS YOUR UNITS. WE WON'T. THEY CAN STAY THERE AS LONG AS THEY LIKE IN THEIR RENT-CONTROLLED APARTMENTS. THAT'S OUR COMMITMENT TO YOU WITH THIS PROJECT PROPOSAL. NEXT SLIDE. WE CAN ARGUE ABOUT THE DRAINAGE CONDITION ALL DAY LONG. THERE'S NOT A COURT IN THIS STATE THAT'S GOING TO UPHOLD WHAT YOU JUST HEARD FROM THE

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APPELLANTS. THIS IS NOT AN UNUSUAL CIRCUMSTANCE IN THIS CITY. I'VE BEEN AROUND THIS CITY FOR QUITE A LONG TIME. WE KNOW WHERE ALL THE OLD TRIBUTARIES ARE, AND AS STAFF SAID, THIS TOWN IS STRIATED BY FORMER CREEK ALIGNMENTS. THERE ARE HOUSES AND APARTMENTS AND COMMERCIAL BUILDINGS AND INDUSTRIAL BUILDINGS BUILT OVER FORMER CREEK ALIGNMENTS ALL OVER BERKELEY. WE HAVE STANDARD CONDITIONS FOR DEALING WITH THEM. YOU KNOW, WHEN WE SUBMIT -- WE PROVIDED THE HYDROLOGY STUDY, WE PROVIDED THE DRAINAGE. THE PROBLEM WITH THE FLOODING BACK THERE RIGHT NOW IS BECAUSE NOBODY'S EVER INSTALLED DRAINAGE BACK THERE. WE'RE PROPOSING TO DO THAT, WHICH IS GOING TO AMELIORATE THE SITUATION BOTH ON SITE FOR OUR EXISTING RESIDENTS AND FOR THE NEIGHBORS. WE'LL PROVIDE A SOCIAL STUDY WHEN WE NEED TO FOR THE FOUNDATION REPORT, BUT AGAIN, GETTING -- BEING ABLE TO BUILD THESE BUILDINGS BACK HERE, THESE TWO DUPLEXES, WHICH ARE GOING TO PROVIDE MORE HOUSING IN THE CITY, INCLUDING AN AFFORDABLE UNIT, THERE'S -- WE GET TO RE-ENGINEER THE SOIL THAT'S THERE. IT'S NOT AN UNUSUAL CIRCUMSTANCE. NEXT SLIDE. THERE'S TWO CONDITIONS OF APPROVAL THAT WE WISH TO MODIFY. I'M NOT GOING TO SPEND A LOT OF TIME ON THAT LANGUAGE RIGHT NOW WITH THE PARKING. IF WE'RE NOT ABLE TO FIND SPACES, WE'D LIKE TO BE ABLE TO PAY OUR RESIDENTS MONEY INSTEAD OF PROVIDING THE PARKING SPACES, BUT I'M NOT TOO WORRIED ABOUT THAT. THERE'S ALL KINDS OF COMMERCIAL USES AROUND

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THERE THAT WE MIGHT BE ABLE TO GET SOME PARKING FOR, BUT THAT WOULD BE HELPFUL FOR US AND POTENTIALLY FOR RESIDENTS. NEXT SLIDE. ON THE TEMPORARY RELOCATION, WE DON'T THINK THAT IT'S VALID THAT A RESIDENT CAN CHOOSE WHEN THEY MIGHT WANT TO MOVE OUT. INSTEAD, CONSISTENT WITH THE RENT BOARD REGULATIONS, WE WOULD LIKE THAT DECISION TO BE MADE BY THE CITY WHEN THAT DECISION IS APPROPRIATE. AND WE'RE TOTALLY HAPPY. WE WORKED WITH THE RENT BOARD ON THIS. AND WE'RE TOTALLY HAPPY TO LIVE WITH THAT CONDITION. I WOULD ADD THAT THE NIGHT OF THE PROJECT'S APPROVAL, IT'S 8-1 APPROVAL, WE HAD TWO RENT BOARD MEMBERS THERE. I JUST NEED TO FINISH BY SAYING THAT THE AUPS FOR THIS PROJECT ARE EXTREMELY MINOR, AND THEY ARE NOT NECESSARY FOR THIS PROJECT TO GO FORWARD. IF YOU'RE NOT ABLE TO APPROVE THOSE AUPS, THOSE AUPS GIVE US FUTURE VALUE THAT WE WERE ABLE TO LEVERAGE AND GIVE THE RESIDENTS THE LETTER THAT WE DID, AND WE CAN'T DO THAT IF WE MAY BE BE FORCED TO DO A HOUSING ACCOUNTABILITY --

>> MAYOR J. ARREGUIN: THANK YOU. THERE MAY BE QUESTIONS.

>> IN WHICH CASE --

>> MAYOR J. ARREGUIN: YOU'RE OVER TIME. THANK YOU. THANK YOU VERY MUCH. LET'S NOW GO TO THE PUBLIC HEARING PORTION. SO I BELIEVE WE HAVE MORE THAN TEN SPEAKERS. EACH SPEAKER WILL HAVE 1 MINUTE, BUT TIME CAN BE YIELDED TO A MAXIMUM OF 4 MINUTES PER SPEAKER. WHO WOULD LIKE TO START PUBLIC COMMENT?

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>> HI, MY NAME DAYA RAMAYA. I AM A HOUSE OWNER ON 1819 CURTIS STREET. I APPRECIATE YOU BEING HERE TONIGHT TO LISTEN TO US. I WANT TO MAKE A CORRECTION TO THE 98-PAGE DOCUMENT. AT THE MEETING ON 8/23, THE ZAB MEETING, THE DEVELOPER AGREED TO MAKE THE FOUR-BEDROOM UNITS HAVE THREE BATHROOMS, AND I DID NOT SEE THAT REFLECTED. SECONDLY, THE PREVIOUS PROPOSAL WAS 17, NOT 18, UNITS, AS THE DEVELOPER SAID THIS EVENING. ALSO, THE SIX RENT-CONTROLLED UNITS HE PUT RIGHT UP THERE TONIGHT SAYS THAT YES, THOSE REMAIN RENT CONTROLLED AS LONG AS THESE PEOPLE LIVE THERE. BUT ONCE THESE PEOPLE MOVE OR EVENTUALLY DIE, WE WILL LOSE THE VERY RARE RENT-CONTROLLED HOUSING THAT BERKELEY DESPERATELY NEEDS.

>> MAYOR J. ARREGUIN: THANK YOU. NEXT SPEAKER, PLEASE.

>> I'M WONDERING IF ANYBODY CAN GIVE ME A FEW EXTRA MINUTES?

>> MAYOR J. ARREGUIN: THAT'S 4.

>> OKAY. SO I CAN HAVE 4 MINUTES.

>> MAYOR J. ARREGUIN: THOSE PEOPLE THAT RAISED YOUR HANDS, IF YOU CAN SIT DOWN. GET OUT OF LINE. THANK YOU.

>> THANK YOU. THANK YOU, NEIGHBORS.

>> MAYOR J. ARREGUIN: RESPECTFULLY.

>> GOOD EVENING, MAYOR AND COUNCILMEMBERS. THANK YOU FOR YOUR TIME, DEDICATION, AND ATTENTION TO THIS ISSUE. MY NAME IS

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YASHU JIANG, AND I HAVE RESIDED AT 1163 HEARST AVENUE FOR SEVEN YEARS. I'M HERE TO SPEAK ABOUT THE ANXIETY I FELT AS A RENTER DEALING WITH MR. RHODES AND COMPANY AND MY CONCERNS ABOUT THE SAFETY AND ENVIRONMENTAL IMPACT OF THE DEVELOPMENT. SO FROM OUR INITIAL ENCOUNTERS WITH THE DEVELOPERS UNTIL NOW, THE OTHER TENANTS AND I HAVE HEARD SO MANY VERSIONS OF WHAT THEY WANT TO BUILD AND WHAT THEY WANT TO DO WITH OUR HOUSING, IT FEELS LIKE WE'RE DEALING WITH AN 18-HEADED MONSTER. THEY JUST CHANGED SOME CONDITIONS TONIGHT. THAT'S NEW TO US. THE PARKING THING? THAT'S NEW TO US. THEY HAD TOLD US WE CAN PARK AT THE 99 CENT STORE. THAT IS A LONG WALK FROM OUR HOUSE. ESPECIALLY AT NIGHT WHEN WE'RE CARRYING STUFF, WHEN NOW WE HAVE PARKING RIGHT OUTSIDE. THE ISSUE ABOUT THE RELOCATION, THAT HAS CHANGED MULTIPLE TIMES. SO WE HAVE BEEN TOLD WE'D BE TEMPORARILY RELOCATED AND CAN BE MOVED BACK, AND THEN AS ZAB, THEY CHANGED THEIR MIND. IT WASN'T THE CITY THAT MADE THEM. IT WAS BECAUSE THEY GOT CALLED OUT BY EVERYBODY ELSE THAT THAT WAS NOT APPROPRIATE. AND NOW THEY'RE SAYING THAT THEY'RE GOING TO REHABILITATE OUR UNITS. WHAT DOES THAT EVEN MEAN? THEY'RE GOING TO PUT MORE STORIES UP. DO WE HAVE TO MOVE OUT FOR THAT? IS THAT GOING TO BE A DEMOLITION? WE DON'T KNOW. AND ALSO THE CURRENT UNITS, THEY WILL BE DEMOLISHED AS SOON AS WE MOVE OUT. SO BERKELEY WILL LOSE RENT-CONTROLLED HOUSING STOCK. THE INTENTION IS TO BUILD CONDOMINIUMS. SO WE

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HAVE TO CONSIDER THE LOSS OF AFFORDABLE HOUSING IN OUR COMMUNITY. AND ALSO, IF YOU DON'T KNOW, MARK HAS PREVIOUSLY OFFERED TO PAY ME CASH TO LEAVE SOONER RATHER THAN LATER. I DON'T KNOW WHAT THAT MEANS, BUT IT SOUNDS A LITTLE BIT THREATENING. SO ON THE OTHER HAND, WHEN I HAVE ASKED ABOUT CONCERNS RELATED TO CONSTRUCTION AS IT WILL BE RIGHT OUTSIDE OF MY DOOR, I WAS BASICALLY BLOWN OFF AND BASICALLY IGNORED. AGAIN, THE PARKING THING IS NEW. WE WERE TOLD THAT WE CAN STAY UNTIL WE VOLUNTARILY RELOCATE OR VOLUNTARILY VACATE OUR UNITS, SO I DON'T KNOW WHAT THAT NECESSARILY MEANS, BECAUSE WE MIGHT HAVE TO RELOCATE ANYWAY IF WE FEEL HARASSED BY THE CONDITIONS AROUND CONSTRUCTION. WE CONSULTED THE RENT BOARD, WE RESULTED EAST BAY COMMUNITY LAW CENTER, AND I CONSULTED A PRIVATE ATTORNEY; AND THEY BASICALLY SAID WELL, WE DON'T KNOW WHAT MARK IS GOING TO DO. SO JUST BE PREPARED TO KNOW YOUR RIGHTS AND SUE HIM. SO WE CLEARLY GET THE MESSAGE THAT WE'RE NOT WANTED HERE BECAUSE THEY'RE BUILDING CONDOS THAT ARE MARKET RATE, AND WE ARE NOT FLUSH WITH CASH. AND THERE ARE OTHER ASPECTS OF THE PROJECT THAT ARE JUST NOT REALISTIC, INCLUDING THE PARKING PLANS AND THE DRAINAGE PLANS. SO RIGHT NOW THERE IS SIGNIFICANT PONDING IN THE BACK PARKING AREA WHENEVER IT RAINS, AND THAT'S ACTUALLY WHERE THEY WANT TO PUT BUILDINGS, AS WELL AS BELOW STREET LEVEL PARKING. THAT DOES NOT MAKE SENSE TO ME. THERE ARE REASONS WHY

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THERE AREN'T BUILDINGS IN THOSE SPOTS, AND THERE ARE BEAUTIFUL, LOVELY VEGETATION THERE RIGHT NOW. SO THERE NEEDS TO BE A FULL INVESTIGATION FIRST TO DETERMINE THAT THE SOIL IS SAFE TO BE BUILT ON, AND FLOODING WON'T BE WORSE. BUT THE DEVELOPERS ARE SO FOCUSED ON MAKING MONEY, THEY COULD CARE LESS ABOUT THE ENVIRONMENT, THE NEIGHBORHOOD, OR EVEN THE PEOPLE THAT ARE GOING TO BUY THE CONDOS. SO WE ARE ASKING FOR THE CEQA BECAUSE THAT IS THE ONLY WAY TO HOLD THESE PEOPLE RESPONSIBLE BECAUSE WE WANT THEM TO SHOW US EXACTLY WHAT THEY'RE GOING TO DO WITH THE RENT-CONTROLLED UNITS, EXACTLY WHAT THEY'RE GOING TO -- EXACTLY HOW THEIR PROJECT IS GOING TO AFFECT THE ENVIRONMENT. WITHOUT THESE ASSURANCES, WE CAN'T TRUST THEM TO DO THE RIGHT THING. WE CAN'T TRUST THEM TO PROTECT US OR THE NEIGHBORHOOD. THANK YOU.

>> MAYOR J. ARREGUIN: THANK YOU. [APPLAUSE] NEXT SPEAKER, PLEASE.

>> THANK YOU. MY NAME IS TRACY EMERSON. I AM A RESIDENT AT 1157 HEARST AVENUE FOR THE PAST TEN YEARS. I WOULD LIKE TO REITERATE THE SAME THING MY NEIGHBOR YASHU SAYS, THAT THIS PROJECT HAS CAUSED AN EXTREME AMOUNT OF STRESS, AN EXTREME AMOUNT OF FRUSTRATION, AN EXTREME AMOUNT OF CONFUSION. I WOULD TELL YOU FOR THE PAST 15 YEARS, THE ENTIRETY OF MY CAREER, I HAVE BEEN A PUBLIC SCHOOL TEACHER IN LOW SOCIOECONOMIC TITLE 1 SCHOOLS. HAVING AN UNDERGRADUATE DEGREE FROM NYU AND A MASTERS

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DEGREE IN EDUCATION FROM NATIONAL UNIVERSITY AND 15 YEARS OF EXPERIENCE AS A TEACHER IN UNDERSERVED COMMUNITIES, I COULD TEACH ANYWHERE. HOWEVER, FOR THE PAST TEN YEARS, I HAVE TAUGHT IN EAST OAKLAND, WHERE I HAVE BECOME A STABLE ACADEMIC FIGURE IN THE LIVES OF PARENTS AND CHILDREN. THROUGHOUT MY CAREER, I HAVE MADE NUMEROUS SACRIFICES TO TEACH IN AREAS THAT ARE NOT SO FORTUNATE. ONE OF THE BIGGEST SACRIFICES IS OBVIOUSLY THE SALARY. AND IN TURN, MY ABILITY TO ONLY AFFORD RENT IN SOME NOT-SO-DESIRABLE NEIGHBORHOODS. WHEN I LIVED AND TAUGHT IN THE SOUTH BRONX, IN INGLEWOOD, FRIENDS AND FAMILY REFUSED TO VISIT.

>> MAYOR J. ARREGUIN: THANK YOU.

>> STATING THEIR CONCERNS ABOUT SAFETY. HOWEVER, TODAY IN BERKELEY --

>> MAYOR J. ARREGUIN: IF YOU CAN PLEASE WRAP UP YOUR COMMENTS. OH, YOU HAVE AN ADDITIONAL MINUTE.

>> RENT CONTROL HAS MADE IT POSSIBLE FOR ME TO CONTINUE AS A HIGHLY-QUALIFIED EDUCATOR WHO REFUSES TO GO THROUGH THE REVOLVING DOOR OF TEACHER TURNOVER. RENT-CONTROLLED HOUSING HAS MADE IT POSSIBLE FOR ME TO SURVIVE IN THIS COUNTRY AS AN EDUCATOR. THANK YOU.

>> MAYOR J. ARREGUIN: THANK YOU. [APPLAUSE] NEXT SPEAKER, PLEASE.

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>> I HAVE A [INAUDIBLE] PRESENTATION THAT I'M GOING TO BRING UP HERE.

>> MAYOR J. ARREGUIN: I SEE TWO. THERE'S FOUR, OKAY.

>> I'LL WAIT UNTIL I SEE...

>> MAYOR J. ARREGUIN: THERE WE GO.

>> SO MY NAME IS RAIN SUSSMAN, I'M THE APPELLANT, AND I LIVE ON CURTIS STREET DIRECTLY ADJACENT TO THE PROPOSED CONDO DEVELOPMENT. I'M VERY CONCERNED ABOUT THE PERMANENT LOSS OF AFFORDABLE HOUSING THAT WILL INEVITABLY RESULT FROM APPROVAL OF THIS PROJECT AS WRITTEN, AND I FULLY SUPPORT MY NEIGHBORS AND ANY MEASURES THAT CAN BE TAKEN TO PREVENT THEIR DISPLACEMENT AND THE PROTECTION OF EXISTING RENT-CONTROLLED HOUSING STOCK. AS A HOMEOWNER, I'M AFRAID OF THE POTENTIAL HARM TO MY HEALTH, SAFETY, AND PROPERTY RESULTING FROM THIS PROJECT. THE SEVERE FLOODING PROBLEMS HAVE NOT BEEN ADEQUATELY INVESTIGATED, AND WITHOUT A CEQA STUDY, WE CAN BE SURE THAT THEY WILL NEVER BE. THE PLANNING DEPARTMENT'S ANALYSIS IGNORES THE SERIOUSNESS OF THE HYDROLOGY PROBLEMS. FOR EXAMPLE, ON PAGE 45 OF THEIR DEFENSE, THEY CLAIM THERE IS NO EVIDENCE THAT THE SIDEWALKS OVERFLOW OUTSIDE THE PROPOSED SITE. THIS IS CLEARLY MISTAKEN, AS YOU CAN SEE IN FRONT OF YOU. PERHAPS WE CAN ROLL THAT VIDEO. LET'S GO BACK TO THE PREVIOUS SLIDE. THE PLANNING DEPARTMENT DRAWS INCORRECT CONCLUSIONS FROM THE APPLICANT'S HYDROLOGY

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REPORT, WHICH PEER REVIEW HAS STATED CONTAINS "UNFORTUNATE LIMITATIONS AND LACKS KEY INFORMATION THAT MUST BE SUBMITTED BEFORE THE DRAINAGE PLAN IS FINALIZED." THERE ARE ALSO RISKS, SLIDE TWO, RELATED TO QUESTIONABLE SOILS AS A RESULT OF THE UNDERGROUND CREEK. THE APPLICANT ADMITTED IN THE ZAB MEETING THAT SOFT SOILS WERE FOUND ON SITE -- THIS WAS AT THE PREVIOUS ZAB MEETING -- BUT REFUSED TO FURNISH ANY DOCUMENTATION OF ANY SOIL INVESTIGATION THAT MAY HAVE BEEN DONE. THE CITY CLAIMS THAT THE SITE IS NOT SUBJECT TO ANY LIQUIFACTION HAZARD, BUT WHEN WE LOOK AT A HAZARD MAP WITH MULTIPLE GIS LAYERS VISIBLE, WE SEE THAT THE SITE IS IN A LIQUIFACTION RISK ZONE. NOTABLY, AND THAT'S RIGHT IN FRONT OF YOU, NOTABLY THE SPUR OF MODERATE LIQUIFACTION HAZARD FOLLOWS THE ALIGNMENT OF THE CREEK. THESE THINGS ARE ALL RELATED. THE ONLY WAY TO ADEQUATELY ADDRESS THESE ISSUES IS THROUGH A FOCUSED GEOTECHNICAL ANALYSIS AS PART OF A CEQA STUDY. IS IT POSSIBLE TO ROLL THAT VIDEO, OR IS THAT JUST NOT HAPPENING? WE HAVE VIDEO THAT SHOWS SEVERE FLOODING WITH THE SIDEWALKS OUTSIDE OF THE DEVELOPMENT SITE OVERFLOWING IN A PRETTY REMARKABLE WAY. IT LOOKS LIKE MAYBE THAT'S NOT GOING TO PLAY. SO WHY DON'T WE JUST MOVE ON TO THE THIRD SLIDE.

>> MAYOR J. ARREGUIN: THERE WE GO.

>> OKAY. WHILE WE'RE WAITING FOR THAT, I JUST WANT TO REMIND THE CITY COUNCILMEMBERS THAT I THINK ALMOST EVERYBODY

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HERE RAN ON A PLATFORM OF AFFORDABLE HOUSING AND SUSTAINABLE DEVELOPMENT FOR THE CITY OF BERKELEY, AND WE'RE HERE TO HOLD YOU TO THAT CAMPAIGN PROMISE, AND WE'RE COUNTING ON YOU TO PROTECT US, TO PROTECT OUR AFFORDABLE HOUSING STOCK, AND TO PROTECT THE PEOPLE WHO LIVE IN OUR COMMUNITIES. CAN WE LOOK AT SLIDE 3, 'CAUSE IT LOOKS LIKE WE'RE NOT GOING TO WATCH ANY VIDEO. SO ONE THING THAT I ALSO WANT TO POINT OUT HERE IS THAT THERE'S A VERY WONKY BUSINESS THAT'S GOING ON AROUND HERE WITH THE LOT LINE ADJUSTMENT. SO THE APPLICANT HAS SAID THAT HE'S NOT GOING TO ASK FOR A LOT MERGER, A MERGER OF THE TWO PARCELS, BUT HE IS GOING TO ASK FOR A LOT LINE ADJUSTMENT. IT'S NOT CLEAR WHAT THAT WILL BE. AND -- WHAT'S GOING ON OVER THERE? ANYWAY. IGNORE THE MAN BEHIND THE CURTAIN. SO -- THERE WE GO. SO IN ORDER TO PROVIDE FOR PARKING, SOMETHING THAT NEEDS TO BE FULLY FLESHED OUT IS GOING ON HERE WITH THE TWO LOTS, BECAUSE THERE'S ONLY ONE PARKING SPACE ON ONE LOT, AND ALL THE REST OF THE PARKING IS ON THE OTHER LOT. SO PLEASE ASK THE APPLICANT ABOUT THAT. THANK YOU.

>> MAYOR J. ARREGUIN: THANK YOU. MISS SUSSMAN?
COUNCILMEMBER HAHN HAS A QUESTION FOR YOU.

>> S. HAHN: I'D LIKE TO SEE THAT FOOTAGE. IT DID START SHOWING. SO THANK YOU.

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>> THIS IS OUTSIDE OF THE RENT-CONTROLLED UNITS, SO THIS IS WHERE THE PEOPLE WHO YOU JUST HEARD FROM, YASHU AND TRACY, LIVE. AND HERE YOU CAN SEE -- WE BACKED UP THE TAPE A LITTLE BIT HERE. SO WE'RE WALKING DOWN HEARST AVENUE. I'M JUST SHOWING HOW THE WATER IS IN FACT FLOWING OVER THE SIDEWALKS. THIS IS A NEIGHBOR'S GARAGE. WE'LL MOVE DOWN. WE'RE WALKING WEST ON HEARST AVENUE TOWARDS THE PROJECT SITE. THIS IS 1173, SO THAT IS THE SIDEWALK OUTSIDE OF THE PROJECT SITE. YOU CAN SEE A LOT OF WATER FLOWING ON TO THE SIDEWALK THERE. [PLEASE STAND BY]

>> THANK YOU. GOING BACK TO THE VIDEO, I NOTICED THAT ON ONE SIDE WAS GUSHING THE OTHER WAS DRY. AND I'M CURIOUS IF THAT IS A COMMON OCCURRENCE.

>> I'M NOT AN EXPERT BUT I CAN'T SAY ON THAT SITE THE FLOODING ALWAYS OCCURS ON THAT SIDE OF THE STREET BECAUSE THAT'S WHERE THE TRACE OF STRAWBERRY CREEK OR THE UNDERGROUND RUNS. THAT'S KIND OF LIKE GENERALLY IN THE VICINITY OF THE NATURAL PATH OF THE WATER TO THE BAY.

>> COUNCILOR: I'M WONDERING. QUESTIONS.

>> COUNCILOR: DOES ANY WATER ACCUMULATE IN THE PARKING LOT?

>> I HAVE A PHOTOGRAPH I CAN SHOW. IT WAS A COUPLE INCHES SUBMERGED IN A BIG POND OF WATER IN THAT PARKING LOT A PARKING LOT THAT IS DIRECTLY BEHIND THAT FOOTING OF CURB THAT WE SAW. THE LARGE POND WAS THERE. AND THE DRAINAGE PLAN PROPOSED

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DOESN'T -- IT'S ONLY A GRAVITY DRAINAGE AND IT'S DRAINING TO THE SOUTH WHICH AS WE KNOW IS NOT THE DIRECTION OF THE LAY OF THE LAND OF BERKELEY LIES. IT'S TO THE WEST. I'M NOT SURE HOW GRAVITY WILL HELP THE WATER DRAIN OFF THE PROPERTY. ON MY PROPERTY I HAVE SERIOUS DRAINAGE PROBLEMS AND HAVE TWO PUMPS. I DON'T THINK GRAVITY'S GOING TO CUT IT. ANY OTHER SPEAKERS?

>> WELL, WHILE I DON'T LIVE IN THIS NEIGHBORHOOD AS A FORMER MAYOR I HAVE GREAT INTEREST IN LAND USE THROUGHOUT THE CITY. I'LL BE BRIEF AND CONCENTRATE ENTIRELY ON THE SIX UNITS. IT IS IMPERATIVE THEY REMAIN SO. BERKELEY HAS BUILT A LOT VERY VERY LITTLE OF WHICH IS UNDER RENT CONTROL. THE COMMUNITY HAS REACHED OR EXCEEDED HOUSING FOCUS FOR HIGH-INCOME RESIDENTS BUT WE HAVE A SHAMEFULLY FAILED RECORD FOR PROVIDING AFFORDABLE HOUSING. AS THE CITY'S POLICY MAKERS IT'S YOUR RESPONSIBILITY TO MAINTAIN EXISTING RENT-CONTROLLED UNIT NOT ONLY FOR THE TENANTS' SAKE BUT TO KEEP THE STATE FROM SUING US. APPROVING WITH THE PROPOSAL WITH THE UNITS.

>> COUNCILOR: I HAVE A QUESTION FOR YOU, MAYOR DEAN, WHAT ELSE WOULD YOU LIKE TO SAY?

>> I APPRECIATE THAT. UNTIL THEY VOLUNTARILY LEAVE IT CREATES AN ATMOSPHERE OF FEAR AMONG THE TENANTS AND ESTABLISHES AN ONGOING CONFLICT UNTIL THE TENANT GIVES UP AND VACATES. THOSE OF US WITH EXPERIENCE LIVING IN A CONSTRUCTION ZONE KNOW HOW

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EVERYTHING GOES SIDEWAYS AND WHAT WILL ENSURE THE PROMISES MADE TONIGHT ARE THOSE THAT ARE KEPT TOMORROW. MY MESSAGE IS SIMPLE. DENY THIS PROJECT AND COME BACK WITH A BETTER PROJECT AND AMONG OTHER THINGS KEEPS THE RENT CONTROL UNDER MANAGEMENT.

>> THE GROUND IS SOGGY AND UNSTABLE. I CAN TAKE A STICK AND EVEN WITH A FOUR-FOOT STICK I CAN GO ALL THE WAY DOWN TO THE GROUND. PEOPLE WHO ARE 80 AND 90 IN 1971 TOLD ME THE CREEK USED TO BE THERE AND WHEN THEY PULLED THE DEBRIS OUT AND FILLED IT UP. I WILL ASK YOU ABOUT THE GEO TECHNICAL WORK TO BE DONE GOING FORWARD AND YOU WILL PROTECT MY RENT CONTROL NEIGHBORS. WE DO NOT WANT MARKET-RATE CONDOS IN PLACE OF PEOPLE SENT AWAY IN THE UNITS TOMORROW. WE SHOULD DO WHATEVER CONDITIONS OR OTHER ACTIONS WE CAN TAKE TO SEND THAT BACK IT ZAB AND HAVE IT LOOKED AT. THANK YOU VERY MUCH.

>> COUNCILOR: THANK YOU.

>> THANK YOU. I LIVE ON CURTIS STREET. WHEN THE ZONING FOR ZAB MANAGER WAS SAYING THAT THE PROBATIONARY AREA DOESN'T KNOW ABOUT THE FLOODING. BEFORE WE PUT PUMPS IN EVERY YEAR MORE THAN ONCE AND WE ALL TOGETHER COLLECTIVELY HAVE SIGNATURES AND OUR BACKYARDS ARE SINKING. WHATEVER'S BACK THERE IS NOT -- AND AT THE FIRST MEETING AT THE END MARK ROS ADMITTED THE ALTERNATIVE. THANK YOU.

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>> GOOD EVENING. I'M STACY SHULMAN ADJACENT TO THE PROPERTIES. I'VE LIVED THERE 30 YEARS AND WOULD LIKE TO GIVE YOU MY S HAVING BEEN THERE 30 YEARS. THERE'S A QUESTION ABOUT DRY ON THE OTHER SIDE. NOT SHOWN IS THE PONDING. AND CURTIS, TREMENDOUS 10 FEET OUT TO THE STREET I KNOW BECAUSE WHEN I GET OUT ON THE BUS I HAVE TO FIGURE OUT HOW TO PASS WITH WATER WELL OVER MY SNEAKERS. THERE'S A TREMENDOUS AMOUNT OF WATER IN THE AREA. THE GROUND BACK THERE IS A BIG SPONGE. I BELIEVE THE PROJECT CONCEIVED THE AMOUNT OF BUILDING WILL SIT ON THE LAND. WE NEED A CEQA TO FIGURE OUT WHAT IS THERE. WHAT ARE WE AFRAID OF? I ASK OUR CITY COUNCIL TO PLEASE REQUIRE THE CEQA ANALYSIS AND DO YOUR DUE DILIGENCE FOR THE SAFETY OF EVERYBODY SO WE KNOW WHAT'S HAPPENING. THANK YOU.

>> MY NAME'S COLIN. I'VE BEEN A RESIDENT AT 1173 HEARST THE SINGLE-FAMILY DEVELOPMENT. IT WAS STATED AT ONE TIME THAT THIS PROPERTY WAS VACANT. THIS ISN'T TRUE. WE'VE BEEN LIVING THERE. I WANT TO SPEAK TO MAKE THAT CLEAR. AND IT'S NEVER MENTIONED IN THE CONSIDERATIONS BECAUSE THE PRESIDENTS HAVE BEEN KEPT IN THE DARK DESPITE THE EFFORTS ON OUR PART TO TRY TO GET INFORMATION FROM PROPERTY MANAGEMENT AND OWNERSHIP. WE WERE TOLD THE DEVELOPMENT WAS NOT MOVING FORWARD AND THE ONLY REASON WE SIGNED OUR LEASE AND HAVEN'T HEARD ANYTHING ON THE SUBJECT FOR A YEAR AND OUR LARGE BACKYARD WAS TORN OUT TO TAKE GROUND SAMPLES

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TAKING PLANTS AND LANDSCAPE WE PUT MONEY AND TIME IN TO. WE AGREE WITH EVERYTHING OUR RENT-CONTROLLED NEIGHBORS HAVE BEEN SAYING BUT GIVEN OUR EXISTENCE HASN'T BEEN ACKNOWLEDGED, WE WANT CLARITY ON THAT AND PROTECTION FOR OURSELVES. WE'VE BEEN TOLD THE CURRENT PLANS STATE THERE'S BEEN IMPROVEMENTS ON OUR PROPERTY AND WE WERE TOLD THAT IS GIVES OWNERSHIP GROUNDS TO EVICT US AND THEY CAN ILLEGALLY RAISE OUR RENT. WE HAVE BEEN TOLD OTHER RESIDENTS WILL BE CONSIDERED AND WOULD LIKE TO POINT THAT OUT. THANK YOU.

>> MY NAME IS BILL AND THE STATE LIES.

>> BE RESPECTFUL OF THE SPEAKERS REGARDLESS OF YOUR OPINION ON THE ISSUE. THANK YOU.

>> STAFF: USE THE MIC.

>> COUNCILOR:

>> THEY SHOULD PUT SOMETHING IN WRITING. THOSE ARE MY THOUGHTS.

>> COUNCILOR: THANK YOU. ANY OTHER SPEAKERS?

>> I WOULD JUST LIKE TO EXPLAIN TO YOU WHY THIS IS A CEQA EXEMPT PROJECT. BECAUSE NUMBER ONE, TWO CONDITIONS ARE MET. ONE IS UNUSUAL CIRCUMSTANCES. LESLIE MENDEZ CAME BEFORE THIS ZAB BOARD AND IN ANSWER TO A DIRECT QUESTION SAID, YES, WE CAN ALL AGREE THIS IS UNUSUAL CIRCUMSTANCES. THE SECOND CONDITION IS EVIDENCE IN THE RECORD THAT THERE MAY BE A FAIR ARGUMENT FOR

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SIGNIFICANT IMPACT. I THINK YOU HEARD A GREAT DEAL OF TESTIMONY TODAY. YOU WILL BE ABLE TO SPEAK TO CONSULTANTS AND WILL BE ABLE SO THE YOU EVIDENCE IN THE RECORD OF THIS. AND THERE'S BEEN A HYDROLOGICAL STUDY SAID IN FACT IT WAS UNFORTUNATE MORE SUBSURFACE INVESTIGATION WASN'T TAKING PLACE. MARK HAS A GEO TECHNICAL STUDY HE HASN'T SHOWN TO US. THANK YOU VERY MUCH.

>> HELLO. MY NAME IS RALPH WILLIAMS I LIVE ADJACENT TO THE PROPERTY. I BUILT AN ADDITION TO MY SMALL HOUSE AND AFTER MY PERMIT WAS APPROVED EVERYTHING WAS GOING IT TOOK ONE NEIGHBOR TO SAY THERE'S FLOODING AND YOU HAVE TO DO SOMETHING ABOUT IT. THE CITY REQUIRED ME TO PUT IN A FAIRLY EXTENSIVE DRAINAGE SYSTEM AND SUMP PUMP IN ORDER TO SATISFY THAT WHICH I DID AND HAPPY I DID IT BECAUSE THE SUBSEQUENT WINTER I NEEDED IT. IN A PROJECT THIS SIZE YOU NEED TO TAKE A LITTLE PAUSE AND DO SOME STUDYING AND MAKE SURE IT'S NOT GOING TO HAVE AC FOR THOSE WHO HAVE GONE TO EXTENT TO ENSURE WE DON'T DO IT TO OUR NEIGHBORS. THANK YOU.

>> HI, I'M JAMES MATSON. AND OUR HOUSE IS ON DERBY AND ELSEWORTH. WE HAVE FLOODING. OUR HOUSE HAS SUNK 10 INCHES BECAUSE THERE'S A CREEK CALLED DERBY CREEK AND WE GET FLOODING. I JUST SPOKE TO AN ENGINEER AND IT CAN LEAD TO FLOODING.

>> SIR, PLEASE WRAP UP.

>> CHECK OUT BERKELEY DAILY PLANET DOT-COM.

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>> GOOD EVENING, CHRISTINE SCHWARTZ. ONE OF THE MAIN REASONS I VISIT ALL THE TIME IS FOR THE REASON OF AFFORDABLE HOUSING. IT'S THAT IMPORTANT TO ME AND WHY I'M VIDEOTAPING. I CAN RELAY TO HARASSMENT. THEY TRIED TO FORCE ME AND MY SISTER TO LEAVE OUR RENT-CONTROLLED APARTMENT. OUR HOUSING IS BEING TAKEN AWAY FROM US AND WE NEED IT. SO IF YOU CAN HAVE THEM HAVE WHATEVER YOU DO RELOCATION FUNDING FOR THEM, JUST DO THAT. THANK YOU.

>> COUNCILOR: THANK YOU, ARE THERE ANY OTHER SPEAKERS ON THIS APPEAL? DOES ANYONE ELSE WISH TO ADDRESS THE COUNCIL. THANK YOU FOR COMING AND FOR YOUR COMMENTS. WE'LL BRING IT BACK TO THE CITY COUNCIL FOR DISCUSSION. I'D LIKE TO ASK WHILE THE COUNCIL'S DISCUSSING THIS APPEAL IF WE COULD PLEASE NOT HAVE INTERRUPTIONS FROM THE AUDIENCE. I APPRECIATE YOUR THOUGHTFUL COMMENTS HERE SO WE WOULD LIKE IT START DISCUSSION ON THIS APPEAL. ANY QUESTIONS OR COMMENTS?

>> COUNCILOR: THANK YOU NEIGHBORS FOR COMING OUT AND FOR THE REPORT. I'VE LIVED IN BERKELEY 37 YEARS AND CAN RECALL DRIVING DOWN HEARST WHEN IT RAINED BACK IN BERKELEY AND IT BEING SERIOUSLY FLOODED. AND I DIDN'T WANT TO GO THROUGH THAT WATER SO I WENT ANOTHER DIRECTION. AND THEN AFTER VIEWING THE PROPERTY, THE BACKYARD OF THE SINGLE-FAMILY HOUSE, THAT YARD IS KIND OF LIKE A WETLANDS BECAUSE THE GROUND WAS SUPER MUDDY, THERE WERE

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ALL KINDS OF BIRDS CHIRPING, FLOWERS THAT GOT DESTROYED I GUESS BECAUSE THEY DISMANTLED THE YARD. THERE'S SOME SERIOUS ISSUES WITH WATER GOING ON BACK THERE I COULD TELL. THEN ALL THE NEIGHBORS THAT CAME BY SAID THEY ALL HAVE THE SAME ISSUE IN THEIR YARDS AND THEN THE FACT THAT THE WATER DOES ACCUMULATE IN BETWEEN THE TWO BUILDINGS, I JUST THINK WE HAVE TO CONSIDER A CEQA OR AT LEAST A HYDROLOGY REPORT. ALSO, RENT CONTROLLED TENANTS NEED TO BE PROTECTED. THESE TENANTS, I MYSELF AM I RENT-CONTROLLED TENANT. TEACHERS, HERE WE ARE TALKING ALL THE TIME ABOUT HOW WE HAVE TO INCREASE AFFORDABLE HOUSING IN BERKELEY. WE REALLY NEED TO MAINTAIN AFFORDABLE HOUSING FOR THESE TENANTS. AND THEY SAY WHEN SPEAKING TO THEM THEY WERE VERY PASSIONATE AND EMOTIONAL ABOUT THE TRAUMA THEY'VE GONE THROUGH IN THE PROCESS AND THAT TO ME IS SAD BECAUSE DEVELOPERS CAN WE ALL JUST GET ALONG. I DON'T KNOW WHAT ELSE TO SAY BUT YOU KNOW, WE DON'T HAVE TO CREATE THESE TRAUMAS FOR EVERYBODY BECAUSE IT'S NOT OKAY. AND WE REALLY SHOULD VALUE THE DIVERSITY THAT COMES ALONG WITH THESE AFFORDABLE UNITS. WE SEE WHAT'S HAPPENING IN BERKELEY AND I JUST FEEL THAT THE WATER COULD BE AN ISSUE THAT NEEDS TO BE INVESTIGATED AND ADDRESSED. THANK YOU.

>> MAYOR J. ARREGUIN: THANK YOU. COUNCIL MEMBER ROBINSON.

>> R. ROBINSON: THE DEEPER I DIVE INTO THE PROJECTS THE MORE QUESTIONS I HAVE. I WANT TO APOLOGIZE TO THE TENANTS. I

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KNOW IT'S BEEN A LONG DRAWN-OUT PROCESS AND MUCH OF THE PROCESS HAS LEFT YOU IN THE DARK AND I KNOW THAT'S A DIFFICULT PLACE TO BE AND THE PROJECT HAS NAMED A NUMBER OF TIMES BUT DESPITE THAT THE COMMUNICATION HAS BEEN AT BEST IN A WORD SLOPPY. I THINK THIS PUTS US IN A CHALLENGING POSITION BECAUSE THIS SORT OF HOUSING IS EXACTLY WHAT WE NEED ALL OVER THE CITY. BUT THE MORE AND MORE YOU GET TO THE SITE THERE'S SOMETHING DEEPLY FISHY AT PLAY HERE AND I HAVE A LOT OF QUESTIONS AND HOW TO PROCEED AND WE SHOULD BE CAUTIOUS ABOUT ANY PROJECT THAT BRINGS RENT-CONTROLLED UNITS OFF AND WE COULD BE REMOVING SIX AND BUILDING ONE. THAT'S A POWERFUL NET LOSS FOR OUR COMMUNITY IF THAT HAPPENS. I WAS LUCKY ENOUGH TO VISIT THE SITE TODAY. THANK YOU TO THE NEIGHBORS THAT WELCOMED ME TO YOUR BACKWARDS AND IT'S OBVIOUS WHY 100 YEARS OR SO AGO THERE'S A GAP IN THE MAP AROUND THE MARSHY SPOT AND RIGHT NOW THERE'S CLEAR DRAINAGE ISSUES THERE AND INDEPENDENT OF THIS PROJECT SOMETHING NEEDS TO BE DONE ABOUT THAT AND A PROJECT THAT ADDRESSES THOSE WELL AND INTENTIONALLY I THINK COULD BE AN INCREDIBLE THING FOR THE BLOCK BUT IT'S NOT OBVIOUS TO EVERYONE THAT'S BEING PROPOSED AND I WANT TO MAKE SURE OF THAT BEFORE WE MOVE ANYWHERE. I'M ALSO CONCERNED ABOUT THE WORD VOLUNTARY. AND THE LAST ONE I MOVED OUT OF I'D LIKE TO SAY I MOVED OUT BUT I WAS MORE GENTLY EVICTED. IT WAS A CONSTRUCTION SITE AND EVENTUALLY THAT BECAME UNLIVABLE FOR

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ME AND MY ROOMMATES AND I LEFT WHEN IT WAS APPROPRIATE FOR ME TO BECAUSE I HAD FINALS AND CONFRONTING MY LANDLORD WASN'T PART OF THE EQUATION. WHEN WE TALK ABOUT VOLUNTARY MOVES FOR THE TENANTS THOUGH THEY'VE BEEN PROMISED WE WON'T CONVERT THEIR UNITS WHILE THEY LIVE IN THEM IT SOUNDS LIKE THE POSSIBILITY OF OTHER CONSTRUCTION NEXT TO THEM. WE NEED THE IN-FILL IN THE CITY BUT IF THAT'S GOING TO BE HAPPENING I HOPE THE TENANTS COULD BE GUARANTEED DEFINED HOURS OF CONSTRUCTION AND WELL-OUTLINED AGREEMENTS AND AN UNDERSTANDING IF THERE ARE MODIFICATIONS TO THE LEASES THEY ALREADY SIGNED BEING PROMISED THIS CONSTRUCTION WOULDN'T BE OCCURRING AND WOULD BE GUARANTEED RENT REDUCTIONS AND REVISIT COMBINING LOTS AND BRING IN THE HOUSE ON THE PROPERTY UNDER OUR CONTROL. BUT THAT'S CLEAR THE COMMUNICATION THAT NEEDED TO HAPPEN TO MAKE SURE IT HAPPENS IN A WAY THAT WORKS WITH THEM HASN'T HAPPENED YET SO I'M WORRIED.

>> MAYOR J. ARREGUIN: THANK YOU. VICE MAYOR WENGRAF.

>> S. WENGRAF: I HAVE QUESTIONS FOR STAFF. MOST THE PUBLIC COMMENTS FOCUSSED ON TWO AREAS. ONE WAS THE HYDROLOGY OF THE SITE.

>> I'M FAMILIAR WITH THE ISSUE. I HAPPEN TO OWN A HOUSE THAT SITS ON SOME STREAM OF WATER FLOWING UNDER THE HOUSE. AND WE INSTALLED A FRENCH DRAIN AND SUMP PUMP AND THERE WERE WAYS TO

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MITIGATE THE PROBLEM. AND SO CONCERNED ABOUT HOW IT'S GOING TO BE MITIGATED HERE.

>> SO THE CONDITIONS OF APPROVAL THAT ARE STANDARD ARE THE STORM WATER REQUIREMENTS ABOUT THE PROTECTION OF THE STORM WATER TO ENSURE THE PROJECT IS IN COMPLIANCE WITH THE NATURAL POLLUTION DISCHARGE ELIMINATION SYSTEM. THE ONES RELATED TO THE DRAINAGE IS THE CONDITIONS OF APPROVAL TO IMPLEMENT THE RECOMMENDATIONS OF THE HYDROLOGY ASSESSMENTS APPEAR REVIEWED AND THAT IS COMMISSIONER APPROVAL NUMBER 21. AND 21 READS DRAINAGE PLAN UNLESS MODIFIED BY THE CITY'S BUILDING AND SAFETY DIVISION AND/OR DEPARTMENT OF PUBLIC WORKS, PLANS SUBMITTED FOR BUILDING PERMIT SHALL INCLUDE THE DRAINAGE DESIGN AS PRESENTED IN STORM WATER AND FLOODING ASSESSMENT AND MITIGATION DESIGN FOR THE PROJECT PREPARED BY CLEAR WATER HYDROLOGY DATED JANUARY 7, 2016 AS REVISED JULY 12, 2017 AND ALL RECOMMENDATION OF PEER REVIEW BY THEM. THE ONE THING I'D LIKE TO ADD IS THE GEO TECHNICAL REPORT, SOILS REPORT HAPPENS DURING THE BUILDING SUBMITTAL AND RELATED TO DRAINAGE OR SUMP PUMPS THE ONE NEIGHBOR MENTIONED WOULD OCCUR DURING BUILDING NOT USE PERMIT APPROVAL. BECAUSE IT'S THE BUILDING PERMIT PROCESS THAT ENSURES THE REQUIRED DRAINAGE SYSTEM IS IMPLEMENTED.

>> COUNCILOR: SO AT THIS POINT IN THE PROCESS WE COULD NOT MAKE THAT A CONDITION OF APPROVAL?

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>> THE WHAT? THE SUMP PUMP?

>> COUNCILOR: WHATEVER WE WERE TO DECIDE BUT SOME
INSTALLATION OF SUMP PUMPS OR WHATEVER.

>> I WOULD REFER TO THE CITY ATTORNEY.

>> CAN YOU REPEAT THE QUESTION?

>> COUNCILOR: WHAT I'M ASKING IS LESLIE SAID THAT SOME OF
THESE CONDITIONS ARE IMPOSED AT THE BUILDING PERMIT STAGE. NOT
AT THIS STAGE. I'M ASKING IF WE COULD, AS COUNCIL, MAKE THAT A
CONDITION OF APPROVAL?

>> COUNCILOR: TO MAKE IT A CONDITION OF APPROVAL ON THE
PROJECT AT THIS STAGE THERE HAS TO BE SUFFICIENT NEXUS. SO I
GUESS I NEED TO FIND OUT MORE AND I WOULD DEFER TO PLANNING IN
TERMS OF WHETHER THERE'S NEXUS. LET'S THINK THROUGH THE
CONDITION YOU'RE TALKING ABOUT.

>> COUNCILOR: WE'RE TALKING ABOUT THE PREPONDERANCE OF
WATER POOLING ON THE SITE.

>> STAFF: AND A CONDITION TO PUT IN A SUMP PUMP?

>> COUNCILOR: I'M NOT AN EXPERT ON THIS BUT I'M ASSUMING
THERE ARE RECOMMENDATIONS THAT COULD BE MADE.

>> STAFF: THE LEGAL STANDARD WOULD BE AS LONG AS THERE'S
SUFFICIENT NEXUS WE COULD MAKE IT A CONDITION OF APPROVAL.

>> COUNCILOR: THANK YOU. THEN ON THE RENT CONTROL ISSUE ON
THE PROTECTING THE TENANTS WHO ARE IN RENT-CONTROLLED UNITS AND

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KEEPING THOSE UNITS UNDER RENT CONTROL, WHAT ARE OUR LEGAL
OPTIONS?

>> STAFF: SO THERE'S TWO THINGS. THE TENANT PROTECTIONS I
WANT TO CLARIFY APPLY TO ALL TENANTS INCLUDING THOSE IN THE
SINGLE-FAMILY HOME. THE SINGLE-FAMILY HOME IS NOT RENT
CONTROLLED. THE PROTECTION OF THE RENT-CONTROLLED UNITS ARE NOT
TO BE DEMOLISHED SO WILL REMAIN AS RENT-CONTROL UNITS. IF AND
WHEN THEY ARE DEVELOPED IN TERMS OF HAVING AN ADDITION THEY'LL
STILL QUALIFY AS RENT-CONTROLLED UNITS. AS WELL AS IF THERE IS A
CONDO CONVERSION ON THE UNITS AND THERE ARE RESIDENT TENANTS,
THEY HAVE THE SAME PROTECTIONS THEY WOULD AND I'M NOT SURE IF
THAT'S PART OF YOUR QUESTION.

>> COUNCILOR: AS LONG AS THEY'RE LIVING THERE.

>> COUNCILOR: AND THERE ARE OTHER ITEMS RELATED TO TENANT
PROTECTION. ONE IS RELOCATION PRIOR TO -- SORRY. SO PRIOR TO A
BUILDING PERMIT BE ABLE TO BE ISSUED PO FOR THE THE PROPERTY
OWNER HAS TO PROVE THE TENANTS HAVE RELOCATED ON THEIR OWN OR
THERE WAS AN AGREEMENT BETWEEN THE PROPERTY OWNER AND TENANT TO
RELOCATE THEM. THAT'S ONE CONDITION TO APPROVAL NUMBER 15.
THERE'S ALSO CONDITION OF APPROVAL RING TO TEMPORARY RELOCATION
DURING CONSTRUCTION OF ANY PERMITS. FOR EXAMPLE, IF IN ONE OF
THE DUPLEXES THE TWO UNITS BECAME VACANT CONSISTENT WITH A
CONDITION OF APPROVAL 15, THE PROPERTY OWNER COULD THEN APPLY

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FOR A BUILDING PERMIT TO BEGIN SOME CONSTRUCTION ON THAT DUPLEX.
ANY TENANT ON THAT PROPERTY COULD APPLY FOR RELOCATION
ASSISTANCE WHETHER THEY LIVE IN A UNIT BE AFFECTED BY
CONSTRUCTION OR NOT. THOSE ARE THE CONDITIONS CURRENTLY APPLIED
TO THE PROJECT.

>> COUNCILOR: COULD YOU ADDRESS THE ISSUE OF THE MERGER OF
THE LOTS AND WHETHER OR NOT THIS SAY REQUIREMENT IN ORDER TO
HAVE PARKING.

>> STAFF: SO THERE IS NO MERGER OF THE LOTS AND BECOMES
INFEASIBLE DUE TO STATE LAW. YOU ARE ALLOWED BY RIGHT THROUGH
THE ZONING ORDINANCE TO HAVE PARKING ON AN ADJACENT PROPERTY OR
WITHIN CERTAIN DISTANCE UNDER LEASE OR SAME OWNERSHIP. THIS IS
NOT A CONTRAVENING OF THE ORDINANCE IN ANYWAY. THE LOT LINE
ADJUSTMENT WHICH IS WHAT THEY'RE REFERRING TO, WAS STRICTLY TO
PROVIDE THE REQUIRED FOUR-FOOT LANDSCAPE BUFFER BETWEEN THE
PROPERTY LINE AND THE PARKING LOT WHICH DOES BECOME A LITTLE BIT
OF A SEMANTICS ISSUE PER SE SINCE IT IS ONE DEVELOPMENT BUT IT
IS TWO LOTS. SO WHEN WE LOOK AT THE PROJECT AS EVALUATING THE
COMPLIANCE WITH THE STANDARDS WE HAVE TO LOOK AT IT AS TWO
DIFFERENT PROPERTIES WITH SETBACKS FROM TWO DIFFERENT PROPERTY
LINES EVEN IF THEY SHARE THE SAME PROPERTY.

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>> COUNCILOR: THANK YOU FOR THAT. AND THEN IS IT POSSIBLE TO MAKE AS A CONDITION OF APPROVAL THAT THE CURBS WOULD BE BUILT UP?

>> STAFF: YES, THE STANDARD CONDITION OF APPROVAL IS THAT CURBS NEED TO BE REPAIRED AN WHEN TAY ARE REPAIRED THEY'RE REQUIRED TO BE REPAIRED TO THE SIX-INCH MINIMUM DEPTH AND THE RUNNING WATER IT POOLS UP AT THE DRIVEWAY. BUT IT KEEP GOING. SO WE CAN CLARIFY AND POND REBUILDING AT THE CURB WHICH WOULD BE ODD AS IT GOES TO THE LEFT AND RIGHT OF THE PROPERTY, THAT DOES PROVIDE A BETTER BARRIER BECAUSE THE STREETS GETS RESURFACED.

>> COUNCILOR: THE CITY HAS DONE THIS WORK IN OTHER AREAS WHERE THERE ARE DRAINAGE PROBLEMS AND THEY'VE ALSO BUILT UP DRIVEWAYS WITH LITTLE I DON'T KNOW WHAT YOU CALL THEM. LITTLE MOUNDS TO PREVENT THE WATER FROM GOING FURTHER INTO THE PROPERTY. I'D LIKE TO SEE SOMETHING LIKE THAT BE THE CONDITION. THANK YOU.

>> MAYOR J. ARREGUIN: THANK YOU, COUNCILOR DROSTE.

>> COUNCILOR: I HAVE QUESTIONS ABOUT THE DRAINAGE AS WELL. CLEARLY IT'S A LEGITIMATE ISSUE. I KNOW THE APPLICANT SUBMITTED FLOODING AND STORM WATER ASSESSMENT AND YOU HAD ANOTHER PEER REVIEW OF THAT ASSESSMENT IS THAT CORRECT?

>> STAFF: THAT'S CORRECT. BUT I'M GOING TO GET THEIR NAMES MIXED UP SO I'LL APOLOGIZE BUT IT'S IN THE STAFF REPORT. THEY

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SUBMITTED THE HYDROLOGY REPORT AND PEER REVIEWED BY CLEAR WATER BOTH PREPARED BY LICENSED ENGINEERS AND PREPARED AND REVIEWED BY THE LICENSED ENGINEERS.

>> COUNCILOR: SO I NOTICED IN THE STAFF REPORT YOU MENTIONED THAT IT MIGHT IMPROVE THE FLOODING CONDITIONS THAT OCCUR. I WAS JUST WONDERING IF YOU COULD REVISIT THE RATIONALE FOR THAT STATEMENT?

>> STAFF: THAT WAS THEIR STATEMENT AND PEER REVIEWED. I WAS RESTATING.

>> COUNCILOR: YOU WERE RESTATING THEIR STATEMENT. THANK YOU. I DO HAVE QUESTIONS AROUND THE RENT-CONTROLLED UNIT. I THINK IT WAS A YEAR AGO ALMOST TO THE DAY CITY COUNCIL REINSTALLED COSTA HAWKINS FOR RENT CONTROL SO IT'S DEAR TO PEOPLE'S HEARTS. I'M CURIOUS TO HEAR MORE ABOUT THE WORK FROM MR. ROADS WITH THE RENT BOARD AND TO KNOW HOW SOME OF THESE PROTECTIONS WERE ESSENTIALLY CREATED. I WANT TO GET CLARITY ON THAT. I ALSO WANT TO ECHO COUNCIL MEMBER ROBINSON'S SENTIMENT THAT IT SEEMED THERE WAS NOT SO GREAT COMMUNICATION. I WANT TO GET A SENSE FROM MR. RHOADES ABOUT HOW YOU WORKED WITH THE RENT BOARD IN COMING UP WITH THESE TENANT PROTECTIONS, IF YOU WOULD.

>> COUNCILOR: ARE YOU REFERRING TO THE LETTER WE SENT THE TENANT OR THE RENT STABILIZATION ORDINANCE PROTECTIONS?

>> COUNCILOR: I'D LIKE TO HEAR ABOUT THE LETTER, PLEASE.

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>> STAFF: GOSH. SO WE STARTED WORKING WITH THE RENT BOARD RIGHT AWAY BECAUSE WE HAD EXISTING RESIDENTS. WE WANTED TO MAKE SURE WE WERE WORKING THE PROJECT BY THE BOOK WITH RESPECT TO THOSE TENDENCIES AND MAKING SURE WE WERE OBSERVING THEIR RIGHTS AND WE HAD NO INTENTION OF TRYING TO GET ANY OF THOSE RESIDENTS TO MOVE OUT. WE STILL DON'T. ONCE WE WERE INFORMED BY THE CITY THE INTERPRETATION OF THE NEW STATE DENSITY BONUS LAW IS UNDER THAT SCENARIO, THEIR UNITS WOULD HAVE TO BECOME 50% A.M.I. UNITS AND IF THEY MOVED OUT THEY'D HAVE TO RE-QUALIFY AS B.M.R. TENANT AT THE 50% A.M.I. LEVEL AND THEN WOULD HAVE TO WIN THE HOUSING LOTTERY TO BE ABLE TO MOVE BACK IN. WE WALKED OUT OF THAT ZONING ADJUSTMENT MEETING AFTER TELLING ZAB OUR HEARTS WERE BROKEN TO SOME EXTENT. SO TWO DAYS LATER, WE SENT A LETTER TO EVERY TENANT THAT WE HAVE WITH THE EXCEPTION OF 1173 BECAUSE NO ONE WAS LIVING IN IT AT THAT TIME. YOU HAVE THE LETTER. WE SAID STAY AS LONG AS YOU WANT AND IT MAY HAVE BEEN A POOR CHOICE OF WORDS TO SAY AS LONG AS YOU WANT. WHEN YOU LEAVE SOME DAY, THEN WE'LL GO TO THE ENTITLEMENT AND DO THE WORK ON THAT BUILDING BUT THAT'S WHAT THAT WAS. IN ADDITION, WE SAID, HEY, WE COMMIT NOT TO CONVERT THESE CONDOMINIUMS WHILE YOU'RE STILL HERE. MAYBE SOME DAY. RIGHT NOW WE WANT THESE GUYS TO KNOW DESPITE WHAT THEY MIGHT BE SITTING BACK HERE SAYING AND TELLING YOU TONIGHT THEY CAN STAY HERE AS LONG AS THEY WANT IN THEIR RENT-PROTECTED

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APARTMENTS. WE MAY NOT HAVE THAT OPTION IF THIS PROJECT ISN'T APPROVED.

>> COUNCILOR: I ACTUALLY WANTED TO ASK YOU ABOUT THAT BECAUSE OF THE HOUSING ACCOUNTABILITY ACT. MY INFORMATION AND I'D LIKE TO HEAR FROM YOU AND STAFF. MY UNDERSTANDING IS IF YOU PULL THE A.U.P.S IT WOULD COMPLY UNDER THE HOUSING ACCOUNTABILITY ACT AND MANY OF THE TENANT AGREEMENTS WOULD THEN BE LOST.

>> THAT'S CORRECT. MORE OF A RETURN OF A STATE DENSITY PROJECT. EITHER WAY.

>> COUNCILOR: SO IF THIS GOES BACK TO ZAB, IS IT MY UNDERSTANDING THAT'S SOMETHING YOU ALL WOULD DO? SO YOU'RE SAYING THAT YOU WOULD SUBMIT IT AS A HOUSING ACCOUNTABILITY ACT?

>> IF THIS PROJECT IS NOT APPROVED WITH THE SMALL ADMINISTRATIVE USE PERMITS PROPOSED FOR IT, OUR RECOURSE WILL BE TO GIVEN THESE CIRCUMSTANCES GO TO A HOUSING ACCOUNTABILITY PROJECT THAT WON'T BE SUBJECT. THEN IT'S ALL BY THE BOOK. WE DO NOTHING TO PROVIDE THE TENANT PROTECTIONS. IT IS WHAT IT IS WITH THE HOUSING ACCOUNTABILITY ACT PROJECT. WE DON'T WANT TO DO THAT.

>> COUNCILOR: MY QUESTION IS WHY AND IS IT THAT WAY FOR EVERY VERSION OF A PROJECT UNDER THE HOUSING? I GUESS I'LL ASK STAFF THAT.

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>> STAFF: THERE'S SEVERAL ADMINISTRATIVE USE PERMITS REQUIRED FOR THIS PROJECT THAT DISQUALIFY FOR A STREAMLINED APPROVAL UNDER THE A.H.A. IN TERMS OF ADDITIONS TOT TO THE EXISTING BUILDINGS THEY WERE 14 FEET SO THE ADDITIONS WOULD NOT BE ALLOWED AND THE FRONT AND SIDE AND EXTENSIONS AND EXISTING SEPARATIONS. IN ESSENCE IT WOULD BE REDESIGNED TO INCLUDE THE NEW BUILDINGS. THAT WOULD BE DENSITY COMPLIANT AND WOULD BE VERY HARD TO IMPOSE CONDITIONS ON THAT OTHER THAN THE STANDARD CONDITIONS.

>> COUNCILOR: THAT'S ALL THE QUESTIONS I HAVE NOW. I'LL HAVE TO DIGEST THAT.

>> COUNCILOR: I'LL JUMP IN AFTER THE QUEUE BECAUSE WHAT WAS JUST SAID DOES NOT MAKE SENSE TO ME. I'M GOING TO HAVE TO DIG INTO THIS BECAUSE I HAVE BEEN ON THE ZAB AND SERVED ON THE RENT BOARD AND AN UNDERSTAND THE PROTECTIONS BUT I'LL GO TO COUNCIL HERTZBERG. IT WOULD BE FOR THE RENT CONTROLLED PROPERTY. THAT DOES NOT INITIATE OUR RENT CONTROL LAW IS THAT CORRECT? SO THE RENT CONTROLLED UNITS WOULD BE LEFT INTACT. WE'D HAVE AN A.H.A. PROJECT BUT IT WOULD NOT IMPACT THE RENT-CONTROLLED UNITS. I WANT TO TALK ABOUT TWO THINGS ABOUT THE ISSUE OF CEQA. YOU CAN'T COME UP WITH A REMEDY FOR THE PROBLEM AND THEN SAY CEQA DOESN'T APPLY AND NO MATTER THE DRAINAGE SYSTEMS PUT IN OR WHATEVER YOU DID IF THE EXEMPTION TO THE EXEMPTION IS APPLICABLE, IT'S

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APPLICABLE. I THINK IT'S IMPORTANT WE UNDERSTAND WE DON'T GET TO MITIGATE IT IF IN FACT CEQA APPLY. THE TEST QUESTION IS DOES CEQA APPLY. WHAT ALSO MAKES NO DIFFERENCE IS WHETHER OR NOT THE CREEK IS PROTECTED AND RECOGNIZED ON THE MAP OR ANYTHING ELSE CAN YOU DEFINE THE ENVIRONMENT AND WHAT'S THAT INCLUDE?

>> I DON'T THINK I CAN GIVE YOU A LEGAL DEFINITION. UNDER CEQA WHEN WE TALK WITH THE ENVIRONMENT WE'RE TALKING ABOUT THE PHYSICAL ENVIRONMENT. THE EFFECTS ON THE PHYSICAL ENVIRONMENT.

>> COUNCILOR: BUT IT INCLUDES THE IMPACT ON ADJACENT PROPERTIES.

>> THAT IS CORRECT. THAT'S PART OF THE PHYSICAL ENVIRONMENT.

>> COUNCILOR: THE QUESTION IS THIS UNUSUAL UNDER THE CEQA ARGUMENT THEY'RE MAKING AND IS THE ENVIRONMENT AFFECTED? IS THERE A LIKELY POSSIBLE IMPACT ON THE ENVIRONMENT THAT'S OF SIGNIFICANT NATURE IS THAT CORRECT?

>> CAN YOU BREAK THAT DOWN MORE WHAT YOUR QUESTION IS?

>> COUNCILOR: YES. MY QUESTION IS IT DOESN'T MATTER HOW WE MIGHT MITIGATE THE IMPACT THAT WOULD HAPPEN IF IN FACT THE TEST SHOWS THE EXCEPTION IS TO BE GRANTED BECAUSE THE IMPACT IS UNUSUAL AND IT PASSES THE TWO-PRONGED TEST AND WHAT WE DO TO FIX THAT DOESN'T MATTER.

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>> CORRECT, BUT PLEASE NOTE THE FIXING IS RELATED TO THE ARGUMENT AND THE UNUSUAL CIRCUMSTANCE IS SUBSTANTIAL EVIDENCE. SO JUST ALSO TO CLARIFY STAFF HAD MADE THAT SWITCH. HAD IT INCORRECT WHICH IS WHY I SAID IT COULD BE CONSIDERED AN UNUSUAL CIRCUMSTANCE BECAUSE SHE GOT CONFUSED AND IT WAS FAIR ARGUMENT. THAT'S NOT THE FAIR ARGUMENT TEST. THE FAIR ARGUMENT TEST IS ONE CAN MAKE A FAIR ARGUMENT THIS OCCURS. THAT'S WHERE THE SIGNIFICANT EFFECT. BEFORE THE SIGNIFICANT EFFECT CAN COME INTO PLAY YOU HAVE TO ESTABLISH THE UNUSUAL CIRCUMSTANCE AND STAFF IS ADAMANT.

>> COUNCILOR: EVEN IF IT DID, BEING ABLE TO MITIGATE IT DOESN'T MAKE A DIFFERENCE. THE TEST IS WHAT IT IS?

>> BUT WE DON'T GET TO PART TWO SINCE WE DON'T NEED PART ONE.

>> COUNCILOR: I UNDERSTAND BUT I WANTED TO BRUSH THAT AWAY. ON THE TENANT ISSUES, IT GOES BEYOND WHAT'S HAPPENING ON THE REST OF THE PROJECT. IT IMPACTS RENT CONTROLLED UNITS. AS MANY SPEAKERS HAVE SAID IT'S IN OUR INTEREST TO PROTECT RENT CONTROL UNITS NOT JUST RENT CONTROLLED TENANTS. COUNCIL ROBIN SAID THERE WOULD BE ONE BUT IT'S DEPENDENT ON THE INCOME OF THE PERSON NOT THE PHYSICAL STRUCTURE. JUST TO CLEAR THAT UP. AND MY QUESTION IS UNDER THE CONDO CONVERSION ORDINANCE WE HAVE FOR TENANTS. CAN I UNDERSTAND RIGHT NOW IS THIS AN APPLICATION FOR A CONDO

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CONVERSION FOR THE CURRENT RENT CONTROLLED UNITS. AND IT CALLED FOR LIMITING RENT INCREASES TO 65% OF C.P.I. THAT'S A PROVISION OF OUR ORDINANCE. WE'RE GOING TO SAY I'M GOING CONVERT THIS TO CONDOS NOW, THE PROVISION OF 65% WOULD APPLY BUT BECAUSE THEY'RE NOT DOING A CONDO CONVERSION NOW IT DOESN'T APPLY? IS THAT RIGHT? CAN I ASK THE CITY ATTORNEY THAT?

>> STAFF: I'D HAVE TO LOOK AT THE COMMA CONVERGENCE ORDINANCE.

>> GOING BACK TO THE OTHER TOPIC ON MITIGATION MEASURES, I DON'T BELIEVE IT'S PROPOSING MITIGATION MEASURES WHICH WOULD EXEMPT THE CEQA MEASURES. THAT'S IMPORTANT TO CLARIFY. THESE ARE CONDITIONS OF APPROVAL THEORETICALLY BEING PROPOSED.

>> COUNCILOR: THEY'RE SEPARATE AND A PART FROM THE TEST. THAT'S HELPFUL. MANY THINGS WE HAVE IN OUR CONDO CONVERSION ORDINANCE THAT PROTECT TENANTS WOULDN'T APPLY BECAUSE THEY'RE NOT ASKING FOR A CONDO CONVERSION NOW. THE 60% OF C.P.I. UNDER SECTION D, THERE'S A SECTION THAT REQUIRES 10 YEARS PRIOR TO A CONDO CONVERSION, NO OWNER HAS FILED A STATEMENT TO GO OUTSIDE THE ORDINANCE AND I'M CURIOUS HOW WE DO THAT SINCE THE APPLICANT SAYS THEY WANT TO MAKE THEM CONDOS ONCE THE TENANTS LEAVE. I'M CONFUSED ON THE OVERLAY OF THIS AND THE CONDO CONVERSION ORDINANCE. ALSO, THERE'S PAYMENTS MADE UNDER THE CONDO CONVERGENCE AND FEE. I WANT TO ASK YOU ONE OTHER LEGAL QUESTION

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ABOUT CEQA WOULD THIS FOUND TO BE A PROJECT THAT IS NEEDED IN CEQA IS THE LOSS OF RENTAL HOUSING. IS THAT CORRECT UNDER STATE LAW?

>> NOT NECESSARILY BECAUSE CEQA IS REALLY CONCERNED WITH IMPACTS TO THE PHYSICAL ENVIRONMENT NOT REALLY CONCERNED WITH SOCIOECONOMIC ISSUES UNLESS THEY HAVE A SECONDARY IMPACT OF CAUSING PHYSICAL IMPACTS. DOES THAT MAKE SENSE? YES. THAT MAKES SENSE. THEN I HAVE ANOTHER QUESTION ABOUT THE LOT LINE ADJUSTMENT. THIS LOT LINE ADJUSTMENT DOES NOT MAKE IT SO EITHER THE LOTS HAS FOUR OR FEWER UNITS. THEY'RE NOT DOING ANYTHING THAT CHANGES THAT NUMBER BECAUSE THAT NUMBER IS A TRIGGER FOR THE AFFORDABLE HOUSING REQUIREMENT. IS THAT DOING ANYTHING TO THAT?

>> STAFF: IT IS NOT AND IT'S A TRIGGER IN THE M.U.R. DISTRICT THIS KEEPS THE LOT SIZES THE SAME.

>> COUNCILOR: THANK YOU. AND MY OTHER QUESTION IS THERE WAS A COMMENT ABOUT BRINGING THE LOTS TOGETHER. CAN WE LEGALLY REQUIRE THAT? CAN THAT BE A CONDITION OF APPROVAL THE LOTS BE BROUGHT TOGETHER?

>> STAFF: LIKE A MERGER?

>> COUNCILOR: YEAH.

>> STAFF: I'D HAVE TO LOOK AT IT BUT I DON'T THINK WE CAN REQUIRE A MERGER.

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>> COUNCILOR: THAT'S WHERE I'M LOST. THERE'S A LOT OF THE INTERACTION WITH THE CONDO CONVERSION ORDINANCE AND LOT LINES I FEEL WE DON'T HAVE THE ANSWERS TO. THAT'S A CONFUSION FOR ME. THEN I WANT TO MENTION ONE THING, WE HAVE FIVE REPLACEMENT COMMISSIONERS ON THE DATE OF THIS HEARING WHEN THIS WAS APPROVED. I THINK BUT I MAY BE WRONG ABOUT THIS TOO COMMISSIONERS HAVE TO ASSERT THEY'VE REVIEWED THE ENTIRE RECORD BEFORE THEY CAN VOTE ON A PROJECT.

>> STAFF: ASK THAT QUESTION ONE MORE TIME.

>> COUNCILOR: ON THE DAY THE PROJECT WAS APPROVED THERE WERE FIVE SUBSTITUTE COMMISSIONERS AND WHEN YOU DO THAT YOU HAVE TO ASSERT YOU REVIEWED THE ENTIRE RECORD.

>> STAFF: IT MAKES SENSE IF YOU SIT IN A QUASI-JUDICIAL CAPACITY YOU WANT A FULL RECORD.

>> COUNCILOR: I ONE REALLY LAST QUESTION BECAUSE LET ME TRY THIS. DURING THE HEARING THERE WAS A DISCUSSION OF G.L.A.S AND WHETHER OR NOT THIS WOULD BE A G.L.A. AND WE'RE UNCOMFORTABLE DETERMINING WHAT IS A HOUSEHOLD AND I UNDERSTAND WE CAN'T HAVE G.L.A.S IN THE DISTRICT SO THE WHOLE QUESTION IS NOT THERE. SO IF SOMETHING -- WE SAY WE CAN'T HAVE A G.L.A. IN THE DISTRICT, WE DON'T JUST CALL IT A G.L.A., IT CAN'T FULFILL THE POSITIONS OF A G.L.A. WHICH ARE UNAFFILIATED ADULTS LIVING TOGETHER. I'M NOT SURE HOW WE GET AROUND THAT. JUST SAYING WE CAN'T HAVE IT

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HERE, SAYING THEREFORE IT IS NOT THAT, I'M NOT SURE YOU CAN DO THAT.

>> STAFF: G.L.A. IS A GROUP IS DORMITORIES OPPOSED TO A DWELLING UNIT. IT'S DEFINED MEANING A DWELLING UNIT YOU LIVE HAS A HOUSEHOLD. YOU CAN ALL GIVE TOGETHER AS A HOUSEHOLD WHEN RENT OR MORTGAGE PAYMENT COMES YOU POOL YOUR MONEY TOGETHER AND PAY ONE CHECK OPPOSED TO A G.L.A. WHERE YOU RENT INDIVIDUAL LEASES BY THE BEDROOM OR BY THE BED. SO G.L.A., GROUP LIVING ACCOMMODATIONS ARE ONLY ALLOWED IN THE HIGHER DENSITY RESIDENTIAL DIRECTS AND SOME OF THE COMMERCIAL DISTRICTS. IT DOESN'T MEAN IT HAS TO BE A MOTHER, FATHER, AUNT, UNCLE. IT COULD BE ANY ADULT. IF YOU HAVE SIX OR MORE UNRELATED ADULTS LIVING TOGETHER IN A DWELLING UNIT YOU ARE BY DEFINITION A MINI DORM. THEN THE MINI DORM OF OPERATING PROCEDURES APPLY SIMILAR TO THOSE OF THE G.L.A. WITH AN ON-SITE RESPONSIBLE MANAGER REGISTERED WITH THE CITY AND OTHER REQUIREMENTS.

>> COUNCILOR: IS THIS A MINI DORM?

>> STAFF: IF ANY OF THE DWELLING UNITS HAVE SIX OR MORE UNRELATED ADULTS AT ANY ONE TIME, YES, IT'S A MINI DORM. AND ONE THING ABOUT CONDO CONVERSION. I HAD AN EXTENSIVE TALK TODAY WITH THE RENT-CONTROLLED BOARD AND IT WAS FOLLOWED UP WITH A CONDO CONVERSION PROGRAM AND RENT-CONTROLLED BOARD AND IN DISCUSSION IT, HE SAYS IT'S YIF RELEVANT IF THE CONVERSION HAPPENS NOW OR

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LATER BECAUSE THE SAME TENANT PROTECTIONS APPLY TO THE RESIDENT. FROM THE RENT STABILIZATION PERSPECTIVE, WHETHER THE UNITS ARE CONDO IS NOT A CONCERN. AND THE VERIFICATION OF THAT DOES GO THROUGH RENT-CONTROLLED BOARD.

>> COUNCILOR: SECTION D SAYS A STATEMENT FROM THE OWNER WHETHER HE OR SHE WILL LIMIT RENT INCREASES FOR THE LIFE OF THE TENANT IS A DISTINCT DIFFERENCE. HE SAID WE'RE NOT ASKING FOR CONDOS NOW, THIS PROVISION I DON'T BELIEVE WILL APPLY. I'M WORRIED ABOUT THAT. THANK YOU.

>> MAYOR J. ARREGUIN: THANK YOU VERY MUCH. COUNCILOR DAVILA, LET ME JUMP AHEAD. A FEW HOUSEKEEPING THINGS. FIRST IT'S 9:57 WE'RE SUPPOSED TO OPEN A PUBLIC HEARING BY 10:00. I WANT TO PUT THE QUESTION TO COUNCIL WE HAVE ANOTHER ITEM AFTER THIS THE DENSITY BONUS ORDINANCE WHERE WE'LL HAVE MORE DISCUSSION ON THIS ITEM DO WE WANT TO CONTINUE THAT ITEM TO THE NEXT MEETING? I MOVE TO CONTINUE ITEM 15 TO THE FEBRUARY 19TH CITY COUNCIL MEETING. ANY OBJECTION? HEARING NO OBJECTION THE MOTION CARRIES AND BEFORE WE ENTERTAIN MOTIONS WE NEED TO DECIDE TO KEEP THE HEARING OPEN OR CLOSE THE PUBLIC HEARING. I WANT TO NOTE THAT FOR THE RECORD. DO YOU WANT TO MAKE A MOTION TO CLOSE THE PUBLIC HEARING OR KEEP IT OPEN?

>> STAFF: I'M SORRY. I WAS GOING TO MAKE A MOTION TO EXTEND THE MEETING.

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>> MAYOR J. ARREGUIN: WE'RE NOT THERE YET.

>> STAFF: I'M WATCHING THE CLOCK.

>> I WANT TO LET EVERYONE KNOW THE PUBLIC HEARING'S STILL OPEN. SO MY QUESTIONS REALLY RELATE TO THE EXISTING RENTERS AND THEIR PROTECTIONS AND I WANT TO FOLLOW-UP ON MR. RHODES' THREAT MADE VIA THE HOUSING ACCOUNTABILITY ACT. MAY I HAVE THE FLOOR? WE DON'T NEED TO. WE DO THAT BEFORE 11:00. DESPITE THE THREAT THAT IF WE DON'T GRANT IT TONIGHT HE SAID HE COULD COME IN WITH A DENSITY BONUS PROJECT AND I KNOW THAT WAS HIS PRIOR APPLICATION. I GUESS I'M TRYING TO UNDERSTAND HOW THAT WOULD CHANGE THE PROTECTIONS THAT THE EXISTING RENTERS WOULD HAVE. I WOULD ONLY IMAGINE THAT'S THE CASE IF YOU DEMOLISH THE EXISTING UNITS, CORRECT?

>> STAFF: I DON'T BELIEVE HE'S SAYING HE WOULD CHANGE THE TENANT PROTECTION.

>> MAYOR J. ARREGUIN: HE SAID THEY IF THEY HAD TO MOVE OUT AND IN THEY WOULDN'T QUALIFY.

>> STAFF: I THINK WHAT HE'S SAYING IS THE ADDITIONAL TENANT PROTECTIONS WE'VE BEEN ABLE TO IMPOSE ON THIS PERMIT WOULDN'T BE IMPOSABLE.

>> MAYOR J. ARREGUIN: WHAT I DON'T UNDERSTAND IS EVEN IF IT'S A DENSITY-BONUS PROJECT THEY'RE ENTITLED TO STAY IN THEIR

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UNIT UNLESS THERE'S A DEMOLITION. SO I DON'T UNDERSTAND WHY THIS ISSUE WOULD EVEN BE A PROBLEM.

>> STAFF: BY HAVING RENT-CONTROLLED UNITS ON THE PROPERTY THEY'RE REQUIRED TO BE REPLACED BY DENSITY-UNIT LAW.

>> MAYOR J. ARREGUIN: BUT IF YOU'RE NOT TEARING THEM DOWN YOU DON'T NEED TO REPLACE THEM.

>> STAFF: THAT'S THE INTERPRETATION OF THE ATTORNEY. THAT REQUIRES THE EXISTING TENANTS WHEN THEY GET REPLACED THEY HAVE TO BE OF LOWER INCOME.

>> MAYOR J. ARREGUIN: THE FUTURE TENANTS.

>> STAFF: CORRECT. SO THE EXISTING TENANT WOULD HAVE TO BE RELOCATED ON THE PROJECT AND IF THEY QUALIFIED COULD POTENTIALLY MOVE BACK TO THEIR RENT-CONTROLLED UNIT. JUST BECAUSE YOU LIVE IN A RENT-CONTROLLED UNIT DOESN'T MEAN I QUALIFY FOR A BELOW-MARKET RATE UNIT. IT WOULD REQUIRE THOSE HOUSEHOLDS TO BE RELOCATED BACK ON THE SITE AS WELL AS REPLACEMENT UNITS. SO IT WAS ADDITIONAL BELOW-MARKET RATE UNITS THAT MADE THE PROJECT FEASIBLE.

>> MAYOR J. ARREGUIN: OKAY. SO THERE'S EXISTING UNITS AND THEN THEY WANT TO BUILD AROUND THE EXISTING UNITS. I GUESS WHAT I'M TRYING TO UNDERSTAND IS IF YOU'RE NOT MAKING MODIFICATIONS TO THE EXISTING UNITS, HOW'S THAT CHANGE PEOPLE'S TENDENCY STATUS?

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>> STAFF: IT'S THE WAY IT'S WORDED IN STATE BONUS DENSITY LAW AND INTERPRETATION OF THE LAST CITY ATTORNEY.

>> MAYOR J. ARREGUIN: UNLESS YOU'RE DEMOLISHING A STRUCTURE.

>> STAFF: THE WAY IT'S INTERPRETED IS THE UNITS HAD TO BE REPLACED AT BELOW MARKET RATE AND THE EXISTING TENANTS HAD TO BE REHOUSED ON SITE. SO IT WAS A DOUBLE ONUS.

>> MAYOR J. ARREGUIN: UNLESS THEY'RE DEMOLISHING THEM THEY HAVE A RIGHT TO REMAIN IN THE UNIT. THEY HAVE A CONTRACT WITH THE PROPERTY OWNER.

>> STAFF: BUT I THINK IT MADE THE PROJECT UNFEASIBLE DUE TO THE REPLACEMENT OF THE UNIT AS WELL.

>> MAYOR J. ARREGUIN: WELL, THAT'S THEIR ISSUE. SO WHAT I'M FUNDAMENTALLY CONCERNED ABOUT IS CREATE SITUATION WHERE THERE'S CONSTRUCTIVE EVICTION. THERE'S SUCH A HUGE INCENTIVE FOR THE OWNER TO CREATE CONDITIONS TO MAKE IT UNBEARABLE FOR THE LONG-TERM TENANTS TO REMAIN AND WOULD MOVE OUT AND THAT WOULD CONSTITUTE A VOLUNTARY VACANCY. MY QUESTION IS WHO DETERMINES WHAT A VOLUNTARY VACANCY IS? IS IT THE NOISE IS SO UNBEARABLE AND I LOST MY PARKING SPACE.

>> STAFF: IT GETS VERIFIED BY THE RENT BOARD.

>> MAYOR J. ARREGUIN: I TALKED TO THE RENT-CONTROLLED BOARD TODAY AND HE DOESN'T UNDERSTAND WHAT IS VOLUNTARY.

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>> STAFF: I WANT TO REITERATE THE ZAB WAS CONCERNED ABOUT THIS TOO WHICH IS WHY THEY IMPOSED A CONDITION THAT TENANTS COULD BE RELOCATED BASED ON THE CONDITIONS OF THE RELOCATION ORDINANCE. THE SAME CONDITIONS WHICH IS NOT AT ALL TYPICAL FOR A PROJECT IF YOU HAVE A HOME. I APPRECIATE THE CONCERN. THE ZAB CONSIDERED CONDITIONS.

>> I DON'T THINK THE CONDITIONS ARE EXPLICIT ENOUGH, TO BE HONEST. AND WHAT'S THE PENALTY IF THERE ISN'T A VOLUNTARY VACANCY. WHAT IS VOLUNTARY AND NOT VOLUNTARY AND PENALTY? WHAT IF THEY'RE IN THE MIDDLE OF THE PENALTY?

>> STAFF: THE WAY I READ APPROVAL 15 IS TENANT HAVE TO AGREE IT'S VOLUNTARY OR THE PERMIT WOULD NOT BE ISSUED. THERE HAS TO BE SOME AGREEMENT FROM THE TENANT WHICH GIVES THE TENANT CONTROL.

>> MAYOR J. ARREGUIN: IT DOESN'T SAY THE TENANT HAS TO ASSERT IT WAS VOLUNTARY. THAT'S DIFFERENT. WHO DETERMINES THAT?

>> STAFF: IF IT SAID IT WASN'T VOLUNTARY THAT WOULD BE PROOF IT WASN'T.

>> MAYOR J. ARREGUIN: BUT IS IT REBUTTAL PRESUMPTION. I ASKED MY QUESTION. THANK YOU.

>> COUNCILOR: THAT WAS MY CONCERN AS WELL IS THEY'D HAVE TO BE PAID FOR THE COST OF A TEMPORARY LOCATION. THEY'D BE LEAVING AND THEN COMING BACK. I WANT TO MAKE SURE VOLUNTARY LEAVING AND

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COMING BACK ISN'T PART OF THAT EQUATION. RELOCATION IS VOLUNTARY LEAVING. IT'S JUST -- THESE TENANTS NEED TO BE PROTECTED ANYWAY WE CAN AND GET TO HAVE WHAT THEY HAD BEFORE THEY LEFT. THAT WAS MY CONCERN AND MY TWO COLLEAGUES ADDRESSED MY QUESTIONS. THANK YOU.

>> MAYOR J. ARREGUIN: THANK YOU.

>> COUNCILOR: IT SOUNDS LIKE THE HYPOTHETICAL NATURE IF PROJECTS WERE TO BE PROPOSED JUST FOR THE IN-FILL UNITS, WASN'T CHANGING THE RENT-CONTROLLED UNITS IT WOULD STILL REQUIRE THE TENANTS TO BE RELOCATED? AM I HEARING THAT RIGHT?

>> STAFF: THAT WASN'T MY INTENT. THE EXISTING UNITS AND TENANTS ARE UNAFFECTED WHEN NEW DEVELOPMENT HAPPENS.

>> COUNCILOR: THAT ALMOST SOUNDS LIKE WHAT THE PROPOSAL SHOULD HAVE BEEN FROM THE GET GO AND GET THE IN-FILL UNITES AND NOT JEOPARDIZE THE RENT-CONTROLLED UNITS AND PROVIDE OPPORTUNITY FOR AN INVESTMENT IN A DRAINAGE SYSTEM THAT COULD BENEFIT THE ENTIRE BLOCK. THAT'S THE SCENARIO I'M LOOKING FOR. I DID HAVE A QUESTION. SOMEONE GAVE A PUBLIC COMMENT WHO SUGGESTED MR. RHODES -- THAT THE GEO TECHNICAL STUDY HAD BEEN DONE AND IN HIDING AND NO ONE'S SEEN IT. THERE'S A THROW-AWAY COMMENT IN THE PUBLIC COMMENT. IS THERE CLARITY IF THAT STUDY EXISTS, THAT WOULD BE GOOD TO KNOW.

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>> WE'VE STARTED OUR BUILDING PERMIT. YES, WE STARTED SOME GEO TECHNICAL ANALYSIS. WE HAVEN'T FINISHED AND THE SOILS AREN'T MUCH DIFFERENT THAN THE SOILS AROUND THE FLATLANDS. BECAUSE THE PROJECT IS EXEMPT FROM CEQA AND WE WON'T PASS A SUBSTANTIAL EVIDENCE TEST TO GET OUT OF THE EXEMPTION WHY WOULD WE HAVE TO SPEND TIME GOING THROUGH THE PEER-REVIEW ANALYSIS WHEN THE PROFESSIONALS WILL LOOK AT THAT FOR THE PERMIT? THE CITY'S ENGINEER, OUR ENGINEER AND THE CITY'S CONSULTING ENGINEER SAID THE HYDRO LOGIC REPORT AND CONDITION IS OF WILL IMPROVE THE CONDITION FOR MUCH OF THE NEIGHBORHOOD.

>> I THINK YOU ANSWERED THE QUESTION. COUNCIL MEMBER KESARWANI.

>> R. KESARWANI: I WANT TO THANK YOU FOR YOUR REPORT AND THE NEIGHBORS AND RESIDENTS AND FOR MR. RHODES TO BE HERE FOR QUESTIONS. I'M NEW TO THE COUNCIL AND TAKE THIS ROLE SERIOUSLY. I APPRECIATE GETTING TO HAVE AN OPPORTUNITY TO TALK TO STAFF AND MEET WITH NEIGHBORS AND SIT DOWN WITH MR. RHODES TO UNDERSTAND HOW THE PROJECT HAS EVOLVED OVER TIME. I CONQUER WITH MY COLLEAGUES IN ACKNOWLEDGING THIS HAS BEEN A CHALLENGING PROCESS FOR THE TENANTS. IT SEEMS IT'S BEEN FRAUGHT WITH UNCERTAINTY AND THE COMMUNICATION COULD HAVE AND SHOULD HAVE BEEN BETTER. WE ARE IN THE MIDST OF A HOUSING CRISIS SO WE NEED TO CREATE MORE HOMES BUT NOT AT THE EXPENSE OF DISPLACING OUR NEIGHBORS. I APPRECIATE

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THE DEVELOPER MODIFIED THE PROJECT WHEN IT BECAME CLEAR USING THE STATE DENSITY BONUS WOULDN'T GUARANTEE THE CURRENT TENANTS WOULD BE ABLE TO STAY IN THEIR RENT-CONTROLLED HOMES AS LONG AS THEY CHOOSE. THE PROJECT WAS SCALED BACK TO GIVE TENANTS THE GUARANTEE OF STAYING IN THEIR HOMES AS LONG AS THEY WANT. I APPRECIATE THESE UNITS WILL NOT BE TOUCHED BUT FOR THE MINOR EXTERIOR COSMETIC IMPROVEMENTS DURING THIS TIME. AND I WANT TO RAISE ISSUES ON THE EVENTUAL LOSS OF THE RENT-CONTROLLED UNITS. THIS IS A PROBLEM. THIS SAY STATE-WIDE ISSUE DUE TO A STATE LAW WE ALL KNOW VERY WELL CALLED COSTA HAWKINS THAT PREVENTS US AS A CITY TO ADD RENT-CONTROLLED UNITS TO OUR HOUSING STOCK. WE KNOW THERE WAS AN EFFORT TO REPEAL COSTA HAWKINS. I DO SUPPORT CHANGES TO OUR STATE RENT-CONTROLLED LAWS TO INCREASE THE NUMBER OF RENT-CONTROLLED UNITS WE HAVE IN BERKELEY. I THINK IT'S IMPORTANT WE PASS MEASURE 0 TO ADDRESS THE LACK OF AFFORDABLE HOUSING SO THAT WE WILL HAVE A MEANS OF ADDING MORE AFFORDABLE UNITS TO THE CITY OF BERKELEY. AND I WANT TO ADDRESS THE IMPORTANT POINT RAISED BY THE MAYOR ABOUT THIS ISSUE OF WHAT YOU TERMED CONSTRUCTION EVICTION. THE CONSTRUCTION HAPPENING AT THIS SITE TO CREATE SIX NEW UNITS WILL OCCUR IF THE PROJECT IS APPROVED WHILE WE HAVE RESIDENTS CONTINUING TO LIVE THERE. I WONDER IF STAFF CAN GO OVER THE NOISE AND OTHER MITIGATION MEASURES THE DEVELOPER WOULD BE REQUIRED TO HAVE FOR NEIGHBORS

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AND RESIDENTS AND I'M NOT CLEAR HOW IT WOULD BE ENFORCED OR MAKE SURE IT'S HAPPENING?

>> STAFF: THERE ARE STANDARD CONDITIONS OF APPROVAL FOR NOISE REDUCTION OF EQUIPMENT WHICH IS CONDITIONAL APPROVAL NUMBER 19 WHICH IS CONSTRUCTION AND EQUIPMENT SHALL BE WELL MAINTAINED AND USED TRADITIONALLY NOT LETTING DIESEL ENGINES RUN UNNECESSARILY AND CONSTRUCTION NOISE REDUCTIONS APPLIED TO ALL PROJECTS. THERE'S OUR STANDARD CONDITION OF APPROVAL REGARDING INTERIOR NOISE LEVELS WHICH REQUIRES THE DEVELOPER TO SUBMIT AN ACOUSTICAL STUDY TO ENSURE IT'S ONLY APPLYING TO THOSE BUILDINGS BEING NEWLY CONSTRUCTED OR RENOVATED AND THEY MEET THE INTERIOR NOISE LEVEL AS REQUIRED BY THE NOISE ORDINANCE. SO THOSE ARE OUR STANDARD CONDITIONS OF APPROVAL REGARDING NOISE. IN ADDITION, AND IT'S NOT EXACTLY NOISE REDUCTION BUT IT WAS THE APPROVAL ADDED TO HAVE NOT ONLY NOTIFICATION 30 DAYS PRIOR TO CONSTRUCTION SO PEOPLE MAY BE AWARE WHEN CONSTRUCTION WILL OCCUR AND TIMING FOR CONSTRUCTION AND REITERATION OF THE TENANT RIGHTS AS WELL AS WHO TO CONTACT IF THERE ARE ANY ISSUES AND SECONDLY, THE RELOCATION BECAUSE OF NOISE AND DISTURBANCES. IN TERMS OF ENFORCEMENT, HOW IS IT DONE THROUGH GOOD-FAITH EFFORTS AND ENFORCEMENT THROUGH CONSTRUCT NOISE REDUCTION PROGRAM BEING MONITORED BY THE BUILDING INSPECTORS.

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>> COUNCILOR: I WANT TO REVISIT THE ISSUE OF VOLUNTARILY LEAVING. IF THERE WAS A DISPUTE WITH THAT WOULD THAT GO TO THE RENT BOARD TO BE ADJUDICATED?

>> WE REQUIRE A MEMO FROM THE RENT BOARD AND THEY FOLLOW-UP WITH TENANTS TO ENSURE IT IS VOLUNTARY HOWEVER, IT SOUNDS LIKE THE MAYOR HAD DIFFERENT CONVERSATIONS. SO WE FOLLOW UP ON THE RENT BOARD AND IF THERE WERE A DISPUTE IT'D BE UP TO THE RENT BOARD TO MAKE A DETERMINATION. THERE'S NO REASON WHY ONE COULDN'T CHANGE THE WORDS TO SAY THE TENANT MUST SAY THEY VOLUNTARILY VACATED IF THAT WERE A STICKING POINT.

>> COUNCILOR: COULD I HAVE MR. RHODES COME UP AND WANT CLARIFICATION ON THE HOUSING ACCOUNTABILITY ACT MEASURES. IT SOUNDS LIKE, IF YOU DON'T MIND, MR. RHODES, I'LL START AS YOU WALK UP. AM I CORRECT IN MY UNDERSTANDING THAT IF YOUR PROJECT IS NOT APPROVED TONIGHT, WOULD HAVE TWO OPTIONS. ONE IS TO COME BACK TO US PULLING THE THREE ADMINISTRATIVE USE PERMITS AND MOVING FORWARD FOR THE HOUSING ACCOUNTABILITY ACT PROJECT OR COME BACK TO US WITH A STATE DENSITY BONUS PROJECT AND COULD YOU TALK ABOUT HOW THOSE TWO OPTIONS WOULD DIFFER FOR THE RESIDENTS CURRENTLY AT THE SITE?

>> HOW WOULD THEY DIFFER? I'M NOT SURE BUT DURING THE HOUSING AFFORDABILITY ACT PROCESS THE TENANTS GET TO STAY AS LONG AS THEY WANT LIKE WE OFFERED. I WANT TO MAKE SURE WE DON'T

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CONFUSE THE VACANCY WITH MOVING OUT. IF SOMEONE NEEDS TO MOVE OUT FOR CONSTRUCTION THEY MOVE OUT AND WE PAY FOR THEM TO MOVE OUT AND PAY WHEN IT'S ALL DONE. AND THE VACANCY IF THEY DECIDE TO MOVE SOMEWHERE, THEN DIFFERENT THINGS CAN HAPPEN. SO UNDER THE HOUSING ACCOUNTABILITY ACT THEY STAY WHERE THEY ARE AND UNDER THE STATE DENSE I BONUS LAW THE CITY INTERPRETATION OF THE REPLACEMENT UNITS I DON'T THINK THEY HAVE THAT OPTION. THAT WAS OUR UNDERSTANDING AND WHAT WE WERE TRYING TO CONVEY TO THE ZONING ADJUSTMENTS BOARD AND RESIDENTS.

>> COUNCILOR: SO I HAD A FOLLOW-UP QUESTION FOR THE CITY ATTORNEY. IF A DEVELOPER COMES WITH A STATE DENSITY PROJECT, ARE WE AT LIBERTY TO PROJECT THAT PROJECT? FIRST THE STATE DENSITY BONUS. IT HAS TO MEET GENERAL QUALIFICATIONS AND THE REQUIREMENTS AND OTHER CRITERIA. IF IT DOES AND THEY'RE ASKING FOR A DENSITY BONUS LIKE EXTRA UNITS, YOU HAVE TO GIVE THE EXTRA UNITS. BUT AT THE SAME TIME, THEY HAVE TO DESIGNATE CERTAIN NUMBER OF UNITS TO BE AFFORDABLE. IT DEPENDS ON HOW MUCH AFFORDABLE HOUSING THEY'RE DOING. THERE'S AN ORDINANCE THAT MIMICS THE LAW. IS THERE A LIABILITY TO THE CITY IF WE REJECT A PROJECT BUT FORWARD PARTICULARLY BY MR. RHODES THAT USES THE STATE DENSITY BONUS AT THIS SITE?

>> I'D RATHER NOT GET INTO LIABILITY ISSUES IN A PUBLIC FORUM. IF WE GET INTO LITIGATION I'D LIKE TO HAVE ALL THE TOOLS

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AT MY DISPOSAL TO DEFEND THE CITY. WE HAVE TO FIND A SET OF PRINCIPLES FOR THE PROJECT.

>> COUNCILOR: THANK YOU VERY MUCH. I THINK THAT CONCLUDES MY QUESTIONS AT THIS TIME. THANK YOU AGAIN.

>> MAYOR J. ARREGUIN: COUNCIL MEMBER BARTLETT. COUNCIL MEMBER.

>> COUNCILOR: THANK YOU VICE MAYOR. SO INTERESTING UNPACKING THIS ONE. EVERY SINGLE BUILDING WE REVIEW IS A HIGH STAKES ADVENTURE. ON ONE HAND WE HAVE RENT-CONTROLLED HOUSING BEING REMOVED AND HAVE THE ISSUE OF HYDROLOGY AND WATER AND TO THE DIVERGENCE OF OPINION AROUND THE HOUSING ACT AND STATE DENSITY BONUS. THERE ARE SO MANY FACTORS. THERE'S SO MANY POINTS OF VIEW I DON'T FEEL I CAN MAKE A GOOD DECISION. I HOPE MY COLLEAGUES CAN DELINEATE A CLEAR PATH TO PROTECT TENANT AND PROVIDES HOUSING AND IS RESPECTFUL OF OUR LAWS. FOR THE TENANT I FEEL WE SHOULD ALL BE AWARE THE BOARD PASSED THE TENANT HARASSMENT ACT SO THERE'S TOOLS AVAILABLE TO ANYONE UNDERGOING THE STRESS FROM A NEGATIVE LANDLORD.

>> MAYOR J. ARREGUIN: THANK YOU, COUNCILLOR DAVILA.

>> COUNCILOR: I WANT TO ASK MORE ABOUT THE LIQUID FACTION BECAUSE THE SLIDE WE SAW WAS COMPELLING. I WANT TO ASK THE STAFF AND DOCTOR TO ADDRESS THAT. THERE ARE DIFFERENT MAPS OUT THERE. THAT'S NOT WHAT WE RELY ON WHEN WE DETERMINE A LIQUID FACTION OR

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HAZARD OR LAND SITE ZONE WE HAVE A PROCESS WE LOOK AT AND THAT'S THE MAP PROVIDED ON PAGE 8 IN YOUR STAFF REPORT. IT SHOWS IT'S NOT A LIQUID FACTION ZONE.

>> COUNCILOR: SO YOU DON'T USE THE MAP HE USED?

>> STAFF: THAT'S CORRECT.

>> COUNCILOR: WHICH ONES DO YOU USE?

>> STAFF: USGS THE U.S. GEOLOGICAL SURVEY MAP.

>> COUNCILOR: THAT'S IT?

>> STAFF: CORRECT.

>> COUNCILOR: IS THERE A DIFFERENCE YOU CAN DETERMINE?

>> STAFF: THIS IS THE MAP THE CITY ENGINEERS HAVE DETERMINED WE USE WHICH IS WHY WE USE IT IN OUR G.I.S. LAYER SYSTEM AND POPS UP WHEN CONDITIONS ARISE.

>> THE MAP EARLIER IS BASED ON A VARIETY OF DIFFERENT DATA THAT'S USED TO SUPPORT THAT AND INCLUDING THE HISTORIC CREEK ALIGNMENT DATA BECAUSE IT'S ASSOCIATED WITH MATERIAL SEDIMENTS DEPOSITED IN THE CREEKS AND SUBJECT TO FLUID MOVEMENT DURING SEISMIC EVENTS. THERE ARE MAPS THAT RELY ON DATA AND MORE ON A COMPLETE DATA SET. I BELIEVE THE MAP HAS A MORE COMPLETE SET THAT ALLOWS IT TO REFINE THE ZONE BETTER. I ALSO WANT TO ADDRESS THE HYDROLOGY ISSUE ON THE SITE BECAUSE IT'S CLEAR TO ME YOU'RE ALL CONCERNED TOO AND THE ASSESSMENT TO DATE HAS BEEN REASONABLE FOR ASSESSING SURFACE DRAINAGE AND RUNOFF BUT NOT A PROPERTY

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ASSESSMENT FOR SUBSURFACE DRAINAGE AND THE INTERACTION OF
SURFACE RUN-UP WITH SHALLOW GROUND WATER AND WE HAVE IT
ASSOCIATE WITH THE HISTORIC CREEK, IT WOULD ALLOW WATER TO MOVE
UNDER THE SITE AND TRANSMIT THROUGH THE SITE AND THE
CONSTRUCTION COULD IMPACT THAT IF IT'S NOT ASSESSED BEFOREHAND.
THAT'S A KEY POINT ALL THE COUNCIL MEMBERS NEED TO UNDERSTAND.
WHAT'S BEEN DONE TODAY WITH IN THE EVALUATIONS BY CLEAR WATER
HAS NOT ADDRESSED THE SUBSURFACE. THEY'VE ONLY ADDRESSED HALF
THE STORY. I'D LIKE TO OFFER YOU ANY OPPORTUNITY TO ASK ME
BECAUSE --

>> MAYOR J. ARREGUIN: I HAVE TO CALL COUNCIL MEMBERS. IF
THERE'S A QUESTION THEY'LL ASK ME TO HAVE IT COME UP. SO I'D
LIKE TO MOVE TO CLOSE THE PUBLIC HEARING.

>> COUNCILOR: I'LL SECOND.

>> MAYOR J. ARREGUIN: LET'S CALL THE ROLL AND CLOSE THE
PUBLIC HEARING.

>> CLERK: COUNCIL KESARWANI.

>> R. KESARWANI: YES.

>> CLERK: DAVILA.

>> C. DAVILA: YES.

>> CLERK: HARRISON.

>> COUNCILOR: YES.

>> CLERK: HAHN.

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>> COUNCILOR: YES.

>> MAYOR J. ARREGUIN: MOTION CARRIES. THANK YOU.

>> COUNCILOR: THANK YOU VERY MUCH. SO THIS IS A COMPLEX PROJECT. SO I HAD SOME THOUGHTS PUT TOGETHER BEFORE COMING HERE AND I WANTED TO LISTEN VERY CAREFULLY TO WHAT STAFF HAD TO SAY AND QUESTIONS OF MY COLLEAGUES TO SEE IF WHAT I HEARD CHANGED MY MIND AT ALL. AND IT DIDN'T. SO I'M GOING GO AHEAD AND READ THE COMMENTS I'VE PREPARED. I WOULD JUST LIKE TO SAY I SPENT A LOT OF TIME IN THE PAST TWO DAYS LOOKING AT CEQA AND THE LAW. MY BACKGROUND IS IN LAW. I'M A RETIRED ATTORNEY. IT'S KIND OF FUN BECAUSE THE SEMINOLE CASE THAT ADDRESSES THE QUESTIONS THAT WERE RAISED IN THE APPEAL IS ACTUALLY A BERKELEY CASE WHICH I DIDN'T KNOW. BUT IT MEANS IT'S VERY EASY TO IMAGINE WHAT THE CIRCUMSTANCES WERE AROUND THAT CASE. I HAVE TO SAY I RESPECTFULLY DISAGREE WITH THE CONCLUSIONS OF ZAB AND STAFF'S ARGUMENTS ON THIS. I BELIEVE THIS PROJECT IS ABSOLUTELY AND CLEARLY SUBJECT TO CEQA. I ALSO BELIEVE THAT THERE ARE MANY GROUNDS TO FIND DETRIMENT AND THE NON-DETRIMENT FINDING THAT IS REQUIRED TO ISSUE A USE PERMIT OR AN ADMINISTRATIVE USE PERMIT IN BERKELEY HAS NOT BEEN MET. SO I'M GOING GO THROUGH EACH OF THE APPEAL QUESTIONS AND EXPLAIN WHY I'M SO CONFIDENT THAT THIS IS PROJECT IS SUBJECT TO CEQA AND ALSO THE NON-DETRIMENT FINDINGS CANNOT BE MADE AND THE PROJECT IS EASILY SUBJECT TO

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DENIAL. SO THE FIRST, THE PROJECT IS SUBJECT TO CEQA AND SHOULD NOT HAVE BEEN FOUND EXEMPT BY ZAB. THIS IS BASED ON THE CONTENTION THE PROJECT DOES NOT MEET SUBSECTION E WHICH STATES THE SITE MUST BE ADEQUATELY SERVED BY ALL REQUIRED UTILITIES AND PUBLIC SERVICES. THE MAIN THRUST OF THE APPELLANT'S ARGUMENT IS THE SITE CANNOT BE ADEQUATELY SERVED BY REQUIRED PUBLIC SERVICES. THE MAIN THRUST IS THE FACT THE STORM DRAIN SYSTEM IS UNABLE TO ADDRESS RUNOFF AND THE PROJECT WILL EXACERBATE OR HAS THE POTENTIAL TO EXACERBATE FLOODING CONDITIONS. FIRST, I THINK IT'S VERY IMPORTANT TO CLARIFY THIS PROPERTY IS ON A CREEK. THIS IS SET ON CREEK MAPS AND OTHERS. WHILE IT IS CLEARLY A CREEK, IT HAPPENS TO NOT BE SUBJECT TO BERKELEY'S CREEK ORDINANCE. THE CREEK ORDINANCE ONLY APPLIES TO CERTAIN PORTIONS OF THE DOCUMENTED CREEK SYSTEM IN BERKELEY. FAILURE TO SUBJECT THIS CREEK TO THE CITY'S CREEK ORDINANCE DOES NOT MEAN THAT IT IS NOT A CREEK. AND THE QUESTION OF WHETHER THIS CREEK IS SUBJECT TO THAT ORDINANCE IN FACT IS ENTIRELY MOOT WITH RESPECT TO THE QUESTION OF WHETHER IT IS A CREEK AND IT IS ENTIRELY WITH RESPECT TO ANY QUESTION RELATING TO CEQA. SO IT IS A CREEK. IT IS SHOWN AS A CREEK AND IT FUNCTIONS AS A CREEK. THE APPELLANTS SHOW NUMEROUS PHOTOS SUPPLEMENTING THESE MAPS WELL ESTABLISHED AND VIDEOS OF POOLED WATER ON THEIR PROPERTY IN THEIR GARAGE AND IN THEIR THE MAIN AS WELL AS GUSHING DOWN HEARST STREET JUMPING

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ON TO SIDEWALKS EVEN WHEN THE SKIES ARE CLEAR. THERE'S SOME PHOTOS SHOWN WHEN I MET WITH THEM THEY DIDN'T SHOW HERE. YOU HAVE BLUE SKIES, NO RAIN, MOST THE STREET IS GETTING DRY AND THERE IS AN ABSOLUTE RIVER CALLED A STREAM OF WATER RUNNING DOWN ONE SIDE OF HEARST AVENUE EVEN WITHOUT ANY RAIN. THIS IS A MARKER OF A WATERWAY OR CREEK WHICH BY DEFINITION GATHERS WATER FROM A BROADER WATERSHED AND FUNNELS IT INTO A CHANNEL THAT CAN RISE HOURS AND DAYS AFTER A RAIN. WE ALL KNOW WHEN IT POURS AND THE RUSSIAN RIVER CRESTS, IT CRESTS SEVERAL DAYS AFTER THE RAIN. THAT'S WHAT A STREAM OR RIVER DOES. THE CONDITIONS SHOWN REPORTED OVER MULTIPLE OCCASIONS BY THE APPELLANT OVER MANY YEARS WHO LIVES THERE AND IS ABLE TO OBSERVE THE CONDITIONS ON A DAILY AND HOURLY BASIS ARE FAR MORE PROBATIVE BY A STAFF MEMBER VISITING OR BY THE OPINION OF A CITY STAFF. IT IS OBJECTIVELY AND CLEARLY PROVEN INCLUDING THROUGH PICTURES OF ELDERLY AND BLIND PEOPLE. AGAIN, I'M SORRY THEY DIDN'T SHOW THEM BUT THEY HAVE THEM. UNABLE TO CROSS A STREET BECAUSE OF A LAKE OF WATER IN THE STREET AND RUNNING OVER THE SIDEWALK. THE STORM DRAINS CANNOT HANDLE THE EXISTING FLOWS. THE ARGUMENT THE DEVELOPER'S DRAINAGE PLAN FULLY ADDRESSES THIS CONCERN ARE IRRELEVANT. CEQA APPLIES WHEN THE CONDITION EXISTS. IT IS THROUGH THE CEQA PROCESS PROPER MITIGATIONS ARE DETERMINED IF ANY AND WHETHER AND IN WHAT FORM THE PROJECT CAN GO FORWARD. YOU DO NOT HAVE SOMEONE

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WHO HAS A SUPER FUND SITE WHO SAYS, I HAVE SOMEONE WHO TELLS ME THAT LAYING SARAN WRAP WILL MITIGATE IT SO NOW I DON'T HAVE AN ISSUE AND UNDER CEQA. THAT'S NOT HOW IT WORKS. IF YOU HAVE THE ENVIRONMENTAL ISSUE, YOU'RE SUBJECT TO CEQA AND THAT'S THE POINT OF CEQA. IT'S NOT UP TO THE DEVELOPER TO POSIT THIS AND THEIR INSISTENCE THE DRAINAGE PLAN HANDLES THE PROBLEM IS IN AND OF ITSELF AN ADMISSION THE PROBLEM EXISTS. CLEARLY THE SITE CANNOT BE ADEQUATELY SERVED BY EXISTING PUBLIC SERVICES AND THE PROJECT SHOULD NOT HAVE BEEN FOUND EXEMPT FROM CEQA. SO EVEN IF THE PROJECT IS CATEGORICALLY EXEMPT, SO EVEN IF PEOPLE DON'T AGREE WITH THAT, WE'RE MOVING ON TO THE SITUATION WHERE SOMEONE SAYS, OKAY, IT'S CATEGORICALLY EXEMPT FROM CEQA. IT IS SUBJECT TO THE UNUSUAL CIRCUMSTANCES EXEMPTION TO THE CATEGORICAL EXEMPTION BECAUSE THERE IS SUBSTANTIAL EVIDENCE OF AN UNUSUAL CIRCUMSTANCE AND A FAIR ARGUMENT THERE IS A REASONABLE POSSIBILITY OF A SIGNIFICANT EFFECT ON THE ENVIRONMENT DUE TO THAT UNUSUAL CIRCUMSTANCE AND THAT IS A PIECE OF THE TEST CLEAR IN CALIFORNIA SUPREME COURT PRECEDENT WHICH WAS NOT EVEN BROUGHT FORWARD IN THE CONVERSATION. EVEN IF THE PROJECT WAS -- OKAY. NOT SURPRISINGLY, THE SEMINOLE CASE TO QUALIFY THE STANDARD FOR THE EXEMPTION TO THE IN-FILL EXEMPTION IS A BERKELEY CASE THAT WENT ALL THE WAY TO THE CALIFORNIA SUPREME COURT IN HILLSIDE PRESERVATION VERSUS CITY OF BERKELEY THEY ADOPTED A TWO-PART

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STANDARD FOR THE EXEMPTION TO APPLY THERE MUST BE SUBSTANTIAL EVIDENCE OF UNUSUAL CIRCUMSTANCES AND TWO, A FAIR ARGUMENT, NOT DEFINITIVE PROOF, A FAIR ARGUMENT THE UNUSUAL CIRCUMSTANCE GIVES RISE THE POSSIBILITY IT WILL HAVE AN EFFECT ON THE ENVIRONMENT. UNUSUAL CIRCUMSTANCE MAY BE SHOWN WHEN THE PROJECT HAS SOME FEATURE THAT DISTINGUISHES IT FROM OTHERS SUCH AS SIZE OR LOCATION. IN THE BERKELEY HILLSIDE PRESERVATION CASE, SIZE AND LOCATION WERE THE CLAIMED UNUSUAL CIRCUMSTANCES. THAT'S WHY THE COURT POINTED THEM OUT. AND IT SAYS SUCH AS, THAT DOESN'T MEAN ONLY THOSE TWO CIRCUMSTANCES. OTHER CIRCUMSTANCES ABSOLUTELY CAN QUALIFY. THE EXISTENCE OF OTHER PROPERTIES THE PROPERTIES IN BERKELEY DIDN'T RENDER AS UNUSUAL OR COMMON, THEY ACTUALLY STATED THE FACT THERE WERE HUNDREDS OF OTHER PARCELS AND HOUSES IN BERKELEY WITH THE SAME CIRCUMSTANCE DID NOT MEAN THE CIRCUMSTANCE WAS NOT UNUSUAL AS A MATTER OF LAW AND THE COURTS GIVE US SIGNIFICANT DIFFERENCE ON OUR DETERMINATION. THE DETERMINATION WE MAKE IS GIVEN SIGNIFICANT DIFFERENCE BY THE COURTS. SO THE CREEK UNDERLYING THE HEARST AND ADJACENT PROPERTY IS AN UNUSUAL CIRCUMSTANCE THOUGH SIMILAR UNUSUAL CIRCUMSTANCES MAY BE PRESENT ON OTHER PROPERTIES IN THE CITY OF BERKELEY, IN THE EAST BAY OR THE STATE. UNUSUAL DOES NOT MEAN SINGULAR OR UNIQUE AND THE CASE LAW SUPPORTS IT. SO THE FACT THAT THERE ARE OTHER PROPERTIES THAT HAVE CREEKS ON THEM IS NOT IRRELEVANT. THE

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NEXT STEP THE BERKELEY HILLSIDE PRESERVATION REQUIRED TO BE ESTABLISHED IS THERE'S A QUOTE, REASONABLE POSSIBILITY OF A SIGNIFICANT EFFECT DUE THAT UNUSUAL CIRCUMSTANCE. OR EVIDENCE THE PROJECT WILL HAVE A SIGNIFICANT ENVIRONMENTAL IMPACT. A REASONABLE POSSIBILITY OF A CERTAIN EFFECT DOES NOT REQUIRE CERTAINLY. IT'S IN THE CASE LAW. YOU GOT TO READ THE WHOLE CASE. THE FACT THIS PROPERTY IS ON AN ACTIVE CREEK THAT FLOODS REGULARLY, POOLS, FLOODS NEIGHBORING HOMES AND PROPERTIES AN SUBJECT PROPERTY AND OVERFLOWS THE CAPACITY OF STORM DRAINS TURNING SIDEWALKS INTO RIVERS CERTAINLY MEETS THE REASONABLE POSSIBILITY OF A SIGNIFICANT EFFECT STANDARD. THE DEVELOPER'S INSISTENCE THAT THE DRAINAGE PLAN ADDRESS THE EFFECTS IS A DE FACTO ADMISSION THE CONDITION EXISTS. ONCE AGAIN, IT'S NOT FOR THE DEVELOPER OR FOR CITY STAFF TO DETERMINE WHAT IS AN ADEQUATE MITIGATION FOR AN IMPACT SUBJECT TO CEQA ANALYSIS. THE PROPER WAY TO ADDRESS THE EFFECT OR REASONABLE POSSIBILITY OF A SIGNIFICANT EFFECT DUE TO AN UNUSUAL CIRCUMSTANCE IS TO SUBJECT THE PROJECT TO CEQA REVIEW. SO THE THIRD ARGUMENT AND I CLEARLY BELIEVE THAT WHAT WE SHOULD DO, THE THIRD ARGUMENT IS THAT EVEN IF THE PROJECT IS EXEMPT FROM CEQA THE PROJECT WILL BE DETRIMENTAL OR INJURIOUS TO THE PROPERTIES OR ADJACENT AREA. THIS IS SOMETHING WE FORGET TO TALK ABOUT A LOT. EVERY ADMINISTRATIVE USE PERMITS GRANTED IN BERKELEY, THE PERMIT SEEKS

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FIVE EACH SUBJECT TO THE FINDING. SECTION 23B AND 28050A SETS FORTH THE NON-DETRIMENT FINDING WHICH MUST BE MADE FIVE TIMES. AND I'M QUOTING THE PROJECT UNDER THE CIRCUMSTANCES OF THIS PARTICULAR CASE EXISTING AT THE TIME AT WHICH THE APPLICATION IS GRANTED. NOT LATER, RIGHT NOW WOULD NOT BE DETRIMENTAL TO THE HEALTH SAFETY, PEACE, COMFORT AND GENERAL WELFARE OR FOR PERSONS WORKING IN THE NEIGHBORHOOD OR INJURIOUS TO PROPERTY AND IMPROVEMENTS OF THE ADJACENT PROPERTIES. THE SURROUNDING AREA OR NEIGHBORHOOD FOR TO THE GENERAL WELFARE OF THE CITY. THIS FINDING SINGLES OUT IMPACTS TO ADJACENT PROPERTIES. IT IS NOT A NEBULOUS DETRIMENT HERE WHICH MEANS PROPERTIES TOUCHING OR NEXT TO THE SUBJECT PROPERTY. IN ADDITION, IT'S NOT NECESSARY TO FIND THE PROJECT WILL BE DETRIMENTAL. WE MUST FIND AFFIRMATIVELY IT IS NOT DETRIMENTAL AND HAVE TO SAY THERE'S NO DETRIMENT TO MAKE THIS FINDING. THAT MEANS THE PROJECT AND APPLICANT MUST DEMONSTRATE AND PROVE AFFIRMATIVELY THEY WILL NOT CAUSE INJURY TO PROPERTY OR IMPROVEMENTS. AN IMPROVEMENT IS A BUILDING INCLUDING A GARAGE AND HOME WHICH ARE ALREADY FLOODING, ON ADJACENT PROPERTIES. THIS FIND CANNOT BE MADE ON THE FACTS BEFORE US. ANOTHER ELEMENT OF A NON-DETRIMENT FINDING IS IT APPLIES AT THE TIME THE APPLICATION IS GRANTED. NOT LATER IF THE CITY MIGHT DO SOMETHING OR THE APPLICANT SAYS THEY MIGHT DO SOMETHING. IT IS VERY CLEAR THE CIRCUMSTANCES OF THE CASE DO NOT

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SUPPORT THE NECESSARY FIVE AFFIRMATIVE FINDINGS OF NON
DETRIMENT. THE DEVELOPER SEEKS TO ASSERT HIS DRAINAGE PLAN
ADDRESSES ANY POTENTIAL DETRIMENT. HOWEVER, AND VERY
IMPORTANTLY, THE PEER REVIEW BY BALANCE HYDRO LOGICS INC. AUGUST
11, CLEARLY STATES AND I'M QUOTING, INFORMATION ON SOIL
PROPERTIES AND DEPTH TO GROUND WATER HAS NOT YET BEEN COLLECTED.
THIS IS AN UNFORTUNATE LIMITATION BECAUSE THE LACK OF DEFINITIVE
INFORMATION ON BOTH SUBJECTS IMPACTS SEVERAL ASPECT OF THE
DRAINAGE DESIGN AND THE POTENTIAL EFFICIENCY OF THE PROPOSED
SERVICES. UNQUOTE. THUS, IT IS CLEAR CRITICAL INFORMATION FOR
THE FINDING MITIGATES THE ADMITTED DETRIMENT. THEY'RE ALREADY
ADMITTING THERE SAY PROBLEM, IS A PROBLEM IS NOT AVAILABLE. THE
GEO TECHNICAL REPORT PRIOR TO THE BUILDING PERMIT BY RESTATING
THE STANDARD DEPARTMENT FOR A GEO TECHNICAL REPORT DONE ON EVERY
CONDITION OF APPROVAL. IN MOST INSTANCES WHERE THE UNUSUAL
CIRCUMSTANCE OF DETRIMENTAL FLOODS AND WATER FLOWS IS NOT
PRESENT A GEO TECHNICAL REPORT IS USED. INS THIS CASE WHERE THE
PEER REVIEW CLEARLY STATES A GEO TECHNICAL REPORT SOIL
PROPERTIES AND DEPTH TO GROUND WATER IS NECESSARY TO DETERMINE
THE EFFICACY OF THE DRAINAGE AND THE GEO TECHNICAL REPORT WOULD
BE NECESSARILY TO DETERMINE WHETHER THE CLEARLY ADMITTED
DETRIMENTS HAVE BEEN ADDRESSED. THAT REPORT WAS NOT FINE.
FINALLY WITH RESPECT TO THE DETRIMENT CAUSED BY THE CREEK AND

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FLOODING, IT IS CLEAR THE CEQA ANALYSIS IS THE PROPER WAY TO DETERMINE THE EXTENT OF DETRIMENTS CAUSED BY THE PROJECT AND TO DETERMINE THE APPROPRIATE MITIGATIONS. THAT IS NOT UP TO THE APPLICANT AND IT'S NOT UP TO STAFF. THAT'S WHY CEQA EXISTS. DETRIMENT IS ESTABLISHED AND IN ADDITION NEGATIVE IMPACTS TO RENT-CONTROLLED PROPERTIES AN INCOME DISPLACEMENT OF INCOME-PROTECTED RESIDENTS CONSTITUTES DETRIMENT TO THE WELFARE OF THE NEIGHBORHOOD AND CITY. THERE ARE NUMEROUS GROUNDS FOR DENYING THE FIVE PERMITS SUBJECT TO THIS NON-DETRIMENT FINDING. SO WHERE AM I GOING FROM HERE? I HAVE A MOTION.

>> MAYOR J. ARREGUIN: OKAY.

>> COUNCILOR: TO GET US OUT OF THIS MESS.

>> MAYOR J. ARREGUIN: GOOD.

>> COUNCILOR: SO I BELIEVE THERE ARE AMPLE GROUNDS TO FLAT-OUT DENY THIS PROJECT. I HAVE MADE A CASE FOR THAT BUT I THINK A BETTER OUTCOME IS THAT WE MAKE THE FINDING THE CLEAR TWO FINDINGS BECAUSE THIS IS SUBJECT TO CEQA ON TWO GROUNDS. REMAND THIS TO UNDERTAKE THE REQUIRED CEQA PROCESS, TAKE APPROPRIATE ACTION BASED ON CEQA FINDINGS AND IF THERE IS A PROJECT THAT MEETS CEQA'S REQUIREMENT AND ABLE TO MITIGATE DETRIMENTS, IF ANY, THEY CAN CONSIDER THAT PROJECT FOR APPROVAL. AND THAT IS MY MOTION.

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>> MAYOR J. ARREGUIN: I'LL SECOND THE MOTION BUT ALSO WITHIN THE MOTION TO CLARIFY THE POTENTIAL DETRIMENT TO RENT-CONTROLLED PROPERTIES THE POTENTIAL DISPLACEMENT AND LOSS OF RESIDENTIAL HOUSING SHOULD BE ANALYZED BY THE ZONING ADJUSTMENT BOARD AND IF THE ADJUSTMENT IS GOING TO PROCEED THE CHANGES BEING DEVELOPED. IT'S 10:47. I EXTEND TO MOVE THE MEETING TO 11:30. IS THERE A SECOND? WE'LL HAVE TO GO TO 11:30. SO I WANT TO SAY 11:20. I CHANGED MY MOTION. LET'S CALL THE ROLL ON EXTENDING TO 11:20.

>> CLERK: TO EXTEND TO 11:20. COUNCILOR KESARWANI.

>> YES.

>> CLERK: DAVILA.

>> COUNCILOR: YES.

>> CLERK: HARRISON.

>> COUNCILOR: YES.

>> CLERK: HAHN.

>> COUNCILOR: YES.

>> CLERK: WENGRAF.

>> COUNCILOR: YES.

>> CLERK: MAYOR ARREGUIN.

>> MAYOR J. ARREGUIN: YES.

>> CLERK: THE MEETING IS EXTENDED.

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>> COUNCILOR: YOU MADE A CASE OF THE HILLSIDE PRESERVATION. WENT THAT IN THE COURTS? IT WAS APPEALED WASN'T IT?

>> STAFF: IN THIS CASE THEY DID NOT -- THE STANDARD THEY CREATED DIDN'T EXIST BEFORE THE CASE WAS BROUGHT FORWARD. SO WHAT THEY DID WAS THEY CREATED THE STANDARD THEN REMANDED IT TO THE COURT TO CONSIDER THE PROJECT IN LIGHT OF THE NEW STANDARD. WHETHER OR NOT IT WAS APPROVED UNDER THAT NEW STANDARD IS IRRELEVANT TO THE ESTABLISHMENT OF THAT STANDARD. AND IT WAS CONSIDERED IN PART AND IT IS THE STANDARD THAT IS THE WIDELY ACCEPTED --

>> COUNCILOR: BUT IF THE COURT REJECTS THE BASIS FOR THE STANDARD WHERE DOES THAT LEAVE THE STANDARD?

>> STAFF: THEY CAN'T. THE SUPREME COURT SET THE STANDARD. A LOWER COURT CAN MAKE -- THIS CASE IS NOT BEFORE US.

>> COUNCILOR: BUT YOU'RE USING IT AS THE BASIS.

>> STAFF: IT WILL BE THE DECISION FOR WHICH WE'LL BE TESTED AND THE FACT THAT THE TECHNICALITY IN THIS CASE THE COURT SET A STANDARD AND THREW IT BACK TO THE TRIAL COURT SAYING APPLY THAT TO THE HILLSIDE CASE TO THE STANDARD DOESN'T CHANGE THE STANDARD. THERE'S NOTHING THE TRIAL COURT CAN DO TO CHANGE THE STANDARD. THE PROBLEM IS THE FACTS HAD NOT BEEN APPLIED TO THE STANDARD AND THE APPLICATION OF FACTS IS DONE BY THE TRIAL

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COURT. THIS IS THE STANDARD, NO QUESTION. THIS CLEARLY STATES YOU DON'T HAVE TO BE UNIQUE.

>> COUNCILOR: THANK YOU. SO I ACTUALLY THINK IF YOU JUST LOOK AT THE PROJECT IT'S GOING TO MAKE A NICE IN-FILL PROJECT AND IT'S PROXIMITY TO TRANSIT IS GREAT. ON RAPID BUS ON SAN PABLO AND THE TRANSIT ON UNIVERSITY AVENUE. I AM CONCERNED. NOW WE HAVE TWO DIFFERING OPINIONS ON WHETHER OR NOT CEQA APPLIES ON THIS PARTICULAR INSTANCE. I MAKE A MOTION WE CONTINUE THIS MATTER AND WE USE THE TIME TO CLARIFY CEQA AND SOME OTHER ISSUES ON THE RENT CONTROL ISSUE.

>> MAYOR J. ARREGUIN: I SECOND. YOU HAVE TO CALL THE VOTE TO CALL THE QUESTION. I'LL SAY IN CLOSING WHILE I CERTAINLY RESPECT YOUR DESIRE FOR HOLDING THIS BEFORE THE COUNCIL, I THINK THERE IS AMPLE EVIDENCE IN THE RECORD OF THE FACT THAT THERE ARE UNUSUAL CIRCUMSTANCES THAT WARRANT ADDITIONAL ANALYSIS AND THERE ARE ADDITIONAL ISSUES THAT SHOULD GO BACK TO THE ZAB TO REVIEW AND ADJUDICATE. I RECOMMEND WE VOTE NO ON THE SUBSTITUTE MOTION AND APPROVE THE MAIN MOTION. LET'S CALL THE ROLL ON THE SUBSTITUTE MOTION.

>> CLERK: CONTINUE THE ITEM. COUNCIL KESARWANI.

>> COUNCILOR: YES.

>> CLERK: DAVILA.

>> COUNCILOR: NO.

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>> CLERK: BARTLETT.

>> COUNCILOR: YES.

>> CLERK: HARRISON.

>> COUNCILOR: NO.

>> CLERK: HAHN. WENGRAF.

>> COUNCILOR: YES.

>> CLERK: ROBINSON.

>> COUNCILOR: NO.

>> CLERK: ARREGUIN.

>> MAYOR J. ARREGUIN: NO.

>> CLERK: THE MOTION FAILS. IS THERE ANYTHING ELSE THAT
NEEDS TO BE CLARIFIED.

>> COUNCILOR: NO.

>> MAYOR J. ARREGUIN: THE MOTION IS TO REMAIN WITH THE ZAB
WITH THE LANGUAGE OF COUNCILOR HAHN AND MY AMENDMENT LOOKING AT
THE IMPASSE OF RENT CONTROL OF PROPERTIES AN UNITS. LET'S CALL
THE ROLL ON THE MAIN MOTION.

>> CLERK: COUNCIL MEMBER KESARWANI.

>> COUNCILOR: YES.

>> CLERK: DAVILA.

>> COUNCILOR: YES.

>> CLERK: BARTLETT.

>> COUNCILOR: YES.

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>> CLERK: HARRISON.

>> COUNCILOR: YES.

>> CLERK: HAHN.

>> COUNCILOR: YES.

>> CLERK: WENGRAF.

>> COUNCILOR: ROBINSON. YES.

>> CLERK: DROSTE.

>> COUNCILOR: NO.

>> CLERK: MAYOR ARREGUIN.

>> MAYOR J. ARREGUIN: YES. THAT MOTION CARRIES. THANK YOU FOR COMING AND FOR YOUR TESTIMONY. WE CONTINUED ITEM 15 SO I BELIEVE THAT CONCLUDES THE AGENDA. DOES ANYONE WISH TO ADDRESS AN ITEM NOT ON TONIGHT'S PUBLISHED AGENDA? NOW'S THE TIME. IS THERE ANY PUBLIC COMMENT ON A NON-AGENDA ITEM? OKAY, SEEING NO COMMENT IS THERE A MOTION TO ADJOURN? MOVED BY COUNCILOR HARRISON, SECONDED BY COUNCIL MEMBER BARTLETT. IS THERE ANY OBJECTION TO ADJOURNMENT? HEARING NO OBJECTION WE'RE ADJOURNED.

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BERKELEY ZAB MEETING
REMOTE BROADCAST CAPTIONING
THURSDAY, MAY 09, 2019
CAPTIONED ON MAY 10, 2019

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>> SO BOARD MEMBER KAHN.

>> YES.

>> BOARD MEMBER KIM.

>> YES.

>> OLSON.

>> NO.

>> SHEAHAN.

>> NO.

>> BOARD MEMBER SELAWSKY.

>> NO.

>> BOARD MEMBER CLARK.

>> YES.

>> BOARD MEMBER TREGUB.

>> YES.

>> VICE CHAIR.

>> YES.

>> CHAIR.

>> YES. MOTION PASSES. YOU HAVE YOUR USE PERMIT. BUT
HOPEFULLY MAYBE [INDISCERNABLE] THANK YOU EVERYBODY FOR YOUR
PATIENCE. OKAY, HELLO. WE'RE BACK FROM BREAK. COULD WE HAVE
QUIET IN THE ROOM, PLEASE. WE'RE GOING TO MOVE ON TO
1155 -- 1173 HEARST AVENUE. I WANTED TO ACKNOWLEDGE BEFORE WE
START, I AM SORRY THAT YOU HAD TO WAIT. YOU'RE PATIENT AND I
APPRECIATE IT. WE'RE NOT GOING TO DO THE PUBLIC COMMENT FOR A

LITTLE BIT. WE'RE GOING TO HAVE STAFF REPORT AND QUESTIONS FOR STAFF FIRST AND THEN THE APPLICANT. WHEN IT COMES TIME FOR PUBLIC COMMENT, IF THERE IS ANYONE WHO NEEDS TO LEAVE EARLY FOR ANY REASON, I'M HAPPY TO LET YOU GO FIRST. LET ME KNOW. WE'LL TRY TO BE ACCOMMODATING. I PRESCRIBE YOU STAYING AT THIS LATE HOUR. WE BEGIN WAY STAFF REPORT.

>> HELLO. GOOD EVENING, CHAIR O'KEEFE AND MEMBERS OF THE BOARD. TONIGHT BEFORE YOU IS USE PERMIT ZP 2016-0028 WHICH IS TO DEVELOP TWO PARCELS FOR THE REHABILITATION OF THE EXISTING 7 DWELLING UNITS ON EXISTING THREE DUPLEXES WHICH ARE SIX OF THE SEVEN WHICH ARE RENT CONTROL. THE CONSTRUCTION IS 3 THREE BUILDINGS THAT ARE DUPLEXED. THIS LOCATED AT 1155 THROUGH 1173 HEARST. JUST FOR SOME OF THE MORE RECENT BACKGROUND, WE'VE BEEN BEFORE YOU. MOST RECENTLY, I SAY FOR ZAB PROJECT ON A HEARING ON AUGUST 23RD OF 2018 AND DID APPROVE THE PROJECT. IT INCLUDED [INDISCERNABLE] APPROVAL THAT RELATED TO THIS. CONDITION OF APPROVAL RELATING TO HYDROLOGY AND ANALYSIS AS WELL AS CONDITION OF APPROVAL THAT A TECHNICAL REPORT BE SUBMITTED. THE PROJECT WAS APPEALED. THE COUNCIL HEARD THE ITEM ON JANUARY 29TH OF THIS YEAR. AND AFTER PUBLIC HEARING AND INTERACTION, THE COUNCIL REMANDED THE PROJECT BACK TO ZAB TO UNDERTAKE FURTHER CEQA ANALYSIS AND TO FURTHER STUDY THE TENANTS' PROTECTION AVAILABLE FOR THE PROJECT. THE APPLICANT, SO AS PART OF THE FURTHER STUDY OF ZAB HAS BEEN A LITTLE BIT OF A MISUNDERSTANDING AND

MISINTERPRETATION. COUNCIL, THE MOTION FROM COUNCIL WAS TO HAVE FURTHER CEQA STUDY. I KNOW THAT MANY IN THIS ROOM MEANT A D.I.R. BE CONDUCTED BUT THAT WAS NOT MOTION THAT WAS FROM COUNCIL. AS PART OF THE FURTHER CEQA STUDY, THE APPLICANT SUBMITTED A TECHNICAL REPORT. I HAVE THE REPORT NOW THAT FOR SOME REASON THE ATTACHMENTS AND THE MAPS IN THE ATTACHED THAT WERE ATTACHED TO THE STAFF REPORT TONIGHT HAVE THE WRONG MAP. I DON'T KNOW WHEN THIS OCCURRED. IF YOU LOOK ON WEB PAGE OF THE PROMPT, WHAT WAS SUBMITTED TO US IN THE SEQUENCE OF ALL THE SUBMITTALS HAS THE CORRECT MAP. I KNOW THAT WE ORIGINALLY FOUND THE CORRECT MAP AND REVIEWED THE CORRECT MAP AND I APOLOGIZE, I HAVE NO IDEA. SO I DO APOLOGIZE FOR THAT. THE GEOTECHNICAL WAS PREPARED BY ALAN [INDISCERNABLE] THEY HAD THE OPPORTUNITY TO PEER REVIEW IT AND THERE WAS ADDITIONAL INFORMATION PROVIDED BY ALAN CROFT THAT WAS REVIEWED AND ACCEPTED. ADDITIONALLY THE CITY HIRED THE FIRM OF RINCON TO DO WHAT IS CALLED A CATEGORICAL EXEMPTION ANALYSIS WHICH IS SOMETHING WE DON'T DO OFTEN OR EVER IN MY HISTORY IN THE CITY. IT'S A TOOL THAT IS UTILIZED IN OTHER MUNICIPALITIES. THE CATEGORICAL EXEMPTION SUPPORTED OUR CONCLUSION THAT THERE ARE NO CIRCUMSTANCES AS FOUND IN [INDISCERNABLE] FOR THE RECORD. THE CATEGORICAL EXEMPTIONS DESIGNATE THE PROPERTY. ADDITIONALLY, WE LOOKED FURTHER INTO THE TENANT PROTECTION. AND THIS PROJECT HAS SEVERAL TENANT PROTECTION CONDITIONS THAT WERE EDITED BY STAFF AND MENTIONED BY YOU ALL IN THE LAST MEETING. THEY

REVIEWED IT. WE WANTED TO ENSURE THAT WHATEVER WAS IN FRONT OF THE WORK TO BE APPROVED, THAT THE TENANTS DID GET THE PROTECTION BECAUSE WE'VE HAD ANOTHER CONDITION THAT WAS A LITTLE BIT MISWORDED IN TERMS OF THE LOCATION ORDINANCE. THE STAFF REPORT IS TRACKING TO THE CONDITIONS THAT WERE PREVIOUSLY SUBMITTED AND THAT WAS AFTER REVIEW WITH THE TWO AGENCIES TO IMPLEMENT THEM. IN ADDITION, THE APPLICANT HAS SUBMITTED TO NOT PUTTING A CONDO MAP ON THE EXISTING RENT CONTROLS UNIT. THAT HAS BEEN ADDED AS A CONDITION AS WELL. THOSE CONDITIONS FOR YOUR REVIEW IS NUMBER 15, 16, 19, 31, 32 AND 33 WITH THE ADDED RENT CONTROL AND PERPETUITY AND NO CONDOMINIUMS ADDED AS CONDITION NUMBER 57. SO, STAFF UNDERSTANDS THIS A DIFFICULT PROJECT BEFORE YOU WITH A LOT OF STRONG EMOTIONS AND ZAB, THE COUNCIL HAS REMANDED IT TO YOU. THERE IS THE DIRECTION WITHIN THE ZONING ORDINANCE THAT YOUR DIRECTION TONIGHT HAS TO EITHER BE AN APPEALABLE DECISION OR IT WILL IN ESSENCE GO BACK TO COUNCIL. THE OPPORTUNITY FOR A CONTINUATION AT YOUR DIRECTION TONIGHT IS IN A SENSE A REFERRAL BACK TO COUNCIL OR A REMAND BACK TO COUNCIL. I KNOW YOU'LL HAVE PLENTY OF QUESTIONS. I WANTED TO INTRODUCE CHRIS JENSON. DUE TO THE NATURE OF MANY OF THE QUESTIONS PARTICULARLY CEQA, HE'S ONE OF OUR NEWER STAFF MEMBER NOTICE CITY ATTORNEY'S OFFICE. HE'S THE DEPUTY CITY ATTORNEY AND HAS -- HE HIS FOCUS IS LAND USE AND HE'S OUR LAND USE PLANNING ATTORNEY. THANK YOU.

>> OKAY. QUESTIONS FOR STAFF. CARRIE.

>> I AM DISTRESSED TO HEAR THERE IS SOMETHING WE DIDN'T GET IN OUR PACKET AND NOW WE'RE EXPECTED TO WHAT? DO WE HAVE IT? WAS IT DISTRIBUTED?

>> I'M SORRY, WHAT?

>> THE MAP.

>> AT ATTACHMENTS THAT WERE IN YOUR PACKET OF GEOTECHNICAL REPORT WERE FROM A DIFFERENT SITE.

>> EXACTLY. WHERE IS THE ACTUAL?

>> S. O'KEEFE: IT'S ON WEB AND I JUST DISCOVERED THAT DISCREPANCY HERE SO I DID NOT HAVE ACCESS TO A PRINTER. TO PRINT IT OUT FOR YOU.

>> AND I ASKED YOU TODAY BECAUSE I WATCHED THE COUNCIL LAST NIGHT. AND I FOUND THE INFORMATION ON LINE ABOUT THE ACTUAL MOTION. SO I HAD E-MAIL SHANNON TO ASK IF THERE WAS SOMETHING MORE COMPLETE, THE ACTUAL LANGUAGE. BUT SOMEONE ACTUALLY SENT US THE ACTUAL LANGUAGE WHICH NICE. WE HAVE THIS IN OUR PACKET. PAGE 59 AND 60. SO MY QUESTION TO YOU IS ABOUT HOW THIS STARTS OFF, AN INSTRUMENT BECAUSE IT'S THE CREEK AND FLOODING. I'M WONDERING IF YOU COULD POINT ME EXACTLY WHERE I MIGHT FIND INFORMATION ABOUT THAT IN THIS CEQA BACKGROUND INFORMATION BECAUSE I READ THROUGH IT, I DIDN'T SEE ANYTHING ABOUT THE CREEK BED AND FLOODING. AND HOW THE CREEK AFFECTS WHAT THE NEIGHBORS EXPERIENCE WHEN THERE IS A LOT OF RAIN.

>> THERE IS A LOT OF DOCUMENTATION IN THE HYDROLOGY REPORT

AS WELL AS THE COUNCIL REPORT.

>> ABOUT SOIL, BUT NOT ABOUT THE CREEK BED UNLESS YOU CAN POINT IT TO ME.

>> ARE YOU SAYING IN THE GEOTECHNICAL REPORT?

>> I READ ALL OF THEM. I DON'T SEE ANYTHING THAT SPECIFICALLY ANSWERS THIS ISSUE ABOUT DETRIMENT CAUSED BY THE CREEK AND FLOODING.

>> BASICALLY, WHAT YOU DID IS NOW CONFORM TO THE LATEST RELOCATION ORDINANCE, 16.

>> CORRECT, IT CONFORMS WITH THE LANGUAGE OF THE RELOCATION ORDINANCE.

>> THAT WAS BASICALLY THE CHANGES THAT WERE MADE. TO MAKE THE CLEAR TO EVERYBODY THAT'S WHAT WE'RE FOLLOWING. AND THE TENANT PARKING, THE \$100 A MONTH, HOW DID THAT COME UP WITH THE \$100?

>> HONESTLY, IT IS A LITTLE BIT OUT THERE. IT WAS JUST SOMEONE SUGGESTED IT --

>> THE APPLICANT?

>> IT APPLICANT SUGGESTED IT. AND IT SEEMED REASONABLE.

>> IT SEEMED A LITTLE HIGH. IF THE APPLICANT ACCEPTED IT. ON THE, AGAIN, THE TEMPORARY RELOCATION UNDER 32, THAT IS IN ACCORDANCE WITH THE RELOCATION ORDINANCE AS WELL. AND THOSE WERE THE CHANGES YOU MADE TO 32 WERE TO MAKE IT MORE OF EXACTLY THE RELOCATION ORDINANCE?

>> CORRECT.

>> OKAY. TO BE CONSISTENT. [AUDIO ISSUES] [AUDIO ISSUES-
STANDING BY]

>> PROBABLY NOT LEGAL TO SAY IT'S IN PERPETUITY.

>> THAT WAS MY QUESTION. THANKS. IGOR?

>> I. TREGUB: THANK YOU. GIVEN THE LATENESS OF THE HOUR, I
HAVE TWO TRENDS I WANTED TO ASK ABOUT. ONE IS THE TENANT ISSUE
AND I THINK THERE ARE DIFFERENT THINGS DEPENDING ON WHERE I WAS
IN THE PACKET. WOULD WORK ON THE UNITS BE DONE -- UNITS, ONLY
AFTER EACH DUPLEX IS COMPLETELY VACANT? OR I THINK SOMEWHERE
ELSE I SAW WORK WILL BE INITIATED AFTER EVERY TENANT VACATES ANY
ONE OF THE SIX UNITS. AND IF THIS IS MORE OF A QUESTION FOR THE
APPLICANT, I CAN ASK THE APPLICANT. IS THERE ACTUALLY ANYTHING
IN A CONDITION THAT IS SATISFIED?

>> THE INTENT, IF IT WAS POORLY WRITTEN THAT WOULD BE FOR
ME. THE INTENT WAS NOW UNIT ON ANY BUILDING WOULD BE WORKED ON
PER CONSTRUCTION UNDER THIS USE PERMIT. THIS WOULD NOT INCLUDE
NORMAL REPAIR OR MAINTENANCE. THAT'S PER BUILDING. FOR THE
SINGLE-FAMILY HOUSE IT WOULD BE THE HOME, THAT HOUSEHOLD. FOR AN
EXISTING DUPLEX, IT WOULD BE THOSE TWO HOUSEHOLDS. NOT ALL SEVEN
UNITS AT ONCE.

>> I. TREGUB: OKAY. AND THEN MY SECOND QUESTION AND -- WHEN
I ASK COUNCILMEMBER HAHN ABOUT THE PROMOTION, WHEN SHE MADE THE
MOTION HER INTENT WAS A FULL EIR. WHAT WE HAVE IN THE RECORD IS

WHAT WE HAVE IN THE RECORD. HOPING YOU CAN CLARIFY THE DIFFERENCES OF THE DIFFERENT LEVELS. THE CATEGORICAL EXCLUSION -
- [AUDIO INTERFERENCE]

>> THERE IS ALSO THE NEXT INTERMEDIATE LEVEL OF DECORATIVE [INDISCERNIBLE] IF THERE ARE POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS, THE CITY IS REQUIRED TO PREPARE A DSR. SO THAT'S THE WAY THAT'S BEEN DONE, THE PROCESS. THOSE ARE THE DIFFERENT LEVELS OF THE PROCESS. THAT IS GIVING CONTEXT AS TO WHERE WE ARE HERE.

>> I. TREGUB: OKAY. IF I UNDERSTOOD THE RECORD CORRECTLY FROM 2001, SOMEONE INCLUDED THAT IN THE PACKET. I BELIEVE THERE WAS A COMMUNICATION FROM STAFF AT THE TIME SAYING THAT A FULL EIR WAS REQUIRED. IF MY UNDERSTANDING IS CORRECT, AND WHAT CHANGE IN THE FIVE CONDITIONS BETWEEN NOW AND 2001?

>> I DON'T HAVE THE TIMELINE IN FRONT OF ME. I'M FAIRLY CERTAIN THE EXEMPTION WAS POST-DATED 2001. I DON'T HAVE THAT TIMELINE. BUT IT MIGHT BE THE LAW THAT CHANGED RATHER THAN THE CONDITION ON THE GROUND.

>> I. TREGUB: THANK YOU.

>> CHAIR O'KEEFE: OKAY. PUT ON YOUR MIC PLEASE, CHARLES.

>> C. KAHN: THIS IS A KIND OF CONFUSING SITUATION WE'RE IN. WE'RE BEING ADVISED BY COUNCIL TO RECONSIDER THE CEQA REQUIREMENTS. IS THAT -- COULD YOU EXPLAIN WHAT THE ACTUALLY MOTION WAS FROM COUNCIL?

>> CHAIR O'KEEFE: IT WAS TO DO FURTHER CEQA -- I WOULD LIKE TO, AM I MAY READ SO I DON'T MISQUOTE. TO UNDERTAKE FURTHER CEQA ANALYSIS AND ANALYZE [AUDIO INTERFERENCE] [AUDIO ISSUES]

>> BASED ON SUBSTANTIAL EVIDENCE IN THE RECORD THAT UNUSUAL CIRCUMSTANCES ARE PRESENT OR THAT UNUSUAL CIRCUMSTANCES ARE NOT PRESENT. IF UNUSUAL CIRCUMSTANCES ARE PRESENT, THEN THE NEXT QUESTION TO ASK IS WHETHER THOSE UNUSUAL CIRCUMSTANCES MAY PRESENT A SIGNIFICANT RISK TO THE ENVIRONMENT. IF THERE IS A FAIR ARGUMENT, AND THIS STANDARD COMES FROM THE BERKELEY HILLSIDE PRESERVATION THAT CAME OUT OF THIS BODY AND CITY. IF YOU FIND IT UNUSUAL CIRCUMSTANCES ARE PRESENT, AND IF YOU FIND THEIR ARGUMENTS THERE MAY BE A SIGNIFICANT IMPACT TO THE ENVIRONMENT, THEN FURTHER CEQA REVIEW IS NECESSARY AND WE CAN'T RELY ON THERE CATEGORICAL EXEMPTION. IT'S A FACTUAL QUESTION, YOU KNOW, I SHOULD SUMMARIZE BROADLY. YOU DON'T WANT TO READ THE STATUTE IN A WAY THAT EXEMPTION, THE EXCEPTION TO THE EXEMPTION FOLLOWS THE EXEMPTION. EVERY PROJECT IS DIFFERENT. EVERYTHING CAN'T BE AN UNUSUAL CIRCUMSTANCE. BUT AT THE SAME TIME, IT BIAS EMPHASIZES IT IS A FACTUAL QUESTION BASED ON YOUR EXPERIENCE, YOU CAN DECIDE AND EVERYTHING YOU [INDISCERNIBLE].

>> OKAY. SO TO TAKE ISSUE WITH THE CATEGORICAL EXEMPTION WE WOULD NEED TO FIND TWO THINGS TO BE TRUE. THAT THERE ARE UNUSUAL CIRCUMSTANCES THAT AREN'T JUST UNIQUE CIRCUMSTANCES. THEY ARE TRULY UNUSUAL. AND THAT THE UNUSUAL CIRCUMSTANCES ITSELF POSES

AN ENVIRONMENTAL RISK.

>> MAY POSE.

>> MAY POSE AN ENVIRONMENTAL RISK.

>> CHAIR O'KEEFE: REASONABLE. THEIR ARGUMENT THERE IS A REASONABLE INTENT.

>> THAT IS CORRECT. ONCE YOU GET OVER TO THAT FIRST HURDLE THE STANDARD IS MUCH LESS DIFFERENTIAL TO YOUR ABILITY TO FACT FIND. [AUDIO INTERFERENCE] [AUDIO ISSUES]

>> I GUESS MY ADVICE WOULD BE IN EITHER CASE YOU HAVE DISCRETION TO WEIGH THE EVIDENCE. BUT YOU NEED SUBSTANTIAL EVIDENCE TO SUPPORT YOUR DECISION. SO IF THERE IS NO EVIDENCE, THEN YOU CAN'T SUPPORT YOUR DECISION. I MEAN, I THINK I CAN CONVEY A LITTLE BIT OF I THINK THE EVIDENCE THAT THE STAFF RELIED ON IN MAKING THE RECOMMENDATION. I MEAN, I THINK SOME OF THE EVIDENCE THAT IS PRESENT THAT SUPPORTS THERE IS NO UNUSUAL CIRCUMSTANCES RELATED TO HYDROLOGY. THIS IS NOT IN A FLOOD ZONE. THIS PROPERTY IS NOT COVERED BY THE ORDINANCE. THERE WAS NO EVIDENCE IN THE HYDROLOGY REPORT THAT WOULD SUPPORT THE IDEA THERE WERE UNUSUAL HYDROLOGY CONDITIONS. THAT IS THE STAFF RECOMMENDATION. I EMPHASIS IT'S UP TO YOU TO WEIGH THE EVIDENCE AND MAKE A DECISION.

>> OKAY. JUST ONE QUICK FOLLOW-UP TO THAT. ALL RIGHT. I'M HAVING A HARD TIME WITH THE THRESHOLD OF WHAT CONSTITUTES UNUSUAL CIRCUMSTANCES AND WHAT KIND OF EVIDENCE IT TAKES TO GET

THERE. BUT PART OF WHAT STAFF, THE STAFF RECOMMENDATION PARTIALLY INTERPRETS WHAT REPORTS COME IN. AND IT IS REASONABLE TO EXPECT SOMEONE ELSE TO INTERPRET THEM SLIGHTLY DIFFERENTLY. AND THAT'S --

>> ABSOLUTELY.

>> OKAY.

>> HOPEFULLY, IT'S YOUR DECISION TO MAKE AND YOU HAVE THE INDEPENDENT ABILITY TO INTERPRET THOSE REPORTS.

>> THANK YOU.

>> CHAIR O'KEEFE: I KNOW THIS IS A LITTLE LIKE READING A TEA LEAF.

>> TO GO BACK TO WHAT SOPHY HAHN BY THE DETRIMENT BY THE FLOODING. THE CEQA ANALYSIS IS THE PROPER WAY TO DETERMINE THE -
- [AUDIO INTERFERENCE] [AUDIO ISSUES]

>> CRITERIA C OF THE LARGER EXEMPTION DISCUSSION, HAVING TO DO WITH THE SITE, ONE OF THE FINDINGS YOU HAVE TO MAKE IN ORDER FOR IT TO GO CATEGORIZED INFILL. THE SITE CAN BE ADEQUATE BY PUBLIC SERVICES. I READ THE DISCUSSION IN THE EXEMPTION REPORT. AND I DON'T SEE ANY MENTION, YOU KNOW, IT MENTIONS WATER, SEWER, SOLID WASTE, GAS AND ELECTRICITY, WHICH ARE ALL UTILITIES AND PUBLIC SERVICES, BUT IT DOESN'T MENTION STORM WATER, RELATED TO SEWERS BUT SEPARATE. THAT SEEMS TO BE THE BIGGEST ISSUE HERE. AND I WAS WONDERING IF IT'S -- IS THERE A REASON WHY THAT WASN'T DISCUSSED IN THE REPORT? IS THAT NOT USUALLY DISCUSSED? SHOULD

IT NOT BE CONSIDERED FOR A REASON I'M NOT AWARE OF?

>> NO, THERE IS NOT A REASON IT'S NOT IN THE REPORT. BUT THAT WAS DISCUSSED AT LENGTH AT COUNCIL AND THE STAFF REPORT AS WELL. THERE IS A LOT OF WATER WHEN IT RAINS IN THAT NEIGHBORHOOD. IT'S A FACT. IF YOU GO OUT, THERE IS A LOT OF WATER THAT RUNS DOWN, BOTH THE NEIGHBORS AS WELL AS STAFF HAS BEEN OUT THERE FILMING IT. IT DOES GO UP IN THE DRIVEWAYS. STAFF HAS CONFERRED WITH FIELD STAFF OF PUBLIC WORKS, WE HAVE ENSURED PLANNING STAFF THAT ADEQUATE STORM DRAIN SYSTEM. AGAIN, PUBLIC STORM DRAIN SYSTEM IS ON THE PUBLIC RIGHT-OF-WAY, NOT IN THE REAR YARDS OF AREAS. WE'RE TALKING ON THE PUBLIC RIGHT-OF-WAY, THE DRAINAGE INTO THE STORM DRAIN SYSTEM AND THE CHANNELS THAT RUN UNDER THE STREETS FROM SAN PABLO TO UNIVERSITY. SHOWING THOSE VIDEOS TO PUBLIC WORKS, THEY SAY THIS IS WORKING. WHEN YOU DON'T HAVE A WORKING STORM DRAIN SYSTEM IS WHEN THERE IS STAGNANT AND POOLING WATER, WHICH IS NOT THE CASE. DEPARTMENT HEADS ARE IN THE BACK AT EACH COUNCIL MEETING. AND I JUST WANTED TO TALK TO THE DIRECTOR OF PUBLIC WORKS, I TALKED TO YOUR STAFF. THIS IS THE MAIN THING. AND HE CONCURRED WITH WHAT -- [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> CHAIR O'KEEFE: THANK YOU FOR ANSWERING. OKAY. FURTHER QUESTIONS OF STAFF? WE'LL GET TO THE APPLICANT IN A MOMENT. I JUST WANT TO SEE, I HAVE ONE FINAL QUESTION, HOPEFULLY FINAL. I WANT TO CLARIFY OUR OPTIONS. AND I ALREADY ADDRESSED THIS A BIT,

BUT IF WE DETERMINE AS A BOARD THAT WE DON'T BELIEVE AS A FINDING OF FACT IT'S NOT CATEGORICALLY EXCEPT FROM CEQA, WOULD WE DENY OR TAKE NO ACTION? OR DOES THAT EVEN MATTER?

>> YOU COULD DENY IT. IF YOU TOOK -- BY SAYING YOU --

>> CHAIR O'KEEFE: YOU CAN'T MAKE THE CEQA FINDINGS?

>> BY TAKING NO ACTION BASED ON YOUR DISCUSSION, IT IS ALMOST RE-REMANDING IT BACK TO THE ZAB WITH MORE TIME. BACK TO COUNCIL UNDER DISCUSSION. SO I THINK --

>> YEAH, I MEAN BECAUSE THE ZAB HAS 90 DAYS TO HEAR MATTERS ON REMAND. THE AFFECT OF NOT TAKING ACTION, TO COUNCIL TO BE PUT ON THE AGENDA FOR COUNCIL TO RECONSIDER. YOU CAN APPROVE, YOU CAN DENY BASED ON INABILITY TO MAKE FINDINGS AT THE POINT OF CEQA COMPLIANCE AND OTHER REASONS. BUT FAILING TO ASK PEOPLE TO [INDISCERNIBLE]

>> CHAIR O'KEEFE: UH-HUH. IF WE DENY, IT WAS GET APPEALED TO COUNCIL AND IT WOULD BE AN APPEAL THERE, BECAUSE OF THE DENIAL. IF WE APPROVE IT, IT GETS APPROVED AND PROBABLY -- IT GOES TO COUNCIL NO MATTER WHAT? IT'S ONE OF THOSE THREE IS OUR ONLY OPTION?

>> YES.

>> CHAIR O'KEEFE: THANK YOU. AND THEN ONE MORE QUESTION. SORRY. IF WE TAKE NO ACTION AND IT GOES BACK TO COUNCIL, THEY HAVE UNLIMITED TO TIME TO PICK IT UP, IS THAT CORRECT?

>> I DON'T BELIEVE THERE IS A FIXED TIMELINE.

>> CHAIR O'KEEFE: OKAY. THANK YOU.

>> MOVE TO THE HEARING. FOLKS HAVE BEEN WAITING. [AUDIO INTERFERENCE] [AUDIO ISSUES]

>> FAIRLY SIGNIFICANT CHANGES HAVE OCCURRED TO THE PROJECT SINCE THEN. NEXT SLIDE. FIRST OF ALL, AND PROBABLY THE MOST IMPORTANT THING IS UNDER THE PROPOSAL THAT WE MADE HERE SO FAR, THESE RENT CONTROLLED APARTMENTS BECOME CONTROLLED AND RENT CONTROLLED APARTMENTS. I DON'T THINK THERE ARE ANY OTHER RENT-CONTROLLED APARTMENTS IN THE CITY OF BERKELEY THAT WOULD BE INCLUDED BY A PERPETUITY CLAUSE. WE WOULD BE HAPPY TO ADD AS A DEED CONTRADICTION TO PROTECT THESE FROM CONDOMINIUMS OR ANYTHING ELSE IN THE FUTURE. THAT IS PROBABLY THE MOST SIGNIFICANT THING. WE WANTED TO TAKE THAT OFF OF THE TABLE WITH RESPECT TO THE FEARS THAT HAVE BEEN EXPRESSED BY OUR RESIDENTS IN THE PROJECT. THEY CAN REMAIN IN THEIR HOMES AS LONG AS THEY WANT. WE'LL WORK WITH THE BERKELEY STABILIZATION BOARD AS WE NEED TO. I WANT TO SAY TO CLARIFY, WE'LL NOT BY DOING USE PERMIT-RELATED WORK ON ANY OF THOSE UNITS UNTIL AN ENTIRE BUILDING HAS BEEN VACATED. NOBODY HAS TO WORRY ABOUT CONSTRUCTION WHILE THEY ARE LIVING IN A UNIT. THE RENT BOARD PROVIDED A LETTER THAT ALSO OUTLINES THE MEETINGS THAT THE RENT BOARD POSTED FOR THE TENANTS. ONE CAME AND PROVIDED AN OPPORTUNITY TO ASK QUESTIONS ESSENTIALLY AS LONG AS THEY WANTED TO. AND THOSE ARE THE UNITS THAT ARE IN QUESTION FROM A RENT-

CONTROLLED PERSPECTIVE. NEXT SLIDE, PLEASE. THE ADDITIONAL CEQA ANALYSIS, THERE IS ADDITIONAL CEQA ANALYSIS DONE, IT'S AN EXTENSIVE REPORT ON WHY THE PROJECT IS CATEGORICALLY EXEMPT. THERE DOESN'T SEEM TO BE ANY PREPONDERANCE OR SIGNIFICANT LEVEL OF EVIDENCE AROUND WHY IT SHOULDN'T BE. AND THE HIGHLIGHTS ARE FROM THE GEOTECHNICAL INVESTIGATION, THIRD WATER HYDROLOGY REVIEWED THEIR HYDROLOGY STUDY TO SAY THESE CONDITIONS WILL BE FIXED. THE FINDING CONDITION IS NOT FROM THE PROPERTY, IT'S WATER COMING UP STREAM -- [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> ON THE EAST SIDE OF THE PROPERTY. YOU KNOW, THOSE ARE NOT GOING TO BE SUPER HIGH-END HOMES. THOSE ARE GOING TO BE ENTRY LEVEL HOME OWNERSHIP OPPORTUNITIES FOR FOLKS IN BERKELEY. NEXT SLIDE. THERE IS ONE CONDITIONAL USE PERMIT THAT WE WOULD LIKE TO MODIFY. THE RENT BOARD RECOMMENDED THIS CONDITION. STAFF CHOSE NOT TO MAKE THE CHANGE BUT WE'RE GOING TO REQUEST CONSISTENT WITH THE RENT BOARD DIRECTION. THE RELOCATION SUBJECT TO BNC SECTION 1384 LIKE ALL OTHER RELOCATIONS FOR OTHER KINDS OF PROJECTS. NEXT SLIDE, PLEASE. THE ADMINISTRATIVE USE PERMIT, THIS PROJECT IS REQUESTING, ARE VERY MINOR. IT DOESN'T AFFECT SURROUNDING RESIDENCES. ONLY MAKE FOR BETTER URBAN DESIGN FOR THE PROJECT AND LIVEABILITY FOR FUTURE RESIDENTS IN THE PROJECT. NEXT SLIDE, PLEASE. WITH THAT I WOULD LIKE TO END IT AND ANSWER ANY QUESTIONS YOU GUYS MIGHT HAVE.

>> CHAIR O'KEEFE: QUESTIONS FOR THE APPLICANT? TERESA?

>> T. CLARKE: MARK, WHAT WAS THE CHANGE YOU MADE? ONLY THE TENANTS WHO ARE THERE RIGHT NOW THAT WOULD BE ELIGIBLE FOR THE RELOCATION? CAN YOU GO BACK DO THAT SLIDE?

>> SUBJECT TO THE CITY'S DETERMINATION.

>> T. CLARKE: 32 YOU ARE SAYING, DURING ANY CONSTRUCTION RELATED TO THE USE PERMIT, A TENANT HOUSEHOLD THAT HAS BEEN A TENANT AS OF TO DATE IS ELIGIBLE FOR RELOCATION.

>> IN THE CONSTRUCTION, THE REST OF THE CONSTRUCTION, NOT ON THEIR UNIT. AS WE COMMITTED NOT TO DO THAT, BECOME SUCH A NUISANCE THEY NEED TO RELOCATE. THAT'S A DECISION SUBJECT TO THE CITY'S REVIEW. AND THAT WAS THE RENT BOARD'S RECOMMENDATION.

>> T. CLARKE: RELATED TO THE OTHER CONSTRUCTION.

>> CORRECT.

>> T. CLARKE: OKAY.

>> CHAIR O'KEEFE: QUESTIONS FOR THE APPLICANT? SEEING NONE, YOU CAN HAVE A SEAT. NOW, WE'LL BEGIN THE PUBLIC COMMENTS. I WANT TO REITERATE, ANYBODY -- [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> SUCH A PROBLEM ALREADY WITH THE WATER THAT GOES DOWN THE STREET THAT PARATRANSIT CAN'T PICK ME UP AT MY OWN HOUSE WHEN THE RAINS BECAUSE THE FLOODING IS SEVERE IN THE STREET. IT RUNS IN THE SEWAGES. AS IT IS, IT IS NOT -- AND THE WATER POURING ON THE SIDEWALK IS LIKE A RIVER IN FRONT OF MY HOUSE. AND [INDISCERNIBLE] YEAR TRIED TO SO THEY COULD BUT THE RAMP ACROSS

ALL THE WAY TO THE SIDEWALK, BUT THEY COULDN'T DO IT WITHOUT THE RAMP GETTING WET AND THEY WERE AFRAID IT WOULD GET DAMAGED. I DON'T KNOW PEOPLE TALKING ABOUT IF IT'S ADEQUATE OR WHATEVER. BUT IT'S A HUGE POOL OF WATER IN FRONT OF MY HOUSE. IT'S TOO MUCH WATER. AND THERE NEEDS TO BE ADJUSTING TO THAT. IF IT'S GOING TO BE MADE WORSE, [INDISCERNIBLE] WATER BEING PUMPED OUT AND THESE STORM DRAINS ACROSS THEIR PROPERTY. YOU KNOW, IT ALL PUMPS OUT INTO THE STREET. AND YOU HAVE TO HAVE A BRIDGE TO CROSS THE SIDEWALK BECAUSE IT'S THE MIDDLE OF THE STREET. WHAT TO DO ABOUT -- I DON'T OBJECT TO MORE [INDISCERNIBLE] BUT THIS IS A PROBLEM.

>> CHAIR O'KEEFE: THANK YOU, MA'AM. MAY I HAVE YOUR NAME?

>> JILL CORY.

>> CHAIR O'KEEFE: THANK YOU SO MUCH.

>> I. TREGUB: MADAM CHAIR, MAY I ASK YOUR ADDRESS?

>> 1141 HEARST AVENUE. I'VE BEEN LIVING HERE FOR 26 YEARS.

>> I. TREGUB: THANK YOU.

>> CHAIR O'KEEFE: THANK YOU.

>> THANK YOU.

>> CHAIR O'KEEFE: ANYBODY ELSE WANT TO GO JUMP THE LINE?

SURE, YEAH, COME ON. GO AHEAD. YEAH.

>> I LIVE AT THE SAME ADDRESS -- [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> CHAIR O'KEEFE: MY WORRY IS PUTTING THE CEMENT DOWN --

>> COVERING THE GROUNDS TO GET TO ABSORB THE WATER AND ALL OF THE NATURE THAT WE'RE GOING TO HAVE THIS PROBLEM WITH WATER FLOWING DOWN THE STREET. I THINK IT WAS A LOT WORSE WHEN I WAS A KID. AND HOPEFULLY WE WON'T BE IN A DROUGHT FOREVER. SO THERE IS GOING TO BE A RESURGENCE OF THIS BIGGER PROBLEM. I DON'T HAVE ANYTHING ELSE TO SAY. I THINK WE SHOULD REQUIRE THEM TO GET A EIR STUDY.

>> CHAIR O'KEEFE: YOU ARE LAYLIN? THANK YOU. AND THEN THERE WAS ANOTHER PERSON THAT WANTED TO SPEAK?

>> BILL GIEST. THE RENT CONTROL.

>> CHAIR O'KEEFE: MAKE SURE TO SPEAK INTO THE MIC.

>> IT WILL REMAIN RENT CONTROLLED AT THE SAME [INDISCERNIBLE], IS HE GOING TO RAISE THE RENT TO THE OTHER PROPERTIES SO IT WILL BE RENT CONTROLLED. BUT STILL AT A RENT TOO HIGH FOR THE [INDISCERNIBLE].

>> CHAIR O'KEEFE: THANK YOU.

>> THAT'S MY QUESTION AND CONCERN.

>> CHAIR O'KEEFE: OKAY. THANK YOU. ALL RIGHT. ANYONE ELSE NEED TO JUMP THE LINE? COME ON UP IF YOU NEED TO GO EARLY. THE HONOR SYSTEM.

>> THANK YOU. CAN YOU HEAR ME?

>> CHAIR O'KEEFE: VERY WELL. WHAT IS YOUR NAME, SIR?

>> IAN. I WORK IN THE BUILDING ON CAMPUS. I LIVE IN NORTH BERKELEY ALONG SPRING CREEK. I WANT TO SPEAK. I'M VERY AWARE OF

THE PROFOUND IRONY OF THE PHRASE, RINGING IN MY EAR. I LIVED AMONG PEOPLE WHEN THERE IS A SERIOUS ISSUE. IT GOES ONTO UNTIL THE BUSINESS IS DONE, WHICH MIGHT BE A WEEK. [AUDIO INTERFERENCE] [AUDIO ISSUES]

>> YOU COULD SEE THE [INDISCERNIBLE] UP IN THE HOLLOW. YOU COULD SEE THE ROOT STRUCTURES THAT HAD BEEN DROWNED IN THIS POOL OF WATER. SO JUST HYDROLOGY IS A FANCY GREEK WORD. THAT'S MY MINUTE. I'M DONE. LET ME JUST SAY -- FIRST DAPPLE MAP, THIS IS ABOUT CITY MAPS. AND THE FIRST DAPPLE MAP, THOSE OF YOU POOLING THE WATER, SHOWED NO INDIAN TERRITORY AT ALL. NOT EVEN RESERVATIONS. SO FINALLY --

>> CHAIR O'KEEFE: SIR, BE RESPECTFUL OF OTHERS WAITING.

>> THE WORD FOR AGITATION IN ENGLISH IS RIVAL. RIVAL MEANS IN LATIN, THOSE WHO SHARE A CREEK. WHAT IS A CREEK? WHAT IS A POOL? WHAT IS A SEWER? THESE ARE THE QUESTIONS I SPEND MY LIFE ASKING. THANK YOU FOR THE EXTRA 30 SECONDS. I KNOW NOTHING ABOUT THIS PARTICULAR -- YOU KNOW. I HAVE ONLY JUST WALKED IN. I WAS TRYING TO GET A SWIM NEXT DOOR. THEY CLOSED THE POOL AT 1 P.M. THANK YOU FOR YOUR INDULGENCE.

>> CHAIR O'KEEFE: THE REASON WE HAVE THE TIME LIMIT IS TO RESPECT EVERY BODY'S TIME. SO BE MINDFUL OF THAT. THANK YOU VERY MUCH. YES? MOVING ON, I HAVE THIS STACK OF CARDS THAT IS IN THE SAME ORDER HANDED TO ME BY STAFF. WE'LL START WITH SYLVAE WOOG, JOE CHIN, AND WAYNE CORY. JOE, FOLLOWED BY WAYNE, FOLLOWED BY

ALLEN SPECTER. YOU HAVE TWO MINUTES.

>> HELLO, I'M THE ONE TENANT LIVING THE PROPERTY TO INDICATE [INDISCERNIBLE]. I'M NOT SURE WHEN MARK SHOWED HIS SLIDE HOW -- [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> SO REFER US TO AN ATTORNEY. WENT TO SEE AN ATTORNEY, WHICH THEY REFER. AND THEY SAY, WELL, UNTIL MARK DO SOMETHING, NOTHING MUCH WE CAN DO. SO THERE IS NO CLEAR [INDISCERNIBLE] WITH ANYTHING ABOUT HOW PROTECTED WE'RE GOING TO BE. THE THIRD THING, ABOUT THE PERSON CITY HIRE TO COME TO OUR LOT TO DO THE TEST FOR THE GEOLOGICAL. [INDISCERNIBLE] SHE JUST TAKE A PICTURE. FROM THE PICTURE, [INDISCERNIBLE] TO THE PROPERTY TO SEE THAT THE SPECIFIC STRUCTURE THAT DO NOT COME TO THE PROPERTY. IF YOU ONLY TAKE A PICTURE IN THE PARKING LOT ONLY, NOT GO TO THE BACK SIDE. THEN I DON'T KNOW HOW THOROUGH WE'RE GOING TO BE.

>> CHAIR O'KEEFE: OKAY. THANK YOU. OKAY. NEXT UP WE HAVE WAYNE CORY, FOLLOWED BY ALLEN, FOLLOWED BY STACY SCHULMAN.

>> THANK YOU, MADAM CHAIR AND BOARD. I APPRECIATE YOUR TIME FOR LISTENING TO EVERYBODY THAT WE HAVE TODAY. I HAD A WHOLE THING TO SAY BUT SO MANY THINGS HAVE CHANGED BASED ON THE THINGS YOU BROUGHT UP TO BEGIN WITH AND I APPRECIATE THEM. AND PART OF IT IS WHERE THE COUNCIL SAID THEY THINK THEY KNOW A CERTAIN SUBJECT. I DON'T THINK BASED ON SOMEBODY SAYING THEY THINK, THEY DON'T KNOW WHAT THEY ARE TALKING ABOUT PURELY. AND WE SHOULD NOT

BE VOTING ON SOMETHING WITHOUT THE TRUE FACTS. ALSO, MARK MENTIONED THAT THIS IS A GOLDEN PROPERTY OF SOME SORT. I'M NOT SURE IF HE'S REFERRING TO GOLDEN DUPLEXES OR WHAT. THE OWNER HAS TO LIVE IN IT I THAT IS NOT IT CASE HERE. THE STRUCTURAL ZONE IN THIS PROPERTY. THE WATER THAT COMES THROUGH HERE. YOU KEEP HEARING OVER AND OVER AGAIN. EVEN THOUGH THE ONE GENTLEMAN CAME HERE AND KIND OF SPOKE ABOUT ALL KINDS OF TREES FALLING DOWN, THAT IS PART OF THE PROBLEM. YOU PUSH OUT THE WATER INTO THE STREET, WE DON'T KNOW WHAT IS GOING TO HAPPEN. WITH THE WATER THERE, THERE ARE NO SEWER DRAINS -- [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> FOR WHATEVER REASON THERE IS A HIGH VOLUME OF FLOW OF WATER ACROSS THE PROPERTY AND PUBLIC RIGHT-OF-WAY. AND YOU ARE AFRAID IT'S GOING TO MAKE IT WORSE?

>> YEAH, THAT IS PART OF IT. THERE IS ACTUALLY AN EASEMENT AT 1159, AS EASEMENT FROM THE BACK ON THE OTHER SIDE OF THE STREET AND THEY PUMP THEIR WATER INTO THIS PROPERTY. AND THE DEVELOPER IS SAYING THEY ARE GOING TO PUMP THEIR EXCESS WATER INTO THE STREET. OKAY? AND THEN MY UNIT ITSELF THERE IS A DIFFERENTIAL SHIFTING HAPPENING. EVERY YEAR, EVERY OTHER YEAR I HAVE TO HAVE THEM MOVE THE DOOR.

>> CHAIR O'KEEFE: SO I UNDERSTAND. YOU LIVE ON THE PROPERTY CURRENTLY?

>> YES, I DO.

>> CHAIR O'KEEFE: OKAY. THANK YOU. NEXT, WE HAVE ALLEN SECTOR. FOLLOWED BY STACY SCHULMAN. FOLLOWED BY YASHA.

>> NOT ONLY THE WATER THAT IS IN THE STREET, THERE IS WATER THAT POOLS IN THE ALL THE BACK YARDS. AND YOU WOULD ASSUME THERE IS WATER THAT WOULD BE IN THE AREA WHERE THEY PLAN TO DO CONSTRUCTION. I THINK IF YOU ARE GOING TO MAKE A MAJOR PROJECT THAT IS SEVERAL STORIES HIGH IT MAKES SENSE YOU DO A STUDY TO MAKE SURE IT'S SAFE TO BUILD SUCH A PROJECT. WHY WOULD THE DEVELOPERS NOT WANT TO SPEND THE MONEY AND THE ENERGY TO DO A REALLY GOOD STUDY? THAT'S MY TIME.

>> CHAIR O'KEEFE: THANK YOU. NEXT, STACY SCHULMAN. YASHA.

>> GOOD EVENING. I LIVE AT 1818 CURTIS, WHICH IS ADJACENT ON CURTIS STREET SIDE TO THE PROPERTY. HOUSING IS GREAT. AFFORDABLE HOUSING IS EVEN BETTER. QUALITY OF LIFE IS ALSO REALLY, REALLY IMPORTANT. WHILE I'M GLAD THERE IS A LOT OF EFFORTS GOING INTO TO PROTECTING THE TENANTS IN THE -- [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> CHAIR O'KEEFE: THIS IS DELICATE LAND I THINK IS A REASON IT HASN'T BEEN BUILT ON THIS WAY. UNUSUAL CIRCUMSTANCE DOESN'T HAVE TO BE UNIQUE TO BE UNUSUAL. WE'VE HEARD THAT ARGUMENT THERE ARE CREEKS THROUGHOUT BERKELEY. IT IS UNUSUAL, I THINK THERE IS A REASONABLE ASSUMPTION THAT THERE IS GOING TO BE ENVIRONMENTAL HARM. AND I DON'T UNDERSTAND WHY THE DEVELOPER WON'T DO A CEQA ANALYSIS. --

>> CHAIR O'KEEFE: THANK YOU. BRENDA, FOLLOWED BY PAM.

>> HI. GOOD EVENING. COMMISSIONERS, AND STAFF. I LIVE AT 1163 HEARST. THANKS FOR READING MY EMAILS OVER THE PAST WEEK. I'M GOING TO REITERATE SOME CONCERNS. I BELIEVE IN AN INITIAL INVESTIGATION UNDER CEQA IS NECESSARY. THERE IS THE LAW AND THAT WAS WHAT THE COUNCIL DECIDED. THERE IS FLOODING. THERE IS POOLING OF WATER. WHEN I HAD A LOWER CLEARANCE CAR, I WAS AFRAID TO BACK IT INTO THE MIDDLE OF OUR PARKING LOT. AND THERE WERE DAYS WHEN I CAN'T CROSS CURTIS TO GET TO THE B.A.R.T. STATION IN THE MORNING WITHOUT LIKE MY SOCKS AND SHOES BEING COMPLETELY COVERED. THE CURRENT GEOTECHNICAL STUDY IS LIMITED. ACTUALLY, POINTED OUT THE LIMITATIONS. SECOND, WITH REGARDS TO THE RENT CONTROL ISSUE, THE PROJECT IS FOR A DEVELOPMENT THAT INCLUDES THE CURRENT UNITS BEING CONVERTED INTO CONDOMINIUMS. SO THAT IS ULTIMATELY WHAT IS GOING TO HAPPEN. THE ONLY REASSURANCES I HAVE RIGHT NOW IS FROM THE DEVELOPER SAYING, OH, WE WON'T DO THIS AT THIS TIME. BUT WE MIGHT DO THIS LATER. AND HE HAS CHANGED HIS MIND SEVERAL TIMES SO IT'S NOT REALLY REASSURING. AND WE DON'T KNOW IF HE DOESN'T -- [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> WE'RE NOT GETTING ANY ANSWERS. PEOPLE ARE CHANGING THEIR MINDS. WHAT HAPPENED HERE TODAY, CERTAIN THINGS WERE NOT PUT INTO YOUR REPORT. THAT IS NOT ACCEPTABLE. THE CREEK AND SO FORTH, THOSE ARE MAJORS ISSUES IN OUR CONCERNS. ONE OF THE MY MAJOR ISSUES ARE THE TENANTS HEALTH AND WELFARE AND THEIR

SECURITY. THERE IS NO SECURITY HERE. THE ISSUE IS LOUD AND CLEAR. THEY ARE GETTING WISH-WASH, WHAT IS THE ANSWER? WE'RE NOT GOING TO STAND FOR WISH-WASH. IF WE HAVE TO BE HERE AGAIN, WE WILL. YOU HAVE TO GET ANSWERS. YOU HAVE TO GET CONCRETE ANSWERS TO THESE PEOPLE THAT THEY WILL BE SECURE WHEN THEY START BUILDING, WHAT'S GOING TO HAPPEN WITH ALL THAT CONSTRUCTION AROUND? YOU WILL BE STAYING IN YOUR APARTMENT? YEAH. WHAT KIND OF ASSURANCE THEY WILL HAVE MONEY FOR ANOTHER PLACE? WHAT HAPPENS WHEN THE MONEY RUNS OUT OR NO APARTMENTS FOR THEM TO BE ABLE TO BE RENTED? THERE ARE TOO MANY QUESTIONS HERE. AND TOO MANY UNTRUTHS. AND YOU HAVE TO HAVE TRUTH AND SOME ACTION. AND YOU FOLKS REALLY NEED TO HELP US GET THAT ACTION. THANK YOU.

>> CHAIR O'KEEFE: WHAT DOES YOUR SHIRT SAY? NICE, I LIKE YOUR SHIRT. PAM, FOLLOWED BY TRACY EMERSON, FOLLOWED BY MOSTNORY OBA.

>> GOOD EVENING, MY NAME IS PAM HORNSBY. I LIVE DIRECTLY TO THE NORTH OF THE PROJECT. I LIVED IN THAT NEIGHBORHOOD FOR 52 YEARS AND IN MY HOUSE FOR 48 YEARS. I HEARD STORIES FROM ELDERS ABOUT THE CREEK THAT USED TO BE ABOVE GROUND. AND I CAN TELL YOU THAT WHAT WE'RE NOT SEEING IN THE HYDROLOGY REPORTS ARE ANY DIRECT REPORTS FROM -- [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> REPORT RECOMMENDATIONS THAT WERE MADE IN 2002, WHEN THE CURRENT DEVELOPER WAS WORKING FOR THE PLANNING DEPARTMENT. AND THE PROJECT WAS DENIED AT THAT POINT BECAUSE OF THE HYDROLOGY.

THIS IS NOT SOMETHING ABOUT GEOTECH BUT IT WAS THE SUFFICIENT.
THREE BOARD -- INSUFFICIENT. FOLLOWING A DROUGHT IN JULY IS NOT
GOING TO GET YOU DIRECT EVIDENCE OF WHAT IS GOING ON. I WAS
RAISED BY SCIENTISTS. THIS IS THE TOBACCO INDUSTRY'S STRATEGY
FOR SHOWING EVIDENCE. AND THE PEER-REVIEW GO BACK OVER THE OTHER
INADEQUATE REPORT. I WOULD ASK FOR A FULL EIR. THANK YOU.

>> CHAIR O'KEEFE: THANK YOU. TRACY EMERSON. MOSTONORI OBA,
AND JOSEPH MICHAEL.

>> I'M SORRY TRACY EMERSON. I RESIDE AT 1157 HEARST AVENUE
AND I'M ASKING THE ZAB BOARD TO DENY THIS PROJECT OR AT LEAST
HOLD THE DEVELOPER ACCOUNTABLE TO HAVE AN EIR AND GIVE TENANTS
SECURITY IN OUR QUALITY OF LIFE. THIS SITUATION HAS BEEN
STRESSFUL AND CAUSED ANGER AND DISGUST IN OUR COMMUNITY. AND
IT'S ALL CAUSED BY MARK'S LIES AND INABILITY TO TELL THE TRUTH.
THERE IS ALREADY SEASONAL FLOODING. ANYONE CAN SEE THERE IS
CLEARLY A CREEK. AND AS A PUBLIC-SCHOOL TEACHER, IT IS GOING TO
BE INCREDIBLY DIFFERENT IF NOT IMPOSSIBLE FOR ME TO SURVIVE IN
OAKLAND OR BERKELEY OR THE EAST BAY WITHOUT RENT-CONTROLLED
HOUSING. THE ULTIMATE GOAL IS TO GET RID OF US AND DEMOLISH OUR
APARTMENTS. HE DOES NOT CARE ABOUT US OR QUALITY OF LIFE OR HE
WOULD HAVE PUT SOMETHING IN TO BETTER OUR QUALITY OF LIFE.

[AUDIO ISSUES] [AUDIO INTERFERENCE]

>> [INDISCERNIBLE] I WANT TO ADDRESS A FEW THINGS.
[INDISCERNIBLE] TALKING ABOUT MODIFIED BUILDINGS. NOT PER UNIT.

HE DIDN'T MENTION IT, YOU KNOW, UNTIL SOMEBODY ASKED THAT THERE NEEDS TO BE. THE LOCATION FOR THE CONSTRUCTION. THAT IS NEWS TO US TOO. IT'S NOT COMMUNICATED ENOUGH. ALSO, IF THIS IS NOT PROVED, AND [INDISCERNIBLE] WE CAN STAY AS LONG AS WE WISH. BUT IF [INDISCERNIBLE] THE PROPERTY, WHAT HAPPENS TO THE RENT-CONTROLLED UNIT? MAYBE THAT THE NEW OWNER [INDISCERNIBLE] RELATED TO THE CURRENT OWNER [INDISCERNIBLE] CONDOMINIUM. AND EVEN THE RELOCATION DURING THE CONSTRUCTION, WE HAVE A PROBLEM WITH PARKING. I HAVE A TWO-PARKING FOR MYSELF AND MY WIFE. THE CONSTRUCTION STARTED [INDISCERNIBLE] PARK CAR IN THE [INDISCERNIBLE] WE HAVE TO PARK OUTSIDE ON THE STREET. OR EVEN AFTER ALL THE BUILDING [INDISCERNIBLE] [BEEPING]

>> WE'LL LOSE THE PARKING SPACE.

>> CHAIR O'KEEFE: THANK YOU. JOSEPH MICHAEL. IS HE HERE? HE LEFT? OKAY. HUSSEIN, FOLLOWED BY LUCAS PAZ, FOLLOWED BY --
[AUDIO ISSUES] [AUDIO INTERFERENCE]

>> EVALUATED BY THE STUDIES THAT WERE RELIED UPON BY THE CEQA ANALYSIS THAT WAS DONE FOR THE EXEMPTION AS WELL AS THE GEOTECHNICAL REPORTS. THE GEOTECHNICAL REPORTS AGAIN WAS A VERY LIMITED GEOTECHNICAL, ONLY LOOKED AT SOIL, MATERIAL PROPERTIES AND DOES NOT EVALUATE HYDROLOGY, WHICH WAS THE FOCUS OF THE CONCERN THAT'S BEEN RAISED IN THE PAST BY MYSELF AND OTHERS. IN ORDER TO MAKE A FINDING THERE IS NO SUB SURFACE HYDROLOGY ISSUES ON THE SITE YOU WOULD FIRST NEED TO DO AN EVALUATION WHICH WOULD

RECOMMENDED BY GREG CAYMAN AND MYSELF WHEN I SPOKE TO YOU IN THE PAST AND WHEN I SPOKE TO CITY COUNCIL. I THINK THAT'S ANOTHER POINT I'LL RAISE THAT I ALSO WORK WITH THE PEER REVIEW CONSULTANTS AND SPOKE WITH THEM ABOUT THEIR PEER REVIEW OF THE HYDROLOGY WORK. AND I FOUND WHEN I DISCUSSED WITH THEM, THEY TOLD ME THAT THEIR FOCUS OF THEIR WORK WAS ONLY ON THE SURFACE WATER ISSUES AND THE GROUNDWATER ISSUES WERE NOT ADDRESSED.

>> CHAIR O'KEEFE: IGOR FIRST AND TERESA.

>> I. TREGUB: YOU CAN GO FIRST IF YOU WANT. OKAY. OKAY. SO THANK YOU FOR COMING. THIS IS MY FIRST, I KNOW YOU CAME BEFORE ZAB BEFORE BUT I WASN'T HERE BUT I'M HERE NOW. YOU PROBABLY DEAL WITH CEQA A LOT. HOW COMMON IS IT IN YOUR PROFESSIONAL EXPERIENCE TO LOOK AT SUBSURFACE HYDROLOGY WHEN HYDROLOGY IN GENERAL IS NEEDED TO BE ASSESSED?

>> SUBSURFACE HYDROLOGY IS VERY IMPORTANT. WHEN WE CONSIDER GROUNDWATER, GROUNDWATER IS PART OF THIS PATH OF THE PICTURE. I THINK OF HYDROLOGY AS A COUPLED SYSTEM. YOU HAVE SURFACE WATER AND GROUNDWATER SYSTEM AND THEY INTERACT AND THEY ARE -- [AUDIO ISSUES]

>> I. TREGUB: THE LARGER LOTS I HAVE SEEN IS ABOUT APPROXIMATELY ACROSS THE STREET. I'M NOT SURE WHAT THOSE ARE, IF THEY ARE TOWNHOMES OR CONDOS. ARE YOU FAMILIAR WITH THAT SITE ACROSS THE STREET?

>> I HAVE NOTICED IT WHEN I WALKED THE SITE.

>> I. TREGUB: WOULD YOU SAY THAT -- ARE YOU FAMILIAR WITH, I DON'T KNOW THE HISTORY OF IT BUT WOULD YOU SAY THAT THE PROPERTY, THE SUBJECT PROPERTY WE'RE LOOKING AT RIGHT NOW, HOW DOES THAT COMPARE IN TERMS OF COVERAGE OF THE HOUSING THAT IS PROPOSED WITH THE SITE ACROSS THE STREET AND HOW MIGHT IT CONTRIBUTE TO STORM-WATER RUNOFF IN THE APPLICANT?

>> I CAN'T COMPARE THE COVERAGE BECAUSE I HAVEN'T LOOKED AT THE DETAILS. BUT I THINK THE KEY DIFFERENCE BETWEEN THE TWO SITES IS ALL THE AMPLE EVIDENCE OF THE CREEK UNDER THE CURRENT SITE. THAT IS WHAT MAKES THIS SITE UNUSUAL. THAT IS THE ISSUE OF AN UNUSUAL CIRCUMSTANCE IS THE FACT THE SITE IS OVER A BURIED CREEK AND THERE IS AMPLE EVIDENCE TO SUPPORT THAT AS WELL AS THE SIGNIFICANT FLOODING. SO I THINK THAT'S WHY, ESPECIALLY WHY GROUNDWATER IS A CONCERN BECAUSE OF THE FACT THE HISTORIC, THE BURIED CREEK IS PREFERENTIAL FLOW PATHS. WHEN THE WATER TABLE RISES IN THE WINTER IT FIND THE BURIED CREEK AND MOVES THROUGH. CONSTRUCTION WITHIN THAT BURIED CREEK AREA, WHERE IT'S LOCATED, THAT COULD CAUSE A DAM AND OBSTRUCT FLOW AND EXACERBATE FLOODING. THAT HAS NOT BEEN EVALUATED.

>> I. TREGUB: FINAL QUESTION, IF I MAY, THERE WAS REFERENCE TO THE GEOTECHNICAL STUDY THAT WAS DONE TAKING THREE SAMPLES IN JULY. IN YOUR PROFESSIONAL EXPERIENCE, IS THAT STANDARD OPERATING PROCEDURE?

>> THE GEOTECHNICAL STUDY -- [AUDIO ISSUES] [AUDIO

INTERFERENCE]

>> THE BURIED CREEK.

>> CHAIR O'KEEFE: I MEAN, THERE IS NO WAY IT'S TWO FEET
BELOW BECAUSE --

>> WELL, THERE IS THE --

>> CHAIR O'KEEFE: THE SUBSURFACE IS LOWER.

>> RIGHT. DEPENDING ON THE DEPTH OF EXCAVATION AND AMOUNT
OF FILL MATERIAL AND THE LOAD BEARING FROM THE STRUCTURE THERE
ARE LOTS OF WAYS THE SUBSURFACE WOULD BE IMPACTED. NOT ONLY THE
FOUNDATION CONSTRUCTION BUT THE SOIL -- OR.

>> CHAIR O'KEEFE: IT WOULD GO THE PATH OF LEAST RESISTANCE.

>> EVEN IF THE FOUNDATION WORK IS ONLY OCCURRING WITHIN THE
UPPER TWO OR THREE FEET IT COULD STILL TRANSMIT THE LOAD TO
LOWER AREAS WHERE -- BECAUSE THERE HAS BEEN SETTLEMENT NOTED ON
THE ADJACENT PROPERTY THAT'S ALREADY BEEN OBSERVED. WHEN YOU
CONSTRUCT, YOU KNOW, A TWO-STORY STRUCTURE ON A LOCATION THAT IS
NOT, DOES NOT HAVE A GOOD FOUNDATION, YOU MAY HAVE SETTLEMENT.

>> CHAIR O'KEEFE: THAT IS PARTLY WHAT THE GEOTECHNICAL
ENGINEER IS GOING TO --

>> THAT'S WHAT THEY LOOK AT.

>> CHAIR O'KEEFE: I THEY ARE GOING TO FIGURE IT OUT BASED
ON THE FLOW CONDITION. AND THE WATER WILL CONTINUE TO FLOW AND
GO AROUND IT. IT'S SUBSURFACE. I DON'T UNDERSTAND HOW YOU ARE
SAYING SUBSURFACE, IT CAN PERCOLATE UP? NOT SURE WHAT YOU ARE

TRYING TO SAY.

>> CAN YOU LET HIM ANSWER, PLEASE?

>> IF YOU LOOK AT THE WORK PLAN PROPOSED BY GREG CAYMAN IN 2002, IT'S IN THE RECORD. AND YOU CAN SEE, YOU KNOW, HIS ASSESSMENT OF THE SITE IS THE SAME AS MY ASSESSMENT. AND THAT IS THAT THE PROJECT POSES A RISK TO EXACERBATING THE SURFACE FLOODING DUE TO BLOCKAGES, THE SUB SURFACE ASSOCIATED WITH CONSTRUCTION. IN OTHER WORDS, IF THERE IS A BEARING PRESSURE FROM THE BUILDING OR EFFECT OF THE FOUNDATION COULD CAUSE A DAMMING EFFECT. -- [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> I WAS ASKED TO LOOK INTO THIS STUDY BY ONE OF THE RESIDENTS THAT LIVE IN THE NEIGHBORHOOD.

>> I REALLY APPRECIATE YOU COMING AND TALKING TO US ABOUT IT. I JUST WANTED TO KNOW WHAT THE BASIS WAS OF YOUR BEING HERE. THANK YOU.

>> NO PROBLEM.

>> CHAIR O'KEEFE: ALL RIGHT. THANK YOU VERY MUCH. APPRECIATE YOU COMING AS WELL. NEXT UP WE HAVE THE ATTORNEY FOR ONE OF THE NEIGHBORS?

>> I AM. GOOD EVENING. AND I JUST WANTED TO POINT OUT THE PROBLEMS WITH THE CEQA. THE PROBLEM WE HAVE HERE IS THERE IS SIGNIFICANT EVIDENCE OF UNUSUAL CIRCUMSTANCES. AND TO DETERMINE WHETHER THERE IS AN UNUSUAL CIRCUMSTANCES, YOU CAN APPLY GOOD JUDGMENT. RIGHT? OR CALL IT COMMONSENSE. YOU HAVE A SITE THAT IS

IN A NON-FLOOD ZONE AS STAFF MENTIONED THAT FLOODS ALL THE TIME. YOU HAVE TO TAKE, YOU HAVE SIGNIFICANT EVIDENCE FROM THE NEIGHBORS. THERE ARE VIDEOS THAT ARE IN THE RECORD OF THE FLOODING. YOU HAVE GOT AN OPINION BY MR. CAYMAN, WHO IS A VERY WELL-RESPECTED HYDROLOGIST AND MR. PAZ. UNDER THE LAW IT DOESN'T HAVE TO BE. THERE ARE OTHER SITES IN BERKELEY FLOOD DOESN'T MEAN [INDISCERNIBLE]. THE NEXT STEP IS NOW WHAT? IS IT AN EXEMPTION? THE PROBLEM IS THAT BEFORE YOU -- NONE OF THE REPORTS THAT HAVE BEEN PREPARED BY THE APPLICANT AND NONE OF THE REPORTS COMMISSIONED BY STAFF LOOK AT THIS ISSUE. THE UNUSUAL CIRCUMSTANCE. THE ONE THAT WAS IDENTIFIED BY COUNCILMEMBER HAHN, WHICH IS THIS FLOODING PROBLEM, THIS SUBSURFACE FLOW PROBLEM. AND SO IF YOU IGNORE IT, THERE IS NO UNUSUAL CIRCUMSTANCE BECAUSE YOU ARE NOT LOOKING AT THE UNUSUAL CIRCUMSTANCE. YOU HAVE TO CONSIDER THE EVIDENCE AS IT RELATE TODAY WHAT IS IT THE UNUSUAL CIRCUMSTANCE AND MAKE A DECISION. THE NEXT STEP IS, EVERYBODY IS -- CALLING FOR AN EIR. THE NEXT STEP IS YOU CAN ASK CITY ATTORNEY, IF THERE IS AN UNUSUAL CIRCUMSTANCE AND CEQA, YOU CONDUCTS AN INITIAL STUDY WHEN CONDUCTS -- [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> CHAIR O'KEEFE: I HAD A LEGAL QUESTION AND I ALSO WOULD LIKE TO HERE FROM THE CITY ATTORNEY LATER. IT'S BEEN POINTED OUT IN THE CATEGORICALLY EXEMPTION REPORT THAT UNDER THE WHETHER OR NOT THIS IS UNIQUE CIRCUMSTANCES THAT ANALYSIS, IT MENTIONS THAT

THE CREEK, THE CREEK IS UNDERNEATH THIS PROPERTY IS NOT PROTECTED BY THE CITY'S CREEK ORDINANCE. DOES THAT BEAR ANY RELEVANCE TO AN UNUSUAL CIRCUMSTANCES?

>> I DON'T THINK IT DOES. BECAUSE FUNDAMENTALLY THE QUESTION IS WHAT IS THE IMPACTS ON THE ENVIRONMENT. THIS IS AN UNUSUAL CIRCUMSTANCE BECAUSE IT IS A BURIED CREEK, IT DOESN'T MATTER WHETHER IT'S PROTECTED. IT'S NOT ABOUT PROTECTING THE CREEK.

>> CHAIR O'KEEFE: OKAY. THANK YOU. NOW, WE HAVE RALPH WILLIAMS, AND MR. SESMAN, AND TEAL MAJOR.

>> I LIVE ON CURTIS STREET, NORTHEAST OF THIS PROPERTY. I HAVE BEEN ASKED TO TAKE MY TIME TO SHARE WITH YOU SOME INFORMATION THAT THE CITY IS WELL AWARE OF. THE CREEK AND YOU PROBABLY ALREADY KNOW, BUT I'LL SHARE IT ANYWAY. A LETTER TO LINDA HEART FROM THE PLANNING DEPARTMENT STATES FOR TWO REASONS SHE IS NOT EXEMPT FROM A CEQA STUDY. THE FIRST IS SHE'S TAKING A SMALL PROPERTY AND TURNING IT INTO A BIG PROPERTY. THE SECOND REASON WAS THAT BERKELEY CREEK MAP DOMINATED BY THE CITY COUNCIL IN 1990 INDICATES THE CREEK [INDISCERNIBLE] WAS PART OF THE CEQA STUDY IN 2001. AND AT A MEETING SOMETIME LATER, THE PLANNING DEPARTMENT AT MARK ROSE AT THE TIME, YOU CAN LOOK AT THE TRANSCRIPT, SAYS THE APPLICANT HAS REFUTED FROM THE BEGINNING, IN FACT TO [INDISCERNIBLE] DOES CROSS THIS PROPERTY. AT THAT TIME THE STAFF AGREED THERE WAS ONE -- [AUDIO ISSUES] [AUDIO

INTERFERENCE]

>> CHAIR O'KEEFE: OKAY. OKAY.

>> HI, I'M RAY SUFFMAN. AND SO I'M GOING TO GO OVER AS MUCH AS I CAN HERE. WE BELIEVE THAT THE CEQA INITIAL STUDY SHOULDN'T HAVE BEEN CONDUCTED WITH THIS WAS REMANDED TO ZAB. SO IT'S CLEAR THE CREEK WAS TO BE FURTHER STUDIED. IN FACT, NO STUDIED WERE DONE AFTER THE REMAND. IT WAS REPRESENTED HERE IT GOT PUT BACK AND THERE WAS A GEOTECHNICAL STUDY DONE. SINCE THE GEOTECHNICAL STUDY WAS DONE BACK IN AUGUST OF 2018. AND IT WAS WITHHELD FROM ALL OF YOU AT THE AUGUST 23RD, ZAB MEETING. ALSO WITHHELD FROM THE CITY COUNCIL. AND IT WAS ONLY JUST RELEASED WHEN THIS REMAND HAPPENED. SO NO GEOTECHNICAL STUDIES HAVE BEEN DONE THIS YEAR. THE SUBSURFACE DRAINAGE AND -- NEXT SLIDE. THIS IS THE MAP YOU GUYS DON'T HAVE, FROM THE GEOTECHNICAL STUDY THAT WAS DONE. AND YOU CAN SEE THE LOCATION OF THE THREE BORINGS DONE. YOU CAN SEE THEY DO NOT, THE CREEK WAS NOT CONSIDERED WHEN THE BORINGS WERE DONE. I DON'T BELIEVE THE GEOTECH WAS TOLD TO LOOK FOR THAT OR TOLD THERE WAS A CREEK ON THE PROPERTY. IT DOESN'T SHOW IT LATER. THIS IS WHERE THE BUILDING WILL GO. THE LOCATIONS OF THE BORINGS WOULD SUGGEST TO DETERMINE THE FOOTINGS, RELATE TODAY THE BUILDINGS. IT HAD NOTHING TO DO WHERE THE HYDROLOGY OR LOCATION OF THE CREEK. NEXT SLIDE. [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> LONG AFTER THE LAST RAIN FROM A LEVEL OF ABOUT TWO FEET.

NEXT SLIDE. ALSO, THE SOIL APPARENTLY YOU KNOW THERE WASN'T ANY INFORMATION COLLECTED ABOUT SOILS IN THE VICINITY. AND OF COURSE, THE SOIL QUALITY AND THE PRESENCE OF THE CREEK ARE TWO INTERRELATED ISSUES THAT HAVE BEEN OBSERVED. IT'S ON THE SUBJECT SITE AND ADJACENT TO THE SUBJECT SITE. THE STUDY SAID THERE WAS NO SUBSIDENCE. AND THAT WAS BASED ON THE APPLICANT'S REPORT. THE GEOTECHNICAL ANALYST SAID THE APPLICANT SAID THERE IS NO SUBSIDENCE ON THE PROPERTY. THE OBSERVED SINKHOLE IS NOTED HERE.

NEXT SLIDE. ALSO, NO BORINGS WERE DONE IN THE AREA THAT HAS THE BIG CROSS SIGN OVER IT. YOU CAN SEE THE LARGE MAJORITY OF THE SITE DIDN'T HAVE ANY BORINGS, INCLUDING THE AREA TOWARDS THE SOUTHERN END OF THIS PROPERTY WHERE THE CREEK ALIGNMENT RUNS.

NEXT SLIDE. WE ALSO HAVE CONCERNS ABOUT THE SOIL STUDY BECAUSE THE MAP THAT WAS USED ONLY SHOWS THE MOST EXTREME AREAS. IF YOU LOOK AT THE A BAG MAP, IT SHOWS THERE ARE ALSO AREAS OF LIQUEFACTION THAT FOLLOWS THE STREAM BED. IT'S HARD TO SEE BUT THE AREAS OF LIQUEFACTION HAZARDS FOLLOW EXISTING STREAM BEDS WHETHER UNDERGROUND OR NOT. NOBODY HAS LOOKED AT THE BIG PICTURE WITH THE PIECES FITTING TOGETHER. NEXT SLIDE. AND THEN FINALLY, THIS IS AGAIN, ONE OF THE TRIGGERING EVENTS FOR THE CEQA EIR EXEMPTION TO BE REVERSED IS TO SAY HERE THAT THE EXISTING STORM WATER SYSTEM IS AT CAPACITY OR ABOVE CAPACITY ACTUALLY IS LIKE NOT FUNCTIONING FOR THE EXISTING FLOW. REMEMBER, THAT HUGE PROPERTY WE'RE GOING TO BE ADDING BOTH THE SURFACE WATER AND

GROUNDWATER FROM THAT ENTIRE PROPERTY TO THE CREEK THAT --

[AUDIO ISSUES] [AUDIO INTERFERENCE]

>> IN THE APPLICANT AT THAT TIME. THEY NOTED EVIDENCE OF RECURRENT FLOODING ALONG THE SIDEWALKS. IT'S BEEN THIS WAY FOR ALMOST 20 YEARS. IT'S NOT A ONE-TIME THING OR A NEW THING. NO IMPROVEMENTS HAVE BEEN MADE TO THE STORM DRAIN SYSTEM IN THESE 20 YEARS. SO WE CAN ASSUME THAT, YOU KNOW, NOTHING IS GOING TO CHANGE. AND NOW WE'RE GETTING TO THE FLOOD WATER OVER THE CURVE. THIS IS WHAT OUR FRIEND TRYING TO ACCESS PARATRANSIT IS HAVING TO DEAL WITH. FLOWING TO THE CURB. I CAN'T SHOW YOU EVERY VIDEO BUT I HAVE A LOT MORE DOCUMENTING FLOODING IN BACKYARD AND STREET. THERE IS NO THAN WHAT I SHOWED YOU. THAT'S ALL I HAVE UNLESS YOU HAVE QUESTIONS FOR ME?

>> I DIDN'T SEE WATER ON THE OTHER SIDE OF THE STREET. WHY IS IT ONLY ON THAT SIDE?

>> THAT'S WHERE THE HISTORIC CREEK RUNS.

>> ON THE STREET, WHY IS IT FLOWING IN THE STREET? THAT HAS NOTHING TO DO WITH THE CREEK.

>> WELL IT DOES THOUGH. LUCAS CAN ANSWER BETTER BUT AS HE MENTIONED WHEN IN STORM SURGES, THE WATER COMES UP TO THE SURFACE. AND SO THEN IT FLOWS DOWN --

>> I'M WONDERING WHY IT WAS ON THAT SIDE OF THE STREET AND NOT BOTH.

>> THAT'S WHERE THE HISTORIC CREEK WOULD RUN. BUT I THINK

THAT QUESTION ABOUT THAT CARRIE ASKED AT THE BEGINNING ABOUT WE HAVEN'T SEEN ANYTHING IN THE RECORD RELATED TO HYDROLOGY AND THE CREEK. THAT'S EXACTLY WHAT I HAVE BEEN TRYING TO SAY IN OUR VERY, VERY FIRST MEETING WITH THE APPLICANT, WE SUBMITTED HIS PROPOSAL. ONE OF OUR MAIN CONCERNS WAS THERE WAS A CREEK UNDER THERE. AND CLEARLY, HE KNEW THAT BECAUSE HE WAS REPRESENTING STAFF AND MAKING ASSERTIONS. IT'S NOT ON THE CREEK MAP. IT'S NOT PROTECTED. WE'RE LIKE OKAY, THAT'S NOT THE ISSUE. THE ORDINANCE MAY CHANGE BUT THE CONDITIONS IN THE GROUND HAVEN'T CHANGED.

[AUDIO ISSUES] [AUDIO INTERFERENCE]

>> IN THE WINTER PUMP OUT OUR YARDS BECAUSE IT WAS ONE GIANT MUD PUDDLE OUT THERE. IF ANY OF US DO ANY SORT OF LIKE LANDSCAPING IT AFFECTS THE NEXT PERSON OVER. TO NEIGHBORS TO MY NORTH PUT IN A SPRINKLER SYSTEM LAST WEEK. NOW MY YARD IS FLOODING WHERE THEY PUT THAT. THERE IS ALL THESE PIECES. AND IT'S REAL.

>> CHAIR O'KEEFE: THANK YOU. V.J. AND CHRISTINA. AND THAT IS THE LAST CARD. IF ANYBODY ELSE HASN'T SPOKEN, YOU ARE WELCOME TO FILL OUT A CARD AFTER.

>> I LIVE AT 1826 CURTIS STREET. I DON'T [INDISCERNIBLE] TWO BRIEF COMMENTS. ONE, THE GEOTECHNICAL STUDY AND THE HYDROLOGY STUDY LOOK AT THE SPECIFIC PROJECT SITE IN QUESTION. THEY DO NOT LOOK AT ANYTHING OUTSIDE. SO FOR ANYBODY TO BASE A CLAIM THERE IS NO IMPACT ON THE NEIGHBORHOOD BASED ON THESE

STUDIES IS INCORRECT. AND THAT'S SOMETHING WE'VE BEEN TRYING TO SAY FROM THE BEGINNING OF THIS PROJECT. YOU HAVE NOT LOOKED AT THE IMPACT ON THE SURROUNDING PROPERTIES. WE KNOW THE SEVERITY OF THE PROBLEM. WE LIVE THERE. IF YOU LOOK AT THE TWO STUDIES, THEY ACTUALLY CONFIRM WHAT WE'VE BEEN SAYING FROM THE BEGINNING. THE GEOTECHNICAL STUDY SPECIFICALLY SAYS YOU CANNOT BUILD ON THE SOIL AS IS TODAY. YOU HAVE TO CLEAR OUT THAT SOIL WHEN YOU BUILD THE FOUNDATION. WE KNOW THAT FOR INSTANCE, PROPERTY OWNED BY PAM, THE SOIL IS A LOT WORSE OVER THERE. THE SECOND PART IS, THEY HAVE TO GO, PROPOSE ALL THESE MITIGATION PLANS THAT ARE VERY EXPENSIVE FOR THAT PROPERTY. WE'RE NOT ASKING YOU TO HELP US SOLVE THIS PROBLEM OF FLOODING. WE'VE ALREADY DONE WHAT WE NEED TO DO SO FAR. EVERY HOUSE ON CURTIS STREET HAS AT LEAST ONE SUMP PUMP. [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> I'M ASKING YOU DENY THE PROJECT TONIGHT UNLESS YOU GET A REVISED CEQA REPORT DONE AND HYDROLOGY REPORT. I THINK THAT'S PERTINENT. AND I THINK THAT THE PARKING, HOW YOU CAME UP WITH THE PARKING ISSUE IS SKETCHY, I THINK YOU SHOULD HAVE ANOTHER WAY OF ANALYZING THE COST FOR THAT. THE TENANTS HAVE VOICED THAT THEY ARE CONCERNED ABOUT THE RELOCATION. THEY DON'T KNOW IF THEY ARE GOING TO HAVE A RIGHT TO COME BACK. AND I DON'T KNOW IF THE ZAB HAS ANY AUTHORITY OVER THIS. BUT AS A TENANT ADVOCATE, I SUPPORT THEIR CONCERN. AND CITY COUNCIL HAS REMANDED TO ZAB SO THAT YOU CAN ACTUALLY LOOK INTO THE CEQA. AND I THINK THAT YOU

SHOULD ACTUALLY LISTEN TO THAT. CITY COUNCIL CAN'T DO YOUR JOB. AND IT WOULD GET BOUNCED BACK IF YOU DON'T DO THAT. IN ADDITION TO THE HYDROLOGY STUDY. I THINK THERE WERE OTHER THINGS LIKE THE PARKING, WHICH I ALREADY MENTIONED. IT'S LATE AND THERE WERE A LOT OF PAPERS FOR THIS ITEM THAT I DIDN'T GET A CHANCE TO READ BECAUSE I'M VERY BUSY AND THERE IS MY TIME OF COURSE. ANYWAYS-- THANK YOU. ANY QUESTIONS? I DOUBT YOU DO. BUT OH, IF THEY DO GET RELOCATED, I THINK THAT THERE SHOULD BE SOMETHING WRITTEN UNDER DECLARATION. UNDER PENALTY OF PERJURY THEY CAN COME BACK TO THEIR PLACE AT THE RENTS THEY ARE PAYING CURRENTLY. IF THEY NEED TO RELOCATE, THAT THEY HAVE -- AND I THINK THIS IS IMPOSSIBLE BUT MAYBE NOT. THE LANDLORD COULD PAY FOR A PLACE THAT IS COMPARABLE IN A SIMILAR AREA FOR THE SAME PRICE.

>> CHAIR O'KEEFE: THAT WAS THE LAST SPEAKER CARD. THANK YOU EVERYBODY. IS THERE ANYTHING ELSE WHO WISH TODAY SPEAK? SEEING NONE -- [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> THE MEASURE GROUNDWATER BY ALLEN CROP ASSOCIATES, INDICATED WINTER GROUNDWATER MAYBE SOMEWHAT DEEPER. THUS, THE CONSERVATISM OF THE DESIGN ASSUMPTION REMAINS AS PREVIOUSLY INDICATED. IN SUMMARY, THE RESULTS OF THE ALLEN CROSS ASSOCIATION GEOTECHNICAL INVESTIGATION DO NOT RUN COUNTER TO THE ASSUMPTIONS MADE IN THE CLEARLY WATER HYDROLOGY STORM WATER DRAINAGE DESIGN REGARDING SUBSOIL AND SEASONAL GROUNDWATER LEVEL. NOR DO THEY REQUIRE ANY FURTHER REVISION TO THE DESIGN AS

PRESENTED IN THE JULY, 2017 FINAL REPORT. WE'RE PROPOSING TO INSTALL A DRAINAGE SYSTEM, IN ESSENTIALLY NEAR WHERE THE OLD CREEK TRACE WAS. AND WILL CONVEY THE WATER AND DRY UP PEOPLES' YARDS. I QUOTED DIRECTLY OUT OF THE STUDY. THESE ARE THE STUDIES YOU HAVE. THESE ARE THE STUDIES THAT HAVE BEEN REVIEWED BY THE CITY'S PUBLIC WORKS DEPARTMENT, REVIEWED BY THE CITY'S ENGINEER, REVIEWED BY THE CITY ITSELF AND BY IT CITY'S HYDROLOGIC AND ENVIRONMENTAL PEOPLE. FURTHER CEQA REVIEW IS NOT REQUIRED UNDER THE LAW FOR THIS PROJECT. SO WITH THAT, I'M HAPPY TO ANSWER ANY QUESTIONS.

>> CHAIR O'KEEFE: QUESTIONS FOR THE APPLICANT? TERESA. WE HAVE A CAPTIONER BREAK COMING.

>> T. CLARKE: I WANT TO KNOW, YOU DID THREE BORINGS, ONCE. ALLEN CROSS WAS RELYING ON THOSE, DONE BEFORE THE RAINY SEASON.

>> ALLEN DID THE BORING IN AUGUST.

>> OF 2018?

>> T. CLARKE: THOSE ARE BORINGS THAT ARE DIFFERENT THAN THE ONES SHOWN ON THE SLIDE SHOW?

>> SAME BORINGS. THEY WERE DONE FOR THE FOUNDATION PLACEMENT SO WE KNOW WHAT THE SOIL WAS --

>> T. CLARKE: YOU FOUND GROUNDWATER AT 15.5 FEET.

>> THEY FACTORED IT UP TO THE SEASONAL HIGH-WATER.

>> T. CLARKE: WHAT WAS THE FACTOR?

>> BASICALLY -- [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> SURFACE, ONLY 17% TO 38% ON THAT ONE LOT. THE OTHER ONE IS STAYING THE SAME BASICALLY. SO WHAT I WOULD SUGGEST IS THAT WE THINK ABOUT THAT.

>> SURE.

>> CHAIR O'KEEFE: OKAY. MORE QUESTIONS FOR THE APPLICANT? WILL IT BE-- YEAH.

>> 1173 YOU TOLD US IT WAS EMPTY AND THERE WERE NO TENANT.

>> IT'S BEEN RENTED.

>> DO THEY HAVE A LEASE?

>> I THINK THEY HAD A ONE-YEAR LEASE. I'M NOT SURE WHERE WE ARE WITH IT EXACTLY.

>> BUT DO YOU RECALL LAST YEAR YOU TOLD US IT WAS EMPTY?

>> IT WAS WHEN I SAID THAT.

>> NO IT WASN'T. IT'S A SMALL TOWN, MARK. ONE OF THEM GREW UP NEXT DOOR TO ME.

>> NOT -- THAT HOUSE WAS EMPTY FOR A PERIOD OF TIME. THERE ARE TENANTS IN IT NOW.

>> THAT WAS THE NEXT DAY. THE VERY NEXT DAY.

>> OKAY.

>> CHAIR O'KEEFE: OKAY. ASKED AND ANSWERED. IGOR.

>> I. TREGUB: YOU SAID IT'S A ONE-YEAR LEASE. WHAT WOULD HAPPEN AT THE END OF ONE YEAR?

>> LET ME REVISE. I'M NOT SURE EXACTLY WHEN THOSE TENANTS MOVED IN BECAUSE WE HAVE A PROPERTY MANAGER. IF YOU WANTED TO

GET A COPY OF THE LEASE, I'LL GET ONE FOR YOU. I'M NOT SURE WHAT THE TERM ON IT IS STANDING HERE TONIGHT.

>> I. TREGUB: THANK YOU.

>> CHAIR O'KEEFE: NO MORE QUESTIONS? THANK YOU, MARK. WE'LL CLOSE THE PUBLIC HEARING. IF YOU THINK OF MORE QUESTIONS, WE CAN REOPEN IT. BUT WE'RE GOING TO TAKE A 10-MINUTE CAPTIONER BREAK.

[AUDIO ISSUES] [AUDIO INTERFERENCE]

>> I. TREGUB: 2001 OR 2002 REPORT THAT RECOMMENDED A CEQA STUDY. YOU ASSERTED THAT -- MAYBE POSTULATED AT PERHAPS THE STATE LAWS HAVE CHANGED SINCE THEN?

>> YEAH. YOU KNOW, I'M NOT EXACTLY SURE THAT IS THE CASE. I CERTAINLY UNDERSTAND YOUR CONCERN ABOUT CONSISTENCY. BUT I MEAN, LEGALLY SPEAKING, I MEAN, THIS IS A DIFFERENT BODY, THIS IS A DIFFERENT TIME. YOU ARE FREE TO COME TO A DIFFERENT DECISION. I WOULDN'T CONSIDER YOURSELVES CONSTRAINED OR BOUND BY THAT DECISION. CERTAINLY, THERE MIGHT BE DIFFERENT POLICY FACTORS THAT PEOPLE WERE CONSIDERING 16 YEARS AGO AND LOOKING AT A PROJECT LIKE THIS. AND THERE WAS A DIFFERENT BODY, WITH PERHAPS DIFFERENT PERSPECTIVES. AND SO I THINK YOU ARE RIGHT TO BE CONCERNED ABOUT IT. BUT I THINK ULTIMATELY AS I STRESSED EARLIER, THIS IS AN OPPORTUNITY FOR THE STAFF TO ASK YOUR INDEPENDENT JUDGMENT. AND YOU KNOW, MAKE STAFF FINDINGS AS TO WHETHER THERE HAS BEEN CEQA COMPLIANCE AS WELL AS THE OTHER PROCESS.

>> I. TREGUB: THANK YOU.

>> CHAIR O'KEEFE: WE CAN'T HELP BUT CONSIDER THE IRONY WHO WAS AHEAD OF PLANNING AT THAT TIME. THAT'S ALL I'M GOING TO SAY. WHO ELSE WANTS TO MAKE COMMENTS? PATRICK.

>> P. SHEAHAN: I APPRECIATE THE COMMENTS ABOUT LOOKING AT THE ISSUE THROUGH A COMMONSENSE PLAN. AND SO I'M GOING TO DO THAT AND LEAVE THE LEGALITY TO THE LAWYERS. AND I'M GOING TO TELL A BRIEF STORY ABOUT MY WORKING WITH ALLEN CROFT ON ONE OF MY PROJECTS. HE'S A HIGHLY-RESPECTED PRACTITIONER, GEOTECH ENGINEER. [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> ANYWAY, YOU PROBABLY WON'T FIND IT, WHICH WAS IT CASE. BUT YOU CAN IMAGINE THE SCALE OF THIS OPERATION AND INVESTIGATION. AND WITH ALL DUE RESPECT TO ALLEN CROFT, I'M ABSOLUTELY ASTOUNDING AT THE LIMITED SCOPE OF THE GEOTECH STUDY FOR THIS SITE. IT'S TO ME IT'S MIND BOGGLING. AND I HAVE DONE MANY PROJECTS WITH GEOTECH INVESTIGATIONS AND BORINGS. FOR A PROJECT OF THIS SIZE AND COMPLEXITY AND KNOWN GEOTECHNICAL ISSUES, TO SETTLE FOR A SITE THAT LIMITED JUST SEEMS TO ME THE HEIGHT OF YOUR RESPONSIBILITY. AND YOU KNOW, IT'S NOT ABOUT PARSING WHETHER IT'S LEGALLY REQUIRED OR NOT. I APPLY THE COMMONSENSE RULE. LIKE OF COURSE, YOU WOULD INVESTIGATE. YOU HAVE ALL THESE KNOWN ISSUES AND DATA THAT IS EFFECTIVELY BEING DISREGARDED. AND THE HYDROLOGIC ENGINEER WHO HE'S SPOKE IN VERY COMMONSENSE TERMS. OF COURSE, YOU STUDY THE HYDROTECHNICAL

FEATURES OF THE SITE. AND I THINK THAT IS REALLY CONSISTENT WITH WHAT THE REMAND FROM COUNCIL IS ASKING US TO DO, IS TO PUT THAT PROCESS IN MOTION. AND WHAT LEVEL, HEIGHT, ET CETERA IS CEQA OR NOT, I'M NOT PREPARED TO SUGGEST. BUT THE NECESSITY OF THE STUDY IS SO CLEAR TO ME. THAT'S SIMPLY THE ONLY THING I WILL SUPPORT.

>> CHAIR O'KEEFE: OKAY. CHARLES AND THEN TERRI.

>> C. KAHN: IT WAS MENTIONED OF AN INITIAL STUDY, WHAT DOES THAT MEAN?

>> THE INITIAL STUDY IS A CHECKLIST THAT GOES THROUGH ALL THE REQUIREMENTS -- [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> ONE OF THE FIRST THINGS I NOTICED AS I WENT THROUGH THE PACKET, AND BY THE WAY, I CAN'T BELIEVE IT'S BEEN 18 YEARS SINCE I HAVE SEEN YOU ALL. BUT I LOVE SEEING ALL YOUR FACES AGAIN. I GOT INVOLVED WITH THIS PROJECT IN 2001 BY HAPPENSTANCE. AND MET MARK AND ELAINE WHO LIVED AT 1173. AND LEARNED ABOUT THIS AREA, WHICH IS NOT TOO FAR FROM WHERE I LIVE. BUT MY SCHOOL HOUSE STREET GOES THROUGH MY NEIGHBORHOOD. SO MY NEIGHBORS ON THE DOWNHILL SIDE HAVE ONCE TOLD ME IF YOU WANT TO UNDERSTAND WHERE THE CREEKS WERE, YOU LOOK AT THE TOPOGRAPHY OF THE ROAD BECAUSE THEY PUT THE ROAD ON THE UPS AND DOWNS. THERE ARE THINGS THAT POPPED OUT TO ME. ONE WAS IF I HAD BEEN HAVING SOMEONE LOOK AT THIS PROPERTY, I WOULD HAVE GIVEN THEM THE CREEK MAP. I THINK THAT'S REALLY IMPORTANT TO KNOW THAT THERE WAS A CREEK IDENTIFIED HERE A VERY LONG TIME AGO AND WE DON'T QUITE KNOW

WHAT HAPPENED TO IT. EXCEPT WE KNOW IT WAS FILLED IN BECAUSE OF THE PROBLEMS SINCE. I THINK THE ABSENCE OF A SUBSURFACE REPORT, ESPECIALLY ONE THAT WAS NOT DONE IN THE SUMMER MONTHS FOLLOWING A DROUGHT IS REALLY IMPORTANT TO LET US DO OUR JOB. FOR ME, I CANNOT ACCEPT THE CATEGORICALLY EXEMPTION. I THINK THERE NEEDS TO BE AN INITIAL STUDY. I THINK THERE NEEDS TO BE THAT SUBSURFACE REPORT. I ALSO HAVE OTHER QUESTIONS WHICH GET TO THE MAYOR'S PART OF THE MOTION THEY SENT THIS TO US, WHICH ARE ABOUT THE TENANTS. I WANT TO KNOW WHAT HAPPENS IF A TENANTS CHANGES THEIR MIND. I WANT THIS IN WRITING, WHAT IS THE PROCESS, IF A TENANT CHANGES THEIR MIND, WHAT HAPPENS IF THE PROPERTY SOLD? I DON'T WANT IT TO BE A DE FACTO -- [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> THOSE ARE MY ISSUES.

>> CHAIR O'KEEFE: ALL RIGHT. JOHN.

>> J. SELAWSKY: YEAH, THOSE ARE SOME OF MY ISSUES AS WELL, CARRIE. I'M GOING TO ADDRESS. I HEARD MR. RHOADES SAY THAT HE WAS WILLING TO PUT A DEED RESTRICTION IN. THAT HOLDS FOR ANY SUBSEQUENT OWNER OF THE PROPERTY. THAT GOES WITH THE PROPERTY, OKAY? I SO I'M GOING TO DEMAND THAT WE DO THAT. OKAY? IF AND WHEN IT GETS TO THAT POINT. IF THESE UNITS RENT CONTROLLED, AND THEY ARE, AND THERE IS A LEGAL RENT CEILING FOR EACH OF THESE UNITS. THE RENT CAN'T GO UP MORE THAN A CERTAIN PERCENT OF ITS COMPARABLE TO A COST OF LIVING INDEX, BUT ONLY A PERCENT OF THE

QUALITY OF LIVING EACH YEAR. SO THERE IS A RENT CEILING ESTABLISHED BY THE RENT BOARD. LEGALLY THE RENT CANNOT BE RAISED MORE THAN THAT RENT CEILING, OKAY? WELL, THAT'S MY UNDERSTANDING BUT THAT HAS TO BE CLARIFIED. THAT IS MY UNDERSTANDING. OKAY? AND I ABSOLUTELY AGREE WITH YOU. I NEED A SUBSURFACE FLOW, GROUNDWATER STUDY DURING AT LEAST TWO IF NOT THREE SEASONS OF THE YEAR WHEN THERE IS WATER THERE ON THE SITE. AUGUST DOESN'T TELL US A LOT. THREE BORINGS AT THE END OF THE DRY PERIOD IS NOT REALLY TESTING FOR SUBSURFACE WATER AT ALL. IT'S NOT TELLING US ENOUGH. AND I THINK WE HAVE UNUSUAL CIRCUMSTANCES BECAUSE OF THAT. BECAUSE OF THE SUBSURFACE WATER FLOW, WHICH WE DON'T KNOW, SO THAT'S UNUSUAL. AND THERE IS A POSSIBLE ENVIRONMENTAL RISK BECAUSE OF THAT, POSSIBLE. AND THAT'S ALL WE HAVE TO SAY. AND THAT'S WHAT I'M SAYING RIGHT HERE, RIGHT NOW. [AUDIO ISSUES] [AUDIO INTERFERENCE]

>> I. TREGUB: OF THEIR PROPERTY IS COMPLETE AND IT ALSO SAYS THAT THE LANDLORD HAS TO PAY FOR A COMPARABLE ROOM AND BOARD WHILE THEY ARE ELSEWHERE FOR THE ENTIRE TIME THEY ARE ELSEWHERE. YOU AND I BOTH KNOW THERE IS A WORLD OUT THERE AND THANKFULLY MOST LANDLORDS, AT LEAST THAT I HAVE INTERACTED WITH, TRY TO DO THE RIGHT THING. BUT THERE HAS ALSO BEEN A COLLEGE IN THE STREAM, NO PUN INTENDED, AROUND WAYS TO INSIDIOUSLY DISPLACE TENANTS. AND THE TENANTS, AN ORDINANCE, WHICH THE CITY HAS BEEN WORKING ON. IT'S STILL, IT'S A TOOL. BUT IT'S REQUIRED

[INDISCERNIBLE]. THAT'S WHERE A LOT OF TENANTS GET STUCK. THERE ARE THINGS OUT THERE THAT ARE UNDER THE CONFINES OF THE ORDINANCE AND THE THINGS THAT THEIR LANDLORD WILL DO DOESN'T EVER RISE TO THE LEVEL OF A BLATANT DEVIATION WHERE THE RENT BOARD OR THE CITY CAN JUST PUT IN A NOTICE TO REDUCE THEIR RENT. BUT CUMULATIVELY AMOUNT TO GET THEM OUT. AT THE END OF DAY IT COMES DOWN TO GOOD, OLD-FASHIONED VERSUS TRUST. THESE ORDINANCES ARE SET UP TO CIRCUMSCRIBE HOW TENANTS RIGHTS ARE PROTECTED IN A LAWFUL WAY. WHEN THERE ARE ATTEMPTS AND I'M MAKING NO CLAIMS ABOUT THIS PARTICULAR SITUATION. I JUST DON'T KNOW. I NEVER HAD THE SAME LANDLORD THAT TESTIFIED BEFORE ZAB. I'M SAYING IN GENERAL WE HAVE TO MAKE ABSOLUTELY SURE THAT -- AND WE CAN REFERENCE AND I THINK THAT'S KIND OF THE LIMITATION OF WHAT THE ZAB CAN DO IS REFERENCE -- [AUDIO ISSUES] WE CANNOT AD ANY NEW CONDITIONS.

>> YOU WERE TO APPROVE THE PROJECT TONIGHT, YOU CAN CONDITION IT. YOUR WORDS THAT YOU'RE SAYING, IT WOULD BE IN THE ADMINISTER RECORD THAT WOULD BE FORWARDED ON TO COUNCIL.

>> IF THERE IS A WAY THAT ANY POSSIBLE APPROVAL WOULD BE CONDITIONED ON A PURPOSE PSYCHOLOGY STUDY AND WHATEVER OTHER STUDIES IN CEQA SPACE THAT THIS MAY GO TO. I WOULD BE WILLING TO DO THAT. BUT MY UNDERSTANDING IS THAT WE CANNOT TONIGHT REQUIRE THAT.

>> I MEAN, THAT IS DIFFICULT. IF YOU FIND THAT THE PROJECT

HAS NOT COMPLIED WITH CEQA AT THIS POINT, THE PROJECT.

>> CAN I AD TO THIS? SURE.

>> I JUST WANT TO AD BECAUSE SOME OF YOU MAY HAVE SOME ANSWER TO THIS, CLEARLY SOPHIE WAS REALLY NOT HAPPY WITH CATEGORY EXEMPTION AND ASKED TO HAVE SOMETHING DONE. THIS IS THE END OF JANUARY AND HERE WE ARE TOLD THAT WE'RE STUCK BETWEEN A ROCK AND A HARD PLACE.

>> QUESTION, SO WHAT I'M HEARING FROM MY COLLEAGUES HERE AND I AGREE WITH THEM, IS THAT THERE IS SOME STUDY OF SOME KIND IS WHAT THEY'RE ASKING FOR. AM I ASSUMING CORRECTLY IN SAYING THAT TO SECURE THAT REPORT, WHAT WE WOULD HAVE TO DO IS APPROVE WHAT THAT IS A CONDITION? WE NEED THIS REPORT. AS I SAID EARLIER, IF YOU FIND THAT -- ~

>> WELL I THINK WE CAN DO THAT. THE CEQA IS WITHIN ENVIRONMENTAL IMPACTS. AND CLEARLY, YOU KNOW FLOODING THE NEIGHBORS TALKED ABOUT ACCESS TO YOU KNOW TRANSPORTATION FOR DISABLED PERSON. THAT'S A CONCERN FOR US TOO AND THAT MAY NOT BE THE SAME THING AS AN ENVIRONMENTAL IMPACT. SO YOU KNOW, AND FLOODING AND DAMAGE TO NEIGHBOR'S PROPERTY IS BAD FOR THE PROPERTIES BUT IT'S NOT DAMAGE TO THE ENVIRONMENT PER SE. IT'S FLOODING. IT'S GOING ON SINCE NOAH. SO I THINK WE CAN SAY THAT WE SUPPORT THE THE REPORT WE MADE BEFORE BUT THE HYDRAULIC REPORT HAS TO BE COMPLETED. AND IT HAS TO BE DONE. [AUDIO TECHNICAL ISSUES]

>> SO DO YOU KNOW THE CLEAR WATER HYDRAULICOLOGY CAN YOU GIVE ME A SUMMARY? I DIDN'T SEE IT IN THE PACT. AND I THINK IT WOULD BE PERMANENT IT'S BASICALLY A INVESTIGATION DESIGN REPORT. SO IT'S BASICALLY THE DESIGN, HOW THEY CAME UP WITH THE DESIGN. AND IT'S REFERENCED IN THE LETTER ATTACHMENT II PAGE 1 OF 2 IN THE LETTER WHERE IT'S REVIEWING THE TECHNICAL INVESTIGATION. AND THE CLEAR WATER HYDROLOGY.

>> EVEN THOUGH IT'S NOT IN THE PACT.

>> RIGHT. GREG CONFIRMED THIS IN THE RECORD BUT SINCE WE DIDN'T KNOW TO READ THAT, IT SEEMS PERMANENT HERE. WHO HAS READ IT IN THE ROOM AND DO WE KNOW WHAT IT SAYS? CAN YOU GIVE US A SUMMARY?

>> IF I CAN READ WHAT WAS IN THE ZAB REPORT REGARDING THAT REPORT WHICH IS A SUMMARY. THE REPORT PREPARED BY CLEAR WATER HYDROLOGY WOULD STILL BE APPLICABLE TO THE REDUCED INDENSITY TO THE PROJECT, TO REVIEW THE HYDROLOGY. THE HYDROLOGY SUMMARIZE THAT THE PROCESS OF THE SYSTEM THAT THEY DESIGNED WOULD LIKELY BE GREATER OF THAT OF A 25-YEAR STORM AND EFFECT PROPERTY. STAFF HAS AGREED TO ALL RECOMMENDATIONS IN THE DRAINAGE DESIGN AS PRESENTED IN THE REPORT. [TECHNICAL AUDIO ISSUES]

>> FINAL. FLOODING CONDITIONS MAY VAR' THROUGHOUT THE CITY. BUT ARE NOT UNCOMMON OR OTHERWISE UNUSUAL ON THE NUMEROUS PROPERTIES OVER LAYING HISTORIC PLACES OF HYDRAULIC FEATURES. THIS IS A TRICK. THIS IS A LOGIC TRICK WHICH I DON'T ACCEPT.

THIS IS WHAT THEY HAVE DONE, AND PARDON THE MATH, I'M A MATH TEACHER. THEY'VE SHRUNKEN THE DENOMINATOR, THEY'RE SAYING IT'S NOT UNUSUAL FOR THE PROPERTY THAT IS ON A CREEK. THAT IS NOT THE STANDARD. IT'S UNUSUAL. MOST PROPERTIES ARE UNCREASED. THERE ARE NUMEROUS OF THEM. BUT THAT'S NOT THE CORRECT APPLICATION OF THE LOGIC THAT WE'RE BEING ASKED TO DO. THIS IS UNUSUAL. AND I'M THE LONGEST LONGEST-SERVING MEMBER ON THE BOARD. AND IGOR MAYBE IN THE TWO WEEKS SOMETHING HAPPENED, BUT I HAVE NEVER SEEN A PROJECT LIKE THIS. I'VE NEVER SEEN ONE WITH THIS SEVERE FLOODING. MAYBE IT DIDN'T COME UP BUT WE'VE DONE A LOT OF PROJECTS.

>> I SAID THAT TWO YEARS AGO ABOUT THIS PROJECT. I'VE NEVER SEEN ANYTHING LIKE IT EITHER.

>> SO IT'S VERY UNUSUAL. IT'S VERY VERY UNUSUAL CIRCUMSTANCES. AND JUST BASED ON THAT AND OF COURSE ALL THE OTHER THINGS THAT FOLLOW FROM THAT. THERE IS AN ARGUMENT THAT CAN BE MADE THAT THERE IS A REASONABLE CHANCE THAT THESE CIRCUMSTANCES POSE A SIGNIFICANT IMPACT TO THE ENVIRONMENT. I DON'T HAVE TO CONVINCEN ANYBODY ABOUT THAT. THAT THESE CIRCUMSTANCES DO POSE A RISK THERE IS AN ARGUMENT THAT YOU CAN MAKE. SO ONCE YOU AGREE THAT IT'S UNUSUAL CIRCUMSTANCES, YOU CANNOT MAKE THE FINDINGS. NOW I'M OPEN TO MAKING NO ACTION. I DON'T NEED TO DENY THIS. I DON'T WANT TO SEE IT FAIL. I WANT TO SEE IT INVESTIGATED AND LITIGATED. I THINK MOST OF US DO. SO I'M

NOT, I'M NOT VOTING FOR THAT. BUT I'M IN FAVOR OF EITHER TAKING NO ACTION AND I'M OPEN TO DENIAL IF THAT'S WHERE WE HAVE TO GO. THANK YOU. DENISE IS NEXT.

>> MOTIONS TAKE NO ACTION.

>> HOW DOES THAT WORK? I'M NOT MAKING A MOTION I'M JUST STATING HOW I FEEL.

>> YOU CAN HAVE A MOTION AND-- ...

>> RATHER THAN TO HAVE ANY INDUCES FLOODING IMPACTS ON THE ADJACENT PROPERTIES. SO THAT'S THE THING THAT IS OF CONCERN TO ME. THE ONE QUESTION I HAVE IS, I BUILT MANY THINGS ON MANY PROPERTIES OVER THE COURSE OF MY CAREER. TYPICALLY, ONE OF THE THREADS IS IF YOU EXACERBATE FLOODING IN YOUR NEIGHBOR'S PROPERTY THEY CAN SUE US. DOES THE CITY HAVE LIABILITY FOR FLOODING THE WAY THE APPLICANT WOULD HAVE LIABILITY?

>> THE CITY SHOULD NOT. THEY SHOULD HAVE NOT LIABILITY. THAT DOES NOT NECESSARILY MEAN THE CITY WOULD GET DRAGGED IN. I THINK WE WOULD HAVE EXCELLENT DEFENSES GENERALLY THE CITY IS IMMUNE.

>> SO THEN, I GUESS THE ONLY OTHER RELATED QUESTION I WOULD FEEL BETTER APPROVING THIS PROJECT IF WE HAD A CLEAR REPORT THAT WAS EASY TO FIND AND GOING TO THAT SAYS THERE WILL BE NO DETRIMENTAL IMPACT AS OF IMPACT OF THE ENGINEERING FOR THIS PROPERTY. IN MY MIND THAT'S MORE RELATED THAN MAKING THE NON DETRIMENT FIND TO GO CEQA. CEQA IS TO LOOK AT A WHOLE BUNDLE OF

ISSUES, TRAFFIC, QUALITY, AND SURE IT CAN ALSO LOOK AT THIS BUT WE DON'T NEED CEQA TO LOOK AT THIS. WE HAVE OUR OWN LAND USE AUTHORITY. WE HAVE OUR OWN DETRIMENT FINDINGS THAT WE CAN MAKE. WE CAN REQUEST ADDITIONAL INFORMATION OR WE CAN DENY THE PROJECT. GIVEN THAT, IT FEELS LIKE WE'RE NOT GOING TO MAKE A DECISION TONIGHT, IN TOTAL OF MY MIDNIGHT CONTRIBUTION. WHICH IS THE THREAD THAT WE HAVE HERE IS SUGGESTIVE. I DON'T THINK IT'S CRYSTAL CLEAR, I DON'T THINK THAT IT PROOFS IT BEYOND BASED ON ALL THE TESTIMONY THIS EVENING. I ALSO WANT TO TALK ABOUT THE NEIGHBORS THAT ARE HERE. RATHER THAN ACTUALLY-- ...

>> CONCERN THAT THE NEIGHBORS HAVE BROUGHT UP ESPECIALLY WITH THE HYDROLOGY SUPPORT. IN FULL SUPPORT I DON'T FEEL COMFORTABLE APPROVING THIS PROJECT AND WE SHOULD LISTEN TO THE CONCERNS SINCERELY. EVEN THOUGH I DON'T WANT TO REJECT THIS PROJECT, I DON'T WANT TO APPROVE IT AT THIS POINT AND I JUST WANT TO ECHO MY COLLEAGUES STATEMENTS THAT HAVE BEEN BROUGHT UP.

>> TERESA THEN IGOR.

>> YEAH, I'M LEANING TOWARD THE IDEA OF THE DETRIMENT. I THINK THAT THE CONCERN IS THE DESIGN OF THE DRAINAGE AND FLOODING SYSTEM WHICH HAS BEEN DESIGNED. DID NOT ADEQUATELY TAKE IN THE LOAD FROM THE OTHER PROPERTY. THE WATER LOAD THAT IS COMING FROM THE OTHER PROPERTIES. IT JUST MOST LIKELY LOOK AT ITS OWN PROPERTY AND IT'S NOT GOING TO INCREASE BUT, YOU KNOW, IT'S NOT CLEAR AND THAT PARTICULAR REPORT IS NOT HIGHLIGHTED IN

THE STAFF REPORT. IT'S MENTIONED BUT TO ME IT'S AN IMPORTANT REPORT AND I DID NOT READ IT CAUSE I JUST, BUT I DO REMEMBER IT BEING REFERRED TO IN AUGUST. AND SO THERE IS A DRAINAGE DESIGN. BUT WE DON'T KNOW FOR SURE IF THAT DRAINAGE DESIGN WAS LOOKING AT THE BIGGER PICTURE OF THE OTHER NEIGHBORS' PROPERTY. I DOUBT IT WAS. BUT I DO THINK THAT THAT'S WHAT THE REAL DETRIMENT IS. AND I THINK IF WE CAN USE IT THAT WAY, IF WE CAN SUPPORT A NON DRAINAGE, WE CAN DO THAT. ...

>> I THINK THE PROTECTIONS THAT ARE IN THE CONDITIONS WHICH WE CAME UP WITH LAST TIME AND NOW REFINED FURTHER ARE INSTINCT WITH OUR STABILIZATION ORDINANCE AS WELL AS OUR RELOCATION ORDINANCE. THOSE SEEM TO BE IN GOOD SHAPE BUT WE NEED TO ADD A CONDITION FOR THE DEED CONDITION OR THE RENT CONTROL SO THAT IT CAN'T BE CONVERTED. BUT I DON'T THINK THAT REQUIRES A CEQA PROCESS OR AN ENVIRONMENTAL REVIEW. SO I THINK THAT THE TWO THINGS WE REALLY NEED TO MAKE SURE ARE PRO TENSION OF VARIANCE AND THOSE, THOSE ARE OUR ORDINANCES TODAY. AND ALL THE CONDITIONS THAT WE PUT IN REFLECT THAT. I DON'T THINK IT'S A QUESTION ANYMORE IN MY MIND. IF YOU READ THAT AND IF YOU KNOW. I'M FAMILIAR WITH THAT ORDINANCE AND IT HAS A LOT OF PROTECTION. THERE IS ONE ISSUE. IF THERE ARE IMPROVEMENTS DONE IN THE APARTMENT, THE LANDLORD DOES HAVE A RIGHT TO REQUEST A RENT INCREASE BASED ON THOSE IMPROVEMENTS. SO THAT'S WHERE THE RENT INCREASE COULD COME IN AND THAT WE WOULD WANT TO ASK THE

APPLICANT. IF YOU DO THIS MANY IMPROVEMENTS ON THE PROPERTY, THE
CAPITOL IMPROVEMENT ON RENT. THAT'S WHAT WE NEED TO ASK THE
APPLICANT WHAT NA IS AND GET THAT INFORMATION FROM THEM. AND
THAT CAN BE HANDLED. WE CAN SAY WELL WE WANT YOU TO LIMIT THAT
TO THE NO MORE THAN SUCH AND SUCH OVER THESE ANNUAL ADJUSTMENTS.
SO THEY SHOULD BE ENTITLED TO SOME INCREASED RENT SPACE THAT
THEY'RE DOING IN THE UNIT. BUT IT SHOULDN'T BE MAYBE THE
MAXIMUM. THEY SHOULD BE, THERE SHOULD BE MAYBE SOME ADDITIONAL
REQUIREMENT ABOVE AND BEYOND THE NORMAL PROCEDURE WITH THE NEW
BOARD. SO ANYWAY, I THINK ALL OF THOSE THINGS CAN BE HANDLED
WITHOUT GOING TO AN EIR.

>> CARRIE?

>> TERESA I WANT TO TOUCH IN ON THE-- ...

>> FOR DELETED PURPOSE ON THOSE BUILDINGS WOULD NOT OCCUR
WHILE THOSE TENANTS WERE IN PLACE. SO THE PROJECT IS CONDITION
THAT IT COULD BE ROUTINE MAINTENANCE AND REPAIR. SO NOT HOW THE
BUILDINGS LOOK.

>> AGAIN, THOUGH I WANT TO MAKE SURE IF PEOPLE GO OUT AND
RELOCATE, THAT WHEN THEY COME BACK THEY'RE NOT SHOCKED WITH
SOMETHING WE'RE NOT INTENDING.

>> CHAIR.

>> SORRY, IGOR WAS NEXT AND THEN JOHN.

>> SO FIRST OF ALL, JUST FOR THE RECORD MY OPINION ON THE
DECISION--I'M SO PROUD TO BE PART OF THIS BOARD. WE'RE GOING TO

STAY HERE AS LONG AS IT TAKES TO DO OUR BEST TO REACH SOME KIND OF DECISION TONIGHT. I HAVE SOME QUESTIONS FOR STAFF ABOUT WHAT THE IMPLICATIONS ARE IF WE WERE TO CONTINUE THIS. SO THAT'S NOT RUN INTO THE SAME ISSUE WHETHER, I MEAN THE DESIRE OF HYDROLOGY. HOW COULD THAT BE ACHIEVED WHETHER WE GO THE EIR OR NON DETRIMENT IF WE WERE TO CONTINUE.

>> REMEMBER WE CANNOT CONTINUE.

>> I MEAN IF WE WERE TO TAKE NO ACTION. THEN I GUESS THE APPLICANT WOULD, IF THEY WISH TO MAKE THOSE OPTIONS BEFORE IT GOES TO THE COUNCIL?

>> CORRECT. SO THE APPLICANT IS HERE HEARING EVERYTHING THAT WE ARE HERE YOU SAY. I THINK IT'S VERY CLEAR. IT'S NOT A DIRECTION FROM YOU BUT IT'S GOING BACK TO COUNCIL. SO IT WOULD BE, STAFF WOULD BRING THE PROJECT AS BOARD TO WORK WITH THE APPLICANT IF THEY WERE ABLE TO PROVIDE THAT. TO COUNCIL. ...

>> THAT THE COUNCIL SPECIFICALLY ASKED THE ZAB TO LOOK AT CEQA BEFORE SUBMITTING SOMETHING TO THEM OR MAKING A DECISION. IT'S NOT OUR FAULT THAT THAT ANALYSIS IS NOT BEFORE US. YOU KNOW, I KNOW THAT THIS WAS A VERY DIFFICULT CALL. I THINK THE WAY FIRST ANSWERED MY QUESTION WAS REALLY GOOD. IT'S A THRESHOLD CASE. I WAS--IN YOUR PROFESSIONAL OPINION, I FELT WE DID NOT HAVE TO GO DOWN THE CHECKLIST. BUT WE'RE SUPPOSE TO INDEPENDENTLY LOOK AT THIS AND I'M HAVING TROUBLE MAKING THAT SAME CONCLUSION. AND FINALLY, WHEN WE TALK ABOUT NON DETRIMENT

FINDINGS, THAT IS A BROAD STATEMENT. AND THE REASON THAT THIS PROJECT IS NOT LIKE THE SPRAS MAJORITY OF PROJECTS THAT I HAVE SEEN ON THIS BOARD, IS THAT WE'RE NOT TALKING ABOUT REPLACING A PARKING LOT TO BUILD HOUSING. WE'RE NOT TALKING ABOUT REPLACING A GAS STATION TO BUILD HOUSING. WE'RE--I LOVE THE FACT THAT THERE ARE GOING TO BE 6 ADDITIONAL UNITS OF HOUSING AND THAT 2 OF THEM WILL BE BELOW MARKET RATE. BUT HAVE YOU TO REALIZE, WE ALSO HAVE THE POTENTIAL AND I SAY POTENTIAL BECAUSE A LOT OF THIS WEBS ON HOW WE PUT CONDITIONS TOGETHER. BUT WE DO HAVE THE POTENTIAL TO LOSE SIX LONG-TERM RENT CONTROL TO TENANTS THAT ARE CURRENTLY ON THE SITE AND MORE LIKELY THAN NOT, NOT BE ABLE TO AFFORD ANYTHING OF COMPARABLE ANYWHERE IN BERKELEY. THAT IS A--
...

>> MY COLLEAGUES IS THAT WE AGREE WITH THE NEIGHBOR'S CONCERNS ABOUT THE SUB SURFACE HYDROLOGY. I PERSONALLY DO NOT THINK THAT THAT'S AN ENVIRONMENT QUALITY ISSUE. I DO THINK IT'S AN ISSUE FOR THE NEIGHBORS IN TERMS OF THEIR LIFE AND IT HAS DETRIMENT TO THEM BUT IT'S NOT SOMETHING THAT IT'S READY AND PRESENT DANGER TO OUR ENVIRONMENT. FLOODING HAPPENS. AND IT'S BAD. I DON'T THINK THAT THIS PROJECT IS GOING TO CONTRIBUTE SIGNIFICANTLY TO THE FLOODING BUT IT MIGHT TO THESE NEIGHBORS AND THAT'S DETRIMENT. I THINK IF WE REMAND IT BACK TO COUNCIL, IT SHOULD BE WITH THE ADVISE THAT COUNCIL DOES NOT APPROVE THE PROJECT UNTIL THEY'RE SATISFIED THAT THE SERVICE HYDROLOGY IS

DONE. AND IN MY MIND THAT MEANS DOING FURTHER STUDIES. THE OTHER THING THAT THEY SHOULDN'T APPROVE THE PROJECTS, IF IT'S REMANDED BACK TO THEM IS WITHOUT A ROBUST TREATMENT OF THE TENANT ISSUES THAT HAVE BEEN RAISED HERE TONIGHT. LIKE RE, BACK INTO THE UNIT IF YOU HAVE THE DATA OF THE UNIT. SO IF THE APPLICANT CAN SATISFY THOSE CONCERNS, I WOULD RECOMMEND WE REMAND IT BACK FOR THEM TO APPROVE.

>> CAN I MAKE A SUGGESTION THAT YOU MAKE A MOTION TO TAKE NO ACTION WITH THOSE CAVEATS?

>> WE CAN. WHAT WE WANT TO DO IS HAVE IT COME BACK TO US WITH ANSWERS. BUT WE CANNOT DO THAT.

>> YES, WE CAN APPROVE THE CEQA EXEMPTION AND THEN WE CAN AD THESE CONDITIONS AS, YES, APPROVE THE PROJECT WITH CONDITIONS WITH THE EXTRA STUDIES AND THIS EXTRA TENANT PROTECTION. SO THAT'S --

>> WE CAN APPROVE AT CATEGORY CAL EXEMPTION AND USE THE USE OF NEIGHBORS -- ...

>> THE FLOODING, BASICALLY A REVISED DRAINAGE INVESTIGATION DESIGN REPORT. THAT DESIGN HAS TO INCLUDE THE ADJACENT PROPERTY IN THE STUDY.

>> THE IMPACT.

>> IT CAN'T GO TEST ON SOMEBODY ELSE'S PROPERTY. IT HAS TO SAY NO INDUCED FLOODING.

>> YES, THEY HAVE TO PREHENT. --PREVENT. THAT'S A GOOD WAY

TO PUT IT, AND A RENT INCREASE, NO MORE THAN 3%. ADDED ON TO THE GENERAL ASSESSMENT FOR A YEAR.

>> OKAY.

>> OUR NORMAL AGA IS ABOUT 3%. SO I WOULD SAY, BASED ON THE CAPITOL IMPROVEMENT YOU WOULD GET AN ADDITIONAL 3% REQUEST.

>> YOU'RE GOING TO PENCIL THAT IN INTO THE MOTION.

>> YES PART OF THE MOTION, THE CAPITOL IMPROVEMENT.

>> I'M GOING TO MAKE A MOTION TO PLEASE TAKE NO ACTION. SEND THIS BACK TO COUNCIL. AND STATE EXPLICITLY THE REASONS THAT HAVE ALREADY BEEN AS MENTIONED AS WE NEED A HYDROLOGY STUDY. THAT CEQA SPACE HAS BEEN MET AS CURRENTLY CONDITIONED. AND THAT WE ARE CONCERNED ABOUT POTENTIAL IMPLICATION OF TENANT DISPLACEMENT AND RECOMMEND, I THINK CERTAINLY THE CEQA. ...

>> I THINK THAT'S WHAT THE WORD FOR THIS IS.

>> IS THAT A TABLE INDEFINITELY?

>> AS MUCH AS WE CAN.

>> I HAVE A CONCERN, IF THERE IS A MOTION TO ADJOURN, DOES THAT INTENTION AT LEAST ONE BOARD MEMBER THAT THE COUNCIL WILL HEAR A LIST OF COMMENTS THAT THAT WILL NOT REFLECT.

>> UNLESS THE MOTION IS TO ADJOURN AFTER STATING CERTAIN THINGS AND EVERYONE VOTES ON IT.

>> I LIKE THAT.

>> I FEEL IF YOU WANTED CONVEY A MESSAGE, YOU CAN HAVE MOTION TO SEE HEAR THINGS. I HEAR BY MOTION, BLAH BLAH BLAH BLAH

VOTE. AND

>> I HEAR BY MOTION IGOR'S MOTION TO DO WHATEVER YOU WANT.
I'M DONE. I CANNOT DO THIS LONGER.

>> IGOR ALREADY DID IT, SO WE DON'T HAVE TO RESTATE IT.
IGOR'S MOTION IS A STATEMENT TO COUNCIL AN EXPLANATION OF WHY
WE'RE TAKING NO ACTION.

>> DEAR COUNCIL.

>> THIS IS WHY THEY GAVE IT BACK TO US TO LOOK AT THE
DETRIMENT.

>> NO.

>> THEY LOOKED FOR US.

>> CALL THE QUESTION.

>> OKAY AND WE HAVE.

>> THEY ASKED THAT, THAT WAS SPECIFIC.

>> WE CAN LOOK AT THE TABLE. NOW WE'RE SENDING IT BACK TO
THEM.

>> OKAY, SO WE'RE NOT DOING OUR JOB. ROLL CALL PLEASE. IS
EVERYONE HERE ON WHAT WE'RE VOTING ON?

>> SUBSTITUTE MOTION? TAKE NO ACTION.

>> YOU'RE NOT ALLOWED TO.

>> YOU CAN JUMP AFTER THIS ONE.

>> WELL YOU CAN IF IT'S NOT COMPLICATED. PATRICK MAY WANT
TO MAKE ANOTHER MOTION. LET'S VOTE ON THIS.

>> I WILL NOT RESTATE IT. BUT KAHN.

>> IT'S A MOTION TO COMMUNICATE TO COUNCIL THE REASON WE'RE
NOT TAKING ACTION THAT IGOR MENTIONED EARLIER. ...

>> YES.

>> BOARD MEMBER SHEAHAN?

>> NO.

>> BOARD MEMBER SELAWSKY?

>> YES.

>> BOARD MEMBER CLARKE.

>> YES. BOARD MEMBER TREGUB?

>> NO.

>> CHAIR O'KEEFE?

>> YES.

>> SO COMMUNICATION HAS BEEN SOLIDIFIED. YOU HAVE SOME
COMMITTEE REPORTS.

>> CAN I MAKE, ONE MORE TIME SHOSHANA ABOUT WHAT WAS BEING.
I'M GOING TO GO SEND SOME EMAILS. TO SAY, YOU ASKED US TO DO
THIS AND WE WERE GIVEN THIS AT THE LAST TIME. NEXT TIME MAKE IT
TIME CERTAIN. SAY IT SHOULD REACH ZAB WITHIN A MONTH. THEY RAN
DOWN THE CLOCK, REALLY SUCCESSFULLY.

>> OKAY. SUBCOMMITTEE REPORTS, JAY SISLE, WE DID NOT MEET.
NOTHING TO REPORT. OKAY, MEETING ADJOURNED.

>> ALL RIGHT.



City Clerk Department
2180 Milvia Street, 1st Floor
Berkeley, CA 94704

CITY COUNCIL NOTICE OF PUBLIC HEARING

SUBJECT: City Council Consideration of
Zoning Adjustments Board
Use Permit #ZP2016-0028
1155-73 Hearst Street

WHEN: Tuesday, January 29, 2019.
Meeting starts at 6:00 p.m.

WHERE: Berkeley Unified School District Board Room
1231 Addison Street
Wheelchair accessible.

«NAME1»

«NAME2»

«ADDRESS1»,«ADDRESS2»



**NOTICE OF PUBLIC HEARING-BERKELEY CITY COUNCIL
BERKELEY UNIFIED SCHOOL DISTRICT BOARD ROOM,
1231 ADDISON STREET
ZAB APPEAL: 1155-73 HEARST STREET**

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY JANUARY 29, 2019 at 6:00 PM** a public hearing will be conducted to consider an appeal of a decision by the Zoning Adjustments Board to approve Use Permit #ZP2016-0028, to develop two parcels, including the substantial rehabilitation of the existing seven dwelling units and construction of six new, for-sale dwelling units.

A copy of the agenda material for this hearing will be available on the City's website at www.CityofBerkeley.info as of January 17, 2019.

For further information, please contact Leslie Mendez, Project Planner at (510) 981-7426.

Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet. Please contact the City Clerk at 981-6900 or clerk@cityofberkeley.info for further information.

NOTICE CONCERNING YOUR LEGAL RIGHTS: If you object to a decision by the City Council to approve or deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project. If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.

PLEASE NOTE: Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.

1155-73 Hearst Ave

319 notices

NAME1	NAME2	ADDRESS1	ADDRESS2
Berkeley McGee Neighborhood Group	1627 BERKELEY WAY	BERKELEY CA	94703
Addison-Acton Sreet Neighborhood Group	1341 ADDISON ST	BERKELEY CA	94702
Milvia-King Alliance	1731 MILVIA ST	BERKELEY CA	94709
West Branch, Berkeley Public Library	1125 UNIVERSITY AVE	BERKELEY CA	94702
South Oceanview Neighborhood Association	1815 EIGHTH ST	BERKELEY CA	94710
Schoolhouse-Lincoln Creeks Watershed Neighborhood Assoc.	1546 MILVIA ST	BERKELEY CA	94709
University of California, Facilities Services	A&E Building, Room 300 University of California Berkeley	BERKELEY CA	94720-1382
Urban Creeks Council	861 REGAL RD	BERKELEY CA	94708
California Delaware McGee Neighborhood Association	1612 DELAWARE ST	BERKELEY CA	94703
Bananas Inc.	5232 CLAREMONT AVE	OAKLAND CA	94618
Berkeley Central Library	2090 KITTREDGE STREET	BERKELEY CA	94704
Adams Broadwell Joseph & Cardoza	601 GATEWAY BLVD. Su 1000	SO SAN FRANCISCO CA	94080
Public Notice Journal	PO Box 330356 San Francisco, CA 94133	SAN FRANCISCO CA	94133
KRAMER ROBERT & SUZANNE M TRS & 1970 CURTIS LLC	1070 RAHARA DR	LAFAYETTE CA	94549
SOTELOMENCHACA ANGELA & MENCHACA LETICIA B	1126 DELAWARE ST	BERKELEY CA	94702
COHEN MICHAEL B	1126 DELAWARE ST, #3	BERKELEY CA	94702
HAGEN KATHLEEN F TR	1128 DELAWARE ST	BERKELEY CA	94702
VERGA RUFO	1129 HEARST AVE, A	BERKELEY CA	94702
MOORE WILLIAM H SR & LIUMOORE XIAO P	1129 HEARST AVE, B	BERKELEY CA	94702
MARTIN TALIVA D	1129 HEARST AVE, C	BERKELEY CA	94702
GANESHALINGAM MOHAN & KAO JANICE TRS	1129 HEARST AVE, D	BERKELEY CA	94702
HOWARD RODNEY C & LAURA T TRS	1130 DELAWARE ST	BERKELEY CA	94702
PICKARD REBEKAH & REBEKAH R	1131 HEARST AVE	BERKELEY CA	94702
CHOW EMILY & HANSEN SVEN J	1132 DELAWARE ST	BERKELEY CA	94702
BENNET YOHANNES	1134 HEARST AVE	BERKELEY CA	94702
FREED ELLEN B	1139 DELAWARE ST	BERKELEY CA	94702
WATANABE ANDREW T & CARL K & SUMIKO	1140 1/2 DELAWARE ST	BERKELEY CA	94702
COMMON AREA OF PM 6439 59 & 60	1140 DELAWARE ST	BERKELEY CA	94702
RUDOY JOHN D & GUNASEKERA GESHRI M	1140 DELAWARE ST, #1	BERKELEY CA	94702
CORY CAROLYN L	1141 HEARST AVE	BERKELEY CA	94702
VYTILA VAMSI & JAMES SOPHIE ETAL	1142 DELAWARE ST	BERKELEY CA	94702
WATSON ERIN M TR	1144 DELAWARE ST	BERKELEY CA	94702
STUKIN ANNA	1145 HEARST AVE	BERKELEY CA	94702
SHAIN PAUL L & GETZ BARBARA TRS	1146 DELAWARE ST	BERKELEY CA	94702
KACPRZAK MALGORZATA & PACK STEVEN J	1147 HEARST AVE	BERKELEY CA	94702
ORMSBY PAMELA A TR	1148 DELAWARE ST	BERKELEY CA	94702
COURTEMANCHE MATHIEU & KASSAM FARAH	1150 DELAWARE ST	BERKELEY CA	94702
ALLEN EDISON JR & SIGRID	1151 DELAWARE ST	BERKELEY CA	94702
GIANOPOULOS DENO	1151 HEARST AVE	BERKELEY CA	94702

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JOYNT PATRICK R	1156 DELAWARE ST	BERKELEY CA	94702
VONDELING JOHANNA	1164 HEARST AVE	BERKELEY CA	94702
SHAH REHMAN & RAZIA ETAL	1187 DELAWARE ST	BERKELEY CA	94702
FRETZ MICHAEL T & BUCHANAN ELIZABETH	1191 DELAWARE ST	BERKELEY CA	94702
CLINGMAN CURTIS D & THORESEN MARY J	1195 HEARST AVE	BERKELEY CA	94702
WONG BETTY	1198 HEARST AVE	BERKELEY CA	94702
SALAS FLOYD TR & ORTALDA CLAIRE TR	1206 DELAWARE ST	BERKELEY CA	94702
COMMON AREA OF PM 6777 38 & 39	1209 HEARST AVE	BERKELEY CA	94702
WHITE LEIF E & RAMIREZ FELISA	1210 DELAWARE ST	BERKELEY CA	94702
WOOG SYLVIE & SPRAGUE CLAUDE TRS	1210 HEARST AVE	BERKELEY CA	94702
BRETTHAUER ROBERT F & MATSUI MINAKO TRS	1241 HEARST AVE	BERKELEY CA	94702
COMMON AREA OF PM 5717 54 THRU 57	1256 QUEENS RD	BERKELEY CA	94708
TAN RICARDO & JANNETTE TRS	1300 SAN PABLO AVE	BERKELEY CA	94702
SCHMIER ERIC S TR & SCHMIER KENNETH J TR	1475 POWELL ST, #201	EMERYVILLE CA	94608
BASKENT DENIZ & SARAMPALIS ANASTASIOS	1600 MACARTHUR BLVD	OAKLAND CA	94602
GOFFSTOWN MONTEVIDEO TRADING LLC	1621 SONOMA AVE	BERKELEY CA	94707
HARLEY GEORGE J & PAGE ALLYSON	1787 SONOMA AVE	BERKELEY CA	94707
RONQUILLO RAYMOND M TR & BATES JENNIFER L ETAL	1801 CURTIS ST	BERKELEY CA	94702
HOTCHKISS CHRISTINE L & LOCKETT ELLEN	1801 CURTIS ST, #1	BERKELEY CA	94702
RASTRULLO JACQUELINE M & NORONA PATROCINIO	1801 CURTIS ST, #2	BERKELEY CA	94702
HOENACK FRANK	1802 CURTIS ST	BERKELEY CA	94702
DALY LUCINDA A TR	1806 CURTIS ST	BERKELEY CA	94702
NAKAISHI MICHELLE & HILGERT JEANNETTE	1809 CURTIS ST	BERKELEY CA	94702
MASON CARRIE & ROCKHOLT RACHEL	1810 CURTIS ST	BERKELEY CA	94702
AMES ALEXANDER K TR & BROOKES AMY	1811 CURTIS ST	BERKELEY CA	94702
PRINS ALMA G & WOODLIEF BLAZE	1812 CURTIS ST	BERKELEY CA	94702
TEAL A MAJOR & ROLF S WILLIAMS TRUST	1814 CURTIS ST	BERKELEY CA	94702
CURRY DAMIEN X & BILLSTROM AMY E	1815 CURTIS ST	BERKELEY CA	94702
SHULMAN STACEY R TR	1818 CURTIS ST	BERKELEY CA	94702
MICHAEL JOSEPH R	1819 1/2 CURTIS ST	BERKELEY CA	94702
ANANIA DALE A	1819 CURTIS ST	BERKELEY CA	94702
REVSEN BRENDA J & LINDA	1820 CURTIS ST	BERKELEY CA	94702
SUSSMAN RAIN	1824 CURTIS ST	BERKELEY CA	94702
VENUGOPAL VIJAYAKUMAR	1826 CURTIS ST	BERKELEY CA	94702
HRDLICKA SANDRA L	1827 CURTIS ST	BERKELEY CA	94702
WADLE DAWN M	1828 CURTIS ST	BERKELEY CA	94702
COMMON AREA OF PM 5808 31 & 32	1901 CURTIS ST	BERKELEY CA	94702
KURZ PAMELA L	1901 CURTIS ST, #1	BERKELEY CA	94702
ROBERTS WILLIAM E & RANDICE M TRS	1905 CURTIS ST	BERKELEY CA	94702
PARSONS DAVID & KESSEL KRISTINA	1907 CURTIS ST	BERKELEY CA	94702

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MORENO KATHY & DAVID TRS	1913 CURTIS ST	BERKELEY CA	94702
AKSOMBOON SOMCHAI & KWANRUAN TRS	1920 CURTIS ST	BERKELEY CA	94702
HEARST AVENUE COTTAGES LLC	1958 A UNIVERSITY AVE	BERKELEY CA	94704
HEARST AVENUE COTTAGES LLC	1958 UNIVERSITY AVE, A	BERKELEY CA	94704
RESOURCES FOR COMMUNITY DEVELOPMENT	2220 OXFORD ST	BERKELEY CA	94704
JACALA VINCE A & FERRER MARY Y TRS	2440 EDWARDS ST	BERKELEY CA	94702
1931 SAN PABLO PARTNERS LLC	2625 ALCATRAZ AVE, #501	BERKELEY CA	94705
WHELAN MICHAEL & CARTY PAUL	29 GREENWOOD CT	ORINDA CA	94563
MOK FRANNIE S TR	320 10TH ST, #128	OAKLAND CA	94607
SEYRANIAN COLLEEN & PALMER KENNETH & COLLEEN ETAL	4144 REDWOOD RD	OAKLAND CA	94619
MIYASHIRO STEPHEN & FLORENCE & STEPHANIE	4200 PARK BLVD, #100	OAKLAND CA	94602
WYLDE RACHEL C & AIDAN G	4321 GILBERT ST	OAKLAND CA	94611
FINK ROBERT W & FOX KIMBERLY S TRS	5856 W 74TH ST	LOS ANGELES CA	90045
ROSENBERG CHARLES J & FAN WENHONG	6033 SHADYGROVE DR	CUPERTINO CA	95014
RITZ LLC	6149 VIEWCREST DR	OAKLAND CA	94619
CLARKE LYDIA J & TIMOTHY	743 COLUSA AVE	EL CERRITO CA	94530
ALAN WOFSY & ASSOCIATES	PO BOX 2210	SAN FRANCISCO CA	94126
OPPENHEIMER 1530 LLC	PO BOX 9395	BERKELEY CA	94709
OCCUPANT	1126 DELAWARE ST 1	BERKELEY CA	94702
OCCUPANT	1126 DELAWARE ST 2	BERKELEY CA	94702
OCCUPANT	1128 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1130 1/2 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1130 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1132 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1133 HEARST AVE	BERKELEY CA	94708
OCCUPANT	1133 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1133 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1133 HEARST AVE C	BERKELEY CA	94702
OCCUPANT	1133 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST A	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST B	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST C	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST D	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST E	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST F	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST G	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST H	BERKELEY CA	94702
OCCUPANT	1135 HEARST AVE	BERKELEY CA	94708
OCCUPANT	1135 HEARST AVE A	BERKELEY CA	94702

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OCCUPANT	1135 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1135 HEARST AVE C	BERKELEY CA	94702
OCCUPANT	1135 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1136 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1136 DELAWARE ST A	BERKELEY CA	94702
OCCUPANT	1136 DELAWARE ST B	BERKELEY CA	94702
OCCUPANT	1136 DELAWARE ST C	BERKELEY CA	94702
OCCUPANT	1136 DELAWARE ST D	BERKELEY CA	94702
OCCUPANT	1136 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1136 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1136 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1136 HEARST AVE C	BERKELEY CA	94702
OCCUPANT	1136 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1137 HEARST AVE	BERKELEY CA	94708
OCCUPANT	1137 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1137 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1137 HEARST AVE C	BERKELEY CA	94702
OCCUPANT	1137 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1138 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1138 DELAWARE ST A	BERKELEY CA	94702
OCCUPANT	1138 DELAWARE ST B	BERKELEY CA	94702
OCCUPANT	1138 DELAWARE ST C	BERKELEY CA	94702
OCCUPANT	1138 DELAWARE ST D	BERKELEY CA	94702
OCCUPANT	1138 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1138 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1138 HEARST AVE C	BERKELEY CA	94702
OCCUPANT	1138 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1139 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1139 DELAWARE ST A	BERKELEY CA	94702
OCCUPANT	1139 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1139 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1139 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1139 HEARST AVE C	BERKELEY CA	94702
OCCUPANT	1139 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1140 DELAWARE ST 1	BERKELEY CA	94702
OCCUPANT	1140 DELAWARE ST 2	BERKELEY CA	94702
OCCUPANT	1140 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1140 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1140 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1140 HEARST AVE C	BERKELEY CA	94702

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OCCUPANT	1140 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1141 1/2 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1141 HEARST AVE 1/2	BERKELEY CA	94702
OCCUPANT	1142 DELAWARE ST A	BERKELEY CA	94702
OCCUPANT	1142 DELAWARE ST B	BERKELEY CA	94702
OCCUPANT	1142 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1142 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1142 HEARST AVE C	BERKELEY CA	94702
OCCUPANT	1142 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1143 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1144 1/2 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1144 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1144 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1144 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1144 HEARST AVE C	BERKELEY CA	94702
OCCUPANT	1144 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1146 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1146 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1146 HEARST AVE C	BERKELEY CA	94702
OCCUPANT	1146 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1148 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1148 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1148 HEARST AVE C	BERKELEY CA	94702
OCCUPANT	1148 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1149 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1150 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1150 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1150 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1150 HEARST AVE C	BERKELEY CA	94702
OCCUPANT	1150 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1153 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1154 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1154 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1154 HEARST AVE C	BERKELEY CA	94702
OCCUPANT	1154 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1155 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1156 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1156 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1156 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1156 HEARST AVE C	BERKELEY CA	94702

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OCCUPANT	1156 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1157 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1158 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1158 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1158 HEARST AVE C	BERKELEY CA	94702
OCCUPANT	1158 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1159 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1159 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1159 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1160 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1160 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1160 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1160 HEARST AVE C	BERKELEY CA	94702
OCCUPANT	1160 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1161 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1163 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1173 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1173 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1175 UNIVERSITY AVE	BERKELEY CA	94702
OCCUPANT	1177 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1179 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1181 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1183 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1193 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1202 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1204 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1208 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1211 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1236 HEARST AVE	BERKELEY CA	94710
OCCUPANT	1236 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1236 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1238 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1760 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1770 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1780 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1790 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1803 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1804 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1805 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1807 CURTIS ST	BERKELEY CA	94702

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OCCUPANT	1813 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1815 CURTIS ST A	BERKELEY CA	94705
OCCUPANT	1817 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1821 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1823 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1825 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1827 CURTIS ST A	BERKELEY CA	94702
OCCUPANT	1827 CURTIS ST B	BERKELEY CA	94702
OCCUPANT	1903 CURTIS ST A	BERKELEY CA	94702
OCCUPANT	1903 CURTIS ST B	BERKELEY CA	94702
OCCUPANT	1905 CURTIS ST A	BERKELEY CA	94702
OCCUPANT	1905 CURTIS ST B	BERKELEY CA	94702
OCCUPANT	1915 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1916 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1917 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1917 CURTIS ST A	BERKELEY CA	94702
OCCUPANT	1917 CURTIS ST B	BERKELEY CA	94702
OCCUPANT	1918 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1930 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1930 CURTIS ST 1	BERKELEY CA	94702
OCCUPANT	1930 CURTIS ST 10	BERKELEY CA	94702
OCCUPANT	1930 CURTIS ST 11	BERKELEY CA	94702
OCCUPANT	1930 CURTIS ST 12	BERKELEY CA	94702
OCCUPANT	1930 CURTIS ST 2	BERKELEY CA	94702
OCCUPANT	1930 CURTIS ST 3	BERKELEY CA	94702
OCCUPANT	1930 CURTIS ST 4	BERKELEY CA	94702
OCCUPANT	1930 CURTIS ST 5	BERKELEY CA	94702
OCCUPANT	1930 CURTIS ST 6	BERKELEY CA	94702
OCCUPANT	1930 CURTIS ST 7	BERKELEY CA	94702
OCCUPANT	1930 CURTIS ST 8	BERKELEY CA	94702
OCCUPANT	1930 CURTIS ST 9	BERKELEY CA	94702
OCCUPANT	1931 SAN PABLO AVE	BERKELEY CA	94702
OCCUPANT	1931 SAN PABLO AVE 101	BERKELEY CA	94702
OCCUPANT	1931 SAN PABLO AVE 102	BERKELEY CA	94702
OCCUPANT	1931 SAN PABLO AVE 103	BERKELEY CA	94702
OCCUPANT	1931 SAN PABLO AVE 104	BERKELEY CA	94702
OCCUPANT	1931 SAN PABLO AVE 105	BERKELEY CA	94702
OCCUPANT	1931 SAN PABLO AVE 106	BERKELEY CA	94702
OCCUPANT	1931 SAN PABLO AVE 107	BERKELEY CA	94702
OCCUPANT	1931 SAN PABLO AVE 108	BERKELEY CA	94702

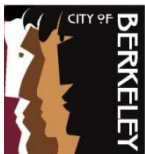
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OCCUPANT	1941 SAN PABLO AVE	BERKELEY CA	94702
OCCUPANT	1944 CURTIS ST	BERKELEY CA	94702
OCCUPANT	1944 CURTIS ST 1	BERKELEY CA	94702
OCCUPANT	1944 CURTIS ST 10	BERKELEY CA	94702
OCCUPANT	1944 CURTIS ST 11	BERKELEY CA	94702
OCCUPANT	1944 CURTIS ST 12	BERKELEY CA	94702
OCCUPANT	1944 CURTIS ST 13	BERKELEY CA	94702
OCCUPANT	1944 CURTIS ST 14	BERKELEY CA	94702
OCCUPANT	1944 CURTIS ST 15	BERKELEY CA	94702
OCCUPANT	1944 CURTIS ST 16	BERKELEY CA	94702
OCCUPANT	1944 CURTIS ST 17	BERKELEY CA	94702
OCCUPANT	1944 CURTIS ST 2	BERKELEY CA	94702
OCCUPANT	1944 CURTIS ST 3	BERKELEY CA	94702
OCCUPANT	1944 CURTIS ST 4	BERKELEY CA	94702
OCCUPANT	1944 CURTIS ST 5	BERKELEY CA	94702
OCCUPANT	1944 CURTIS ST 6	BERKELEY CA	94702
OCCUPANT	1944 CURTIS ST 7	BERKELEY CA	94702
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OCCUPANT	1970 CURTIS ST 8	BERKELEY CA	94702
OCCUPANT	1970 CURTIS ST 9	BERKELEY CA	94702
HEARST AVENUE COTTAGES LLC, c/o Rhoades Planning Grp	46 Shattuck Square, Suite 11	BERKELEY CA	94704



1155-73 HEARST AVENUE ZP#2016-0028 APPEAL



CITY OF
BERKELEY
City of
Berkeley

Leslie Mendez, Senior Planner
January 29, 2019

Background

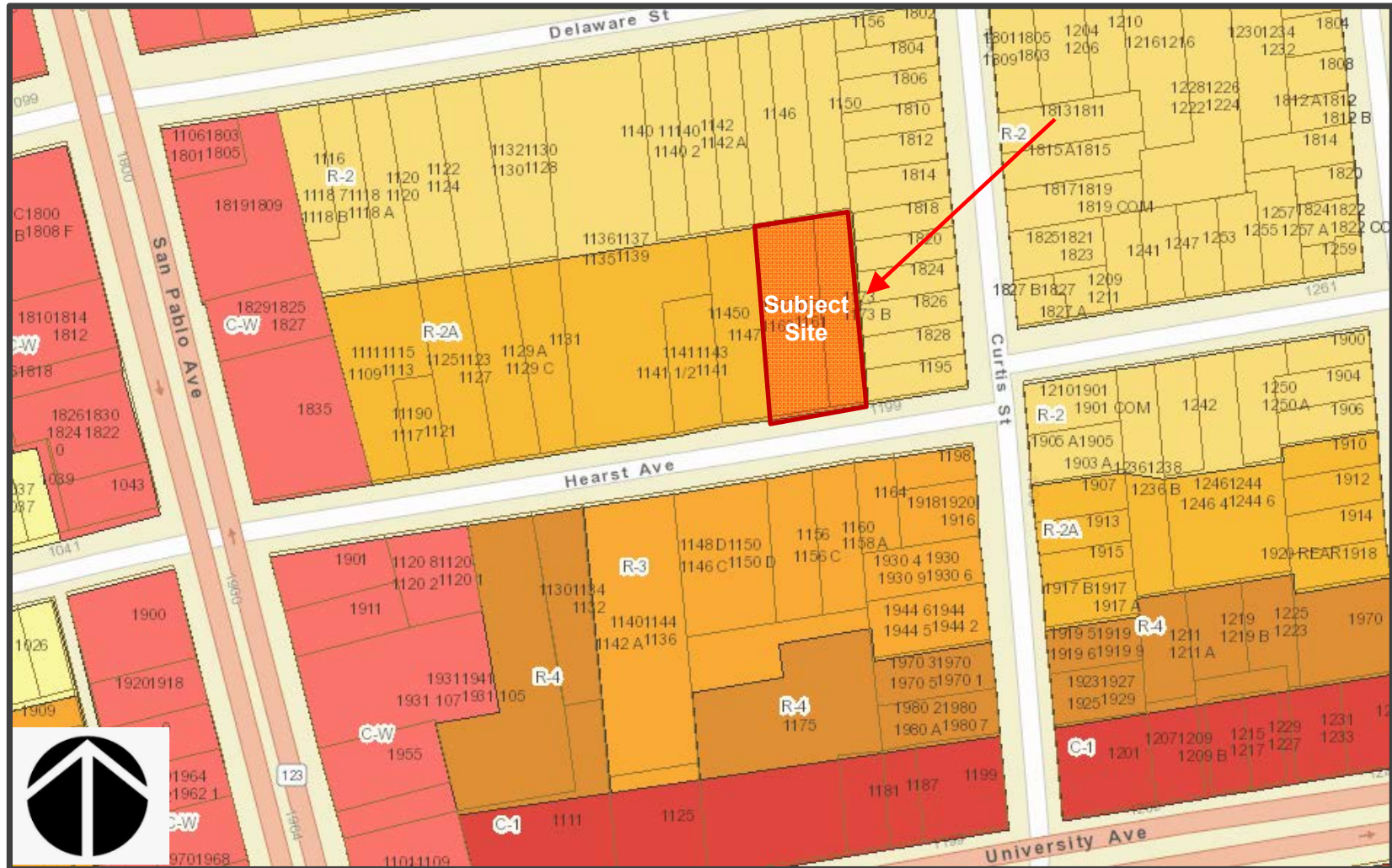
2

On August 23, 2018, ZAB approved Use Permit ZP #2016-0028 to develop 1155 – 1173 Hearst Street

- Renovate 7 existing dwelling units (three rent-controlled duplexes and one single-family dwelling)
- Construct 3 new, two-story duplexes as a common interest development (i.e. condos)
- 13 Total Units, 13 off-street parking spaces, 4,911-square feet of Useable Open Space

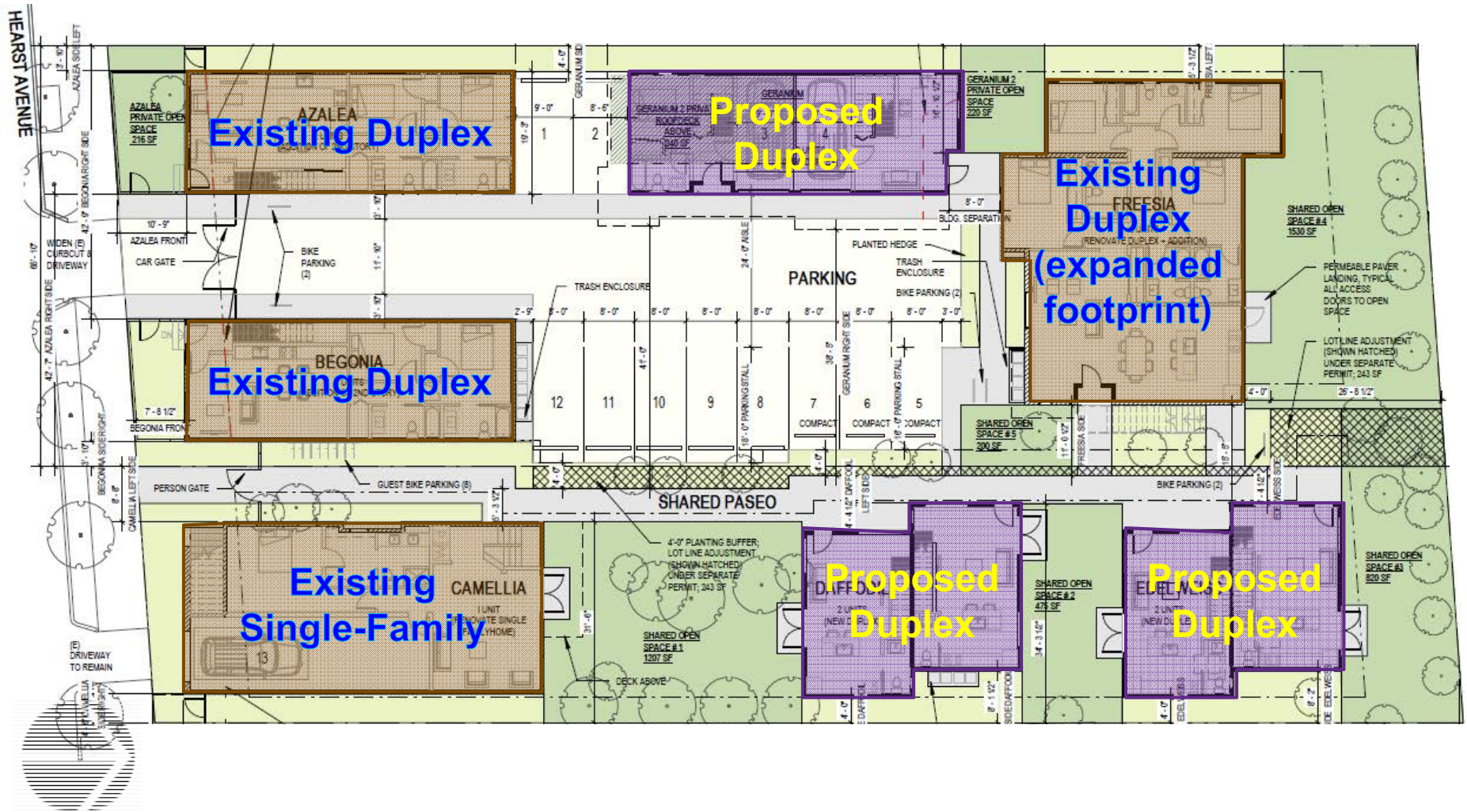
Vicinity/Zoning Map

3



Proposed Site Plan

4



CEQA Categorical Exemptions

5

Classes of projects that have been determined **not** to have a significant effect on the environment and are **exempt** from the provisions of CEQA

CEQA Exceptions

6

Exceptions require a project to go through the CEQA process even if it otherwise meets the criteria of a categorical exemption

**Appeal
Point 1:**

**Project does not qualify for:
Class 32 In-Fill Exemption**

7

Response:

- Site is adequately served by all required utilities and public services
- Utility Infrastructure = storm drain system on the public right of way
- Rear Yard Ponding & Voluminous water flow ≠ inadequate storm drain

**Response 1
continued:**

Storm Drain Flow January 16, 2019

8



**In front of 1155 – 63 Hearst
View towards northwest**



**Catchment basin at northeast
corner of
Hearst at San Pablo Avenue**

Appeal
Point 2:

Location Based Exception Applies

9

Response:

- Does not apply to Class 32 In-Fill Development Projects
- Area of proposed development not listed in the National Wetlands Inventory www.fws.gov/wetlands/

Appeal Point 3: **Historic Resource Exception Applies**

10

Response:

- Chez Panisse garden not designated as a historical resource
- No cultural resources are associated with this property per California Historical Resources Information System (CHRIS)
- Project subject to the City's standard conditions regarding tribal cultural resources, archaeological resources, human remains, and paleontological resources (COAs 34 – 37)

Appeal
Point 4: **Significant Effect Exception**
Applies

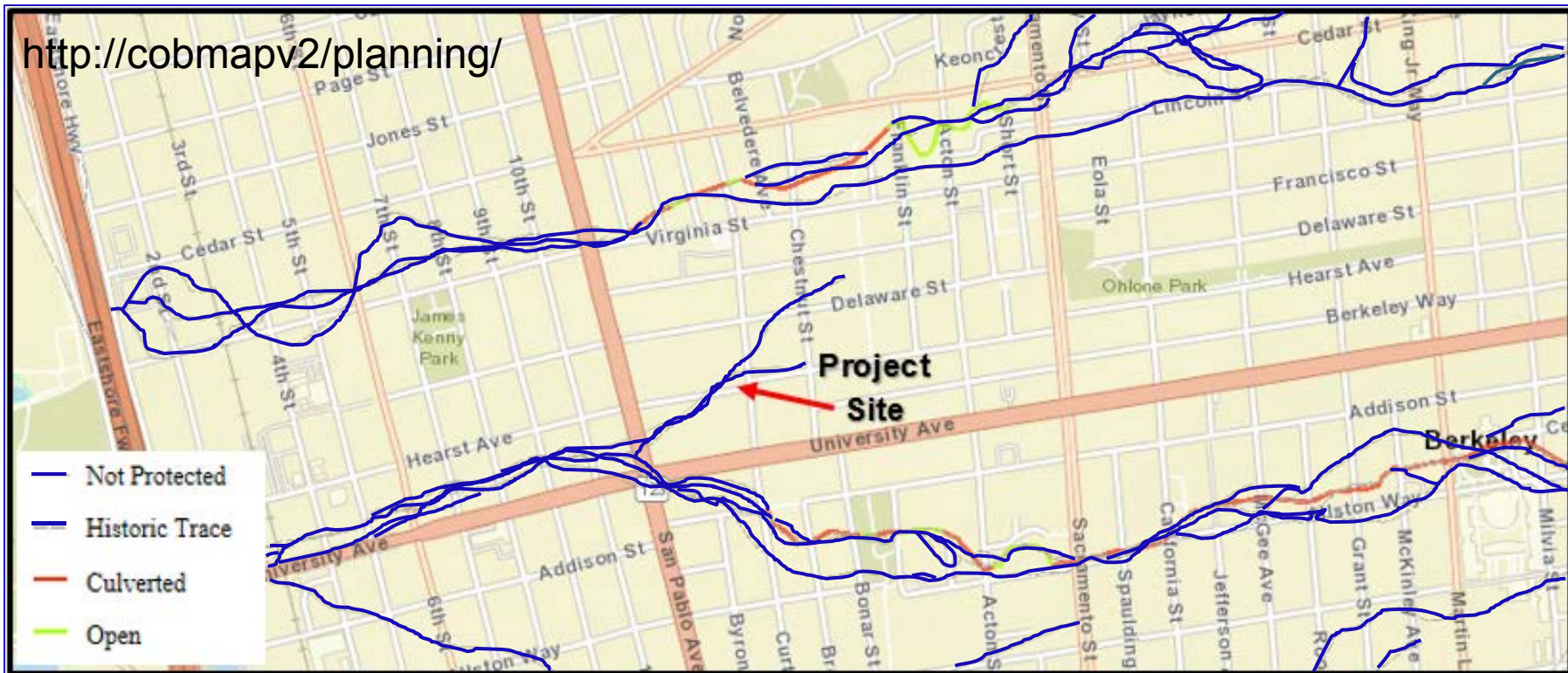
11

A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a **significant effect** on the environment due to **unusual circumstances**

15300.2(c)

Appeal Point 4a: Significant Effect Exception Unusual Circumstance

12



Appeal Point 4b: Significant Effect Exception Significant Effect

13

Response:

- A hydrology Assessment prepared concluded drainage issues would improve
 - grass swale from east property line to parking lot
 - drainage channel from parking lot to curb

Appeal Point 5: **Appropriate conditions must be imposed to ensure non-detriment**

14

Response:

- Standard Toxics COAs requiring a Soil and Groundwater Management Plan and Stormwater Requirements
- Public Works conditions regarding sub- and surface waters
- Drainage Plan per Hydrology Assessment with additional design documentation per Peer Review

Recommendation:

Uphold ZAB's decision & Approve project

15

- Meets Purposes of the District
- Meets Housing Element Goals
- Is in compliance with all state and local environmental requirements
- Will incorporate a drainage system that is expected to improve drainage condition in the area
- Subject to standard conditions of approval to ensure non-detriment

Recommendation
continued:

Uphold ZAB's decision & Approve project

16

- Retains existing rent controlled units and protects existing tenants
 - Proof of voluntary move out or relocation prior to BP issuance (COA 15)
 - Public Notification prior to Construction with tenant rights (COA18)
 - Interim Tenant Parking (COA 30)
 - Temporary Relocation during any Construction related to Permit (COA 31)
 - Neighborhood Construction Meetings (COA 32)

Recommendation
continued:

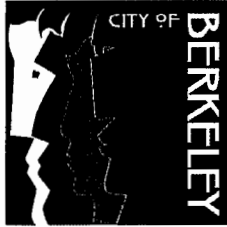
Uphold ZAB's decision & Approve project

17

Tenant Relocation COA #15:

Tenant Relocation. Prior to building permit issuance for any interior improvements, renovations or addition to any the existing dwelling units building (1955-57 Hearst, 1959 A & B Hearst, 1961-63 Hearst, and 1973 Hearst), the property owner shall provide proof that all tenants within the building have voluntarily vacated or proof that the owner and tenants have come to a written agreement on a plan for relocation. This shall not apply to issuance of building permits for general renovation or repair within these units.





City Clerk Department

February 1, 2019

Rain Sussman
1824 Curtis St
Berkeley, CA 94702

RE: 1155-73 Hearst Avenue – Appeal ZAB Decision Use Permit #ZP2016-0028

Dear Ms. Sussman:

On January 29, 2019, the Berkeley City Council remanded the 1155-73 Hearst Avenue project to the Zoning Adjustments Board by the following vote:

Action: M/S/Carried (Hahn/Arreguin) to remand the project to the Zoning Adjustments Board to undertake further CEQA analysis, review the project based on CEQA findings, and analyze the detriment to rent-controlled units.

Vote: Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – Droste.

Berkeley Municipal Code 23B.32.060.D.3 states that the Council may remand the matter to the Board to reconsider the application, in which case it shall specify whether or not the Board shall hold a new public hearing, and shall identify those issues which the Board is directed to reconsider.

Berkeley Municipal Code 23B.32.070.A and 23B.32.070.B state that if the Council directs the Board to hold a new public hearing, the Board shall hold a new noticed public hearing on the matter and make a decision that may be appealed to the Council in the normal manner, unless otherwise directed by the Council. In such cases, if an appeal is filed solely by the applicant, the fees for the public hearing as set by Council Resolution, shall be paid by the applicant. If the Board does not act within 90 days of the date an appeal is remanded to it by the Council, then the original appeal of the Board's decision shall be placed back on the Council agenda in the same manner as a new appeal.

If you have any additional questions regarding this matter, please do not hesitate to contact me at (510) 981-6908.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Numainville". The signature is fluid and cursive.

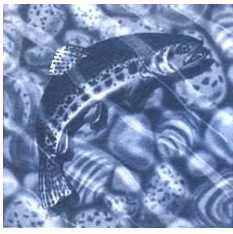
Mark Numainville
City Clerk

RE: 1155-73 Hearst Avenue – Appeal ZAB Decision Use Permit #ZP2016-0028

Page 2

cc: Timothy Burroughs, Interim Director of Planning
Steven Buckley, Land Use Planning Manager
Leslie Mendez, Staff Planner
Farimah Brown, City Attorney
Hearst Avenue Cottages, LLC

NOTICE CONCERNING YOUR LEGAL RIGHTS: If you object to a decision by the City Council to approve or deny an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6 and Government Code Section 65009(c)(1)(E), no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed and served on the City more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) Pursuant to Government Code Section 66020(d)(1), the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period. 3) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project. If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.



CLEARWATER HYDROLOGY

Consultants in Hydrology
and Water Resources

Watershed Management

Stream and Wetland
Restoration

Wetland Delineation
and Permit Acquisition

Stormwater Drainage
and Flooding

2974 Adeline St.
Berkeley, CA 94703
Tel: 510 841 1836
Fax: 510 841 1610

Feb. 22, 2019

Attn: Mark Rhoades/Mia Perkins
Hearst Avenue Cottages, LLC
Oakland, CA

RE: Engineering hydrologic review of A. Kropp & Assoc. geotechnical investigation report, dated Aug. 15, 2018, submitted via email

Dear Mark, Mia,

At your request, I have reviewed both the Clearwater Hydrology (CH) revised drainage and flooding investigation design report for the proposed Hearst Cottages project (July 12, 2017) and the referenced geotechnical investigation report by Alan Kropp & Associates (AKA). The aim of the review was to note any soils information that may differ from the conditions assumed for the project site by CH relative to its stormwater drainage design for the site.

The AKA investigation included the drilling of three boreholes, logging of the drill cuttings and assessment of textural characteristics, as well as the citing of groundwater depths where groundwater was present. The borings were drilled in August 2018 when groundwater would have been toward the lower position of its seasonal range, i.e. would be higher during the winter wet season. Only one of the three borings (the westernmost one) intercepted groundwater, which equilibrated in the borehole at a depth of approximately 10 ft. below the ground surface. AKA noted that based on their experience in the area, groundwater levels would typically occur within 5 ft. of the measured 10 ft. depth. The investigator also noted that intercepted groundwater could reflect perched conditions and thus could locally be higher than the regional groundwater level.

The soils logged at the three borehole sites typically included a surface fill 2-5 ft. deep composed of silty sand with gravel (SC) underlain with about five feet of stiff/firm clay soil (CL). These conditions indicate a prevalence of finer-grained soil which is typically slowly permeable and are consistent with the assumed "D" Hydrologic Soil Group that CH used in its peak flow computations per the Alameda County Rational Method. This is the lowest permeability soil type in the NRCS classification scheme for Hydrologic Soil Groups, and thus yields the highest rates of surface runoff.

The measured summer depth to groundwater by AKA indicates that winter groundwater may be somewhat deeper than we presumed. Thus, the conservatism of CH's design assumptions remains as previously indicated.

In summary, the results of the AKA geotechnical investigation do not run counter to the assumptions made in the CH stormwater drainage design regarding both site subsoils and seasonal groundwater levels, nor do they require any further revisions to the design as presented in the July 2017 final report.

Yours truly,

A handwritten signature in blue ink, appearing to read "William Vandivere". The signature is fluid and cursive, with a long horizontal stroke at the end.

William Vandivere, M.S., P.E.
Principal

GEOTECHNICAL INVESTIGATION
HEARST GARDENS
BERKELEY, CALIFORNIA



ALAN KROPP
& ASSOCIATES, INC.

GEOTECHNICAL
CONSULTANTS



ALAN KROPP, CE, GE
JAMES R. LOTT, CE, GE
JEROEN VAN DEN BERG, CE
THOMAS M. BRENCIC, CE

March 1, 2019
2744-2, L-31477

Mr. Nathan George
NDG Real Estate
c/o Hearst Avenue Cottages LLC
46 Shattuck Square, Suite 11
Berkeley, CA 94704

RE: Geotechnical Investigation
Hearst Gardens
1155-1173 Hearst Avenue
Berkeley, California

Dear Mr. George:

In accordance with your authorization, we have performed a geotechnical investigation for the proposed residential project to be located at 1155-1173 Hearst Avenue in Berkeley, California. This location is shown on the attached Vicinity Map, Figure 1 (Latitude: 37.8711 degrees; Longitude: -122.2904 degrees). The project site spans two adjacent parcels; APN: 57-2086-14 and APN: 57-2086-13.

1.00 PROPOSED CONSTRUCTION

The two parcels are currently developed with four residential structures; three buildings are located on the western parcel and one building on the eastern parcel. Based on our review of provided planning documents and on conversations with you, it is our understanding that three new buildings are planned for the two lots. One new duplex is planned for the western parcel and two new duplexes are planned for the eastern parcel. The existing units will all be renovated as part of this project.

2.00 PURPOSE

The purpose of our investigation was to evaluate the geotechnical characteristics of the site for the proposed residential buildings and to provide geotechnical engineering recommendations for the proposed work.

3.00 SCOPE OF SERVICES

As outlined in our proposal dated July 24, 2018, the scope of our work to accomplish the stated purpose included:

- A reconnaissance of the lots, existing structures, and accessible portions of the immediate surrounding properties to observe the general surficial conditions regarding vegetation, uneven ground, or possible obvious geotechnical concerns;

- A review of published topographic and geotechnical/geologic materials to obtain geotechnical/geologic data relevant to the investigation;
- A field subsurface exploration program consisting of drilling three exploratory test borings to evaluate the subsurface materials. The borings were to be extended to depths on the order of 10-25 feet below ground surface and one boring was to be drilled in the general area of each new duplex. We were also to obtain the legally required City of Berkeley drilling permit and backfill the borings with lean grout upon completion of drilling in accordance with permit requirements. Spoils (soil cuttings and water) from the boring were to be left on site;
- Laboratory testing for classification, index, moisture-density, and strength testing, as required, to evaluate various soil properties of the materials recovered;
- Geotechnical engineering analyses of the collected data; and
- Preparation of our geotechnical investigation report for the project presenting the results of our studies along with pertinent geotechnical design and construction requirements for the project earthwork, foundations, and other relevant aspects of the proposed work.

The scope of our services did not include an environmental assessment or investigation for the presence of hazardous or toxic materials in the soil, groundwater, or air on, below, or around this site. An evaluation of the potential presence of sulfates in the soil, or other possibly corrosive, naturally occurring elements was beyond our scope.

4.00 SITE INVESTIGATION

4.01 Existing Geotechnical Data Review

A variety of published sources was reviewed to evaluate geotechnical data relevant to the subject parcels. These sources included geotechnical literature, reports, and maps published by various public agencies. Maps which were reviewed included topographic and geologic maps prepared by the United States Geological Survey, as well as geologic and seismic hazard maps prepared by the California Geological Survey (formerly the California Division of Mines and Geology). A list of the published sources used in our investigation is presented at the end of this report.

The topographic map for this area (the Oakland West Quadrangle) prepared by the United States Geological Survey, indicates the site is located at an elevation of approximately 55 to 60 feet on the flatlands between the San Francisco Bay and Berkeley/Oakland hills.

A widely used geologic map of the area (Radbruch, 1957) indicates the surficial soils at the site are underlain by Temescal Formation material. The text accompanying this map describes the Temescal Formation as an alluvial fan deposit comprising interfingering lenses of clayey gravel, sandy silty clay, and sand-clay-silt mixtures. The permeability is considered generally moderate, with some gravel layers containing significant water. A more recent geologic map by Helley and Graymer (1997) indicates the site is underlain by Holocene alluvial fan and fluvial deposits. The map indicates the material consists of medium dense to dense, gravelly sand or sandy gravel that generally grades upward to sandy or silty clay. A site geology map based on the Radbruch map is presented in Figure 2.

The site is approximately 1.8 miles southwest of the nearest active trace of the Hayward fault (Lienkaemper, 1992). The site is also located about 17.0 miles northeast and 15.5 miles southwest of the active San Andreas and Concord faults, respectively (Jennings, 1994). The site is not located within any Alquist-Priolo Earthquake Fault Zone designated by the State of California (CDMG, 1982).

The California Geological Survey (CGS) is in the process of producing statewide Seismic Hazard reports and maps that delineate zones where data suggests amplified ground shaking, liquefaction, or earthquake-induced landsliding may occur ("Seismic Hazard Zones-SHZ"). If a project is located within a SHZ, CGS recommends performing additional site-specific studies. According to these widely accepted maps, the project site is not located within a potential seismic landsliding or liquefaction hazard zone.

Studies by the United States Geological Survey's Working Group on California Earthquake Probabilities (Aagaard et al., 2016) have estimated a 72 percent probability that at least one magnitude 6.7 or greater earthquake will occur in the San Francisco Bay Region before the year 2043. As part of their prediction, they estimated the probability to be 33 percent for a magnitude 6.7 or greater earthquake to occur on the Hayward-Rodgers Creek fault, 22 percent for a magnitude 6.7 or greater earthquake to occur on the Northern San Andreas fault, and 16 percent for a magnitude 6.7 or greater earthquake to occur on the Concord fault during that same period.

4.02 Subsurface Exploration

Our subsurface exploration program was performed on August 4, 2018, to investigate and sample the subsurface materials. Three borings were drilled at the site to depths of 11½ (B-2 and B-3) and 26½ feet (B-1) at the locations shown on the Site Plan, Figure 4. Each of the three borings was located within the footprint of proposed structures.

Portable hydraulic, continuous flight auger drilling equipment was employed to advance the three borings. During drilling, our field representative monitored the advancement of the drilling and made notes of obvious changes in the drilling conditions or comments made by the driller. Samples of the materials encountered were obtained using a 140-pound hammer and conventional sampling equipment. Samples were obtained using a 2-inch O.D. Standard Penetration Test (SPT) and a 3-inch O.D. Modified California Sampler. The hammer blows required to drive the sampler the final 12 inches of each 18-inch driven length are presented on the boring logs.

Detailed descriptions of the materials encountered in the borings are found on the boring logs presented at the end of this report in Appendix A. A Key to Exploratory Boring Logs is also presented in Appendix A. The attached logs and related information depict subsurface conditions only at the specific locations shown on the Site Plan and on the particular date designated on the logs. These logs may have been modified from the original logs recorded during drilling as a result of further study of the collected samples, laboratory tests, or other efforts. Also, the passage of time may result in changes in the subsurface conditions due to environmental changes. The locations of the borings were approximately determined by pacing, and the ground surface elevations at each boring location were approximately determined by interpolation of topographic map contours. The locations and elevations should be considered accurate only to the degree implied by the method used.

Groundwater was encountered at a depth of 15.5 feet in Boring 1 during drilling, and was observed to rise to a depth of 10 feet shortly after completion of drilling. Groundwater was not encountered in Borings 2 or 3. All three borings were backfilled with lean concrete after drilling in accordance with drilling

requirements for the City of Berkeley. It should be noted that groundwater measurements in the borings may have been made prior to allowing a sufficient period of time for the equilibrium groundwater conditions to become established. In addition, fluctuations in the groundwater level may occur due to variations in rainfall, temperature, and other factors not evident at the time the measurements were made.

4.03 Laboratory Testing

Our geotechnical laboratory testing program was directed toward a quantitative and qualitative evaluation of the physical and mechanical properties of the soils underlying the site. The following geotechnical laboratory tests were performed on selected soil samples in general accordance with the listed ASTM standard:

- Water content per ASTM Test Designation D-2216;
- Dry density per ASTM Test Designation D-2937;
- Atterberg Limits per ASTM Test Designation D-4318; and
- Percent passing No. 200 sieve per ASTM Test Designation D-1140.

The results of these tests are presented on the boring logs at the appropriate sample depths.

5.00 SITE CONDITIONS

5.01 Surface

The two relatively level lots are rectangular in shape and are bounded by other developed residential lots on the west, north, and east and by Hearst Avenue to the south. The proposed building locations are currently occupied by asphalt paving and by overgrown vegetation.

5.02 Subsurface

The surficial materials encountered in our exploratory borings generally consisted of loose to medium dense clayey sand fill and/or topsoil, which extended to depths of about 2 to 5 feet below the existing site grades. Below the fill/topsoil soil, we encountered soft to very stiff clayey alluvial soils. The alluvial clayey layers were observed to be interbedded with occasional medium dense clayey sand and clayey gravel layers. The alluvial soils underlying the surficial fill and topsoil appeared to be consistent with the Temescal Formation materials as mapped by Radbruch (1957).

Detailed descriptions of the materials encountered in the borings can be found on the boring logs presented in Appendix A along with a Key to Exploratory Boring Logs.

The logs and related information contained in our data report depict subsurface conditions only at the specific locations shown on the Site Plan (Figure 4) and on the particular date designated on the logs. These logs may have been modified from the original logs recorded during drilling as a result of further study of the collected samples, laboratory tests, or other efforts. Also, the passage of time may result in changes in the subsurface conditions due to environmental changes. The locations of the borings were approximately determined by hand-tape measurements from existing site improvements, and the ground surface elevations at each boring location were approximately determined by interpolation of topographic map contours. The locations and elevations should be considered accurate only to the degree implied by the method used.

5.03 Groundwater

Groundwater was encountered at a depth of 10 feet in Boring 1 shortly after drilling. Groundwater was not encountered in the Borings 2 or 3. In accordance with drilling requirements for the City of Berkeley, the exploratory borings were grouted with lean concrete upon the completion of the drilling. It should be noted that groundwater measurements in the borings may have been made prior to allowing a sufficient period of time for the equilibrium groundwater conditions to become established. In addition, fluctuations in the groundwater level may occur due to variations in rainfall, temperature, and other factors not evident at the time the measurements were made. Our experience in this geographical area has shown that perched groundwater may be encountered at various elevations in porous soil layers (sand and gravel) and may not indicate actual equilibrium groundwater.

6.00 EVALUATIONS AND CONCLUSIONS

6.01 General Site Suitability

Based on our investigation, it is our opinion the site is suitable for the construction of the proposed project from a geotechnical standpoint. However, all of the conclusions and recommendations presented in this report should be incorporated in the design and construction of the project to minimize possible geotechnical problems.

The primary considerations for geotechnical design at the site are:

- The presence of variable surficial soils at the site;
- Foundation selection; and
- Earthquake hazards.

Each of these conditions is discussed individually below.

6.02 Variable Surficial Soils

Based on the data obtained during our subsurface exploration, a portion of the site is underlain by up to 8 feet of soft, clayey soil. We observed this soft clay in Boring 1; however, based on our experience with similar alluvial depositional and former tributary environments, areas of soft clays may exist elsewhere at the site. The soft clays may cause significant differential building settlements if loads were applied directly to them from independent shallow foundations. We do not believe that over-excavating these soft materials or deepening the foundations through the soft clay are cost-effective alternatives due to shoring and groundwater issues associated with deep excavations. We recommend the use of mat slab foundation systems for the new structures. The mat slabs should be designed to span localized soft soil areas up about 10 feet laterally. Geotechnical design recommendations for mat slab foundations are presented in Section 7.02, "Mat Slab Foundations."

6.03 Groundwater Considerations

Groundwater was observed at depths between 10 and 15 feet below the existing site grades in our exploratory borings during drilling and the borings were grouted immediately after the completion of drilling. Although groundwater was encountered in one of the borings at a depth of 10 feet, the subsurface data we reviewed from the projects we have completed in the immediate site vicinity indicate that

groundwater in the surrounding area can vary by as much as 5 feet and is often at a depth of roughly 10 feet. Based upon the information obtained from these sources, we judge that a design groundwater level of 10 feet below existing grade would be appropriate.

As the preliminary plans for the buildings indicate minimal below-grade construction, we do not anticipate that excavations will extend below the design groundwater table (10 feet). If excavations for the mat slab and utility trenching are completed during the summer/fall, temporary construction dewatering most likely will not be required. However, the contractor should be prepared for the possibility of encountering localized pockets of perched groundwater trapped in intermittent gravelly layers. If construction is not completed in the summer/fall, and especially if construction is attempted during the winter months, it is possible that temporary construction dewatering may be required.

6.04 Building Foundations

Preliminary project plans indicate that most of the building will be constructed at-grade and will require minimal excavations to establish design foundation elevations. In order to account for the variable near surface fill soils on the site and to provide foundation support in similar materials, it is recommended that the building be supported on mat slab foundations that extend at least 12 inches below the lowest adjacent grade.

6.05 Seismic Considerations

The subject site is located in the highly seismic San Francisco Bay Area, and there is a strong probability that a moderate to severe earthquake will occur during the life of the structure. Based on our review of the fault maps listed below, no active or inactive faults are known to pass through the site. The site is located about 1.8 miles southwest of the nearest active trace of the Hayward fault (Lienkaemper, 1992). Based on the proximity to the mapped splay of the Hayward fault, we judge that the likelihood of a surface fault rupture encroaching into the project site is unlikely.

During strong earthquakes, various forms of ground failure can occur, such as liquefaction and earthquake-induced landsliding. Liquefaction primarily occurs in relatively loose granular (sandy) soils below the groundwater table. However, some soft, low plasticity silts and clays can also be subject to liquefaction type behavior. The site is underlain by generally stiff, relatively plastic clay and medium dense, clayey gravel soils, and in our opinion, liquefaction is not a significant site hazard. Due to the relatively level topography on the site and in the site vicinity, earthquake-induced landsliding is also not considered a significant site hazard.

The proposed buildings will very likely experience strong ground shaking during a major earthquake in the life of the structure. The California Building Code has adopted provisions for incorporation of strong ground shaking into the design of all structures. Our recommendations for geotechnical parameters to be used in the structural seismic design of the building are presented in Section 7.03, "California Building Code Seismic Design Parameters."

7.00 RECOMMENDATIONS

It is the responsibility of you or your representative to confirm that the recommendations presented in this report are called to the attention of the contractor, subcontractors, and any governmental body which may have jurisdiction and that these recommendations are carried out in the field.

7.01 Site Preparation and Earthwork

7.01.1 Site Clearing and Preparation

The site should initially be cleared of landscaping vegetation, foundation elements, slabs, and other elements from previous structures. These materials should be removed from the site. Any fill material exposed that will be beneath proposed at-grade portions of the building and/or exterior pavements should be over-excavated and re-compacted with engineering control. A representative from our office should make the determination between fill and native soils during grading. Any localized excavations required for the removal of trees and/or old foundations that are below the planned finished site elevations should be backfilled with engineered fill or with a flowable, low-strength slurry fill that is placed and compacted in accordance with the recommendations contained in Section 7.01.4, "Compaction."

7.01.2 Subgrade Preparation

The subgrade surface in those areas to receive structural fill (including excavations created from the removal of existing structures and/or removal of the existing site fill), mat slabs, slabs-on-grade, or pavements should be confirmed by the project engineer to be firm, non-yielding materials. Areas that are to receive non-expansive, select fill should be over-excavated as necessary to accommodate the recommended select fill layer. The exposed soils in those areas receiving non-expansive, select fill or structural fill should be scarified to a depth of 6 inches or the full depth of any existing shrinkage cracks, whichever is deeper. The scarified soils should then be moisture conditioned to 2 to 5 percent above optimum water content and compacted to the specified relative compaction indicated in Section 7.01.4, "Compaction." In areas to receive select fill, the moisture-conditioned subgrade should be covered as soon as possible to prevent drying of the subgrade soils.

7.01.3 Material for Fill

All onsite soils below the stripped layer having an organic content of less than 3 percent by volume are suitable for use as fill. However, all fill placed at the site, including onsite soil, should not contain rocks or lumps greater than 6 inches in greatest dimension with not more than 15 percent larger than 2.5 inches. Non-expansive select fill, where specified, should meet the requirements for general fill and should be predominantly granular with a plasticity index of 12% or less. All import material should be evaluated by our firm prior to importation to the site.

7.01.4 Compaction

All fill should be placed on a firm, unyielding base surface in lifts not exceeding 8 inches in uncompacted thickness. The fill should be compacted to at least 90 percent relative compaction by mechanical means only as determined by ASTM Test Designation D1557-latest revision.

It is possible that exposed soils may be excessively wet or dry depending on the moisture content at the time of construction. If the soils are too wet, then they may be dried by aeration or by mixing with drier materials. If the soils are too dry, then they may be wetted by the addition of water or by mixing with wetter materials.

7.01.5 Trench Backfill

Pipeline trenches should be backfilled with fill placed in lifts not exceeding 8 inches in uncompacted thickness. Native backfill materials should be compacted to at least 90 percent relative compaction (ASTM D1557; latest edition) and granular import material should be compacted to at least 95 percent relative compaction (ASTM D1557; latest edition). These compaction recommendations assume a reasonable “cushion” layer around the pipe.

If imported granular soil is used, sufficient water should be added during the trench backfilling operations to prevent the soil from “bulking” during compaction. All compaction operations should be performed by mechanical means only. We recommend against jetting. If granular backfill is used for utility trenches, we recommend that an impermeable plug or mastic sealant be used where utilities enter the building to minimize the potential for free water or moisture to enter below the building.

7.02 Mat Slab Foundations

We recommend that the new structures be supported on reinforced concrete mat slab foundation systems, with minimum mat slab thicknesses of 18 inches. The area for the mats should be cleared of landscaping vegetation, foundation elements, slabs, and other elements from previous structures, and these materials should be removed from the site. The subgrade should be prepared by over-excavating the top 18 inches of existing fill and topsoil materials and placing suitable (see Section 7.01.2) on-site or import soil compacted per the recommendations provided in Section 7.01.4, “Compaction.”

The mats can be designed assuming an allowable bearing pressure of 1,000 pounds per square foot for dead plus live loads, with a one-third increase for all loads including wind or seismic. This allowable bearing pressure is a net value; therefore, the weight of the mats can be neglected for design purposes. The mats should be integrally connected to all portions of the structure so the entire foundation system (for each new structure) moves as a unit. The mat should be reinforced with top and bottom steel in both directions to allow the foundation to span local irregularities. As a minimum, we recommend that the mat be reinforced with sufficient top and bottom steel to support a random interior clear span of at least 10 feet. The mat can be designed using a modulus of subgrade reaction of 100 kips per cubic foot. This modulus value has been factored for the mat size and can be increased by one-third for total loads including seismic forces.

Lateral loads on the structure may be resisted by passive pressures acting against the sides of the mat and/or on shear keys extended under the mat where there is at least 10 feet of level ground in front of the shear key and/or mat slab edge. We recommend an allowable passive pressure equal to an equivalent fluid weighing 350 pounds per square foot per foot of depth (This passive pressure value can be increased by 20% in areas that are cut down to 10 feet or more below the currently existing grade). Alternatively, an allowable friction coefficient of 0.30 can be used between the bottom of the mat and the subgrade soils. If the perimeter of the mat is poured neat against the soils, the passive pressure and friction coefficient may be used in combination. Passive pressure should not be used within the upper one foot unless the ground surface is confined by a slab or pavement.

In order to minimize vapor transmission, a vapor retardant membrane (Class A vapor retarder [ASTM E 1745, latest revision]) should be placed beneath the mat. The membrane should be covered with 2 inches of sand to protect it during construction. The sand should be lightly moistened just prior to placing the concrete. In order to reduce potential infiltration into the sand layer, the sand should be terminated

approximately 12 inches from the perimeter edge of the mat and the mat should be thickened by 2 inches to compensate for the elimination of the sand layer. Any tears in the retarder and all plumbing penetrations should be sealed with an appropriate taping material. If the vapor retarder is upgraded to a more substantial material (such as Stego Wrap 15-mil or approved equivalent), consideration could be given to elimination of the 2-inch sand layer. Again, any tears in the retarder and all plumbing penetrations should be sealed with an appropriate taping material.

Where the mat slab will be surfaced with flooring material, we recommend that the specifications for slab on grade floors require that moisture emission tests be performed on the slab prior to the installation of the flooring. No flooring should be installed until safe moisture emission levels are recorded for the type of flooring to be used.

7.03 California Building Code Seismic Design Parameters

Based on our review of the site location, geology, and the 2016 California Building Code (CBC), we recommend the following parameters be used for seismic design of the building:

- Site Class = D
- Mapped Spectral Acceleration for Short Period (S_s , Site Class B) = 2.084g
- Mapped Spectral Acceleration for 1-Second Period (S_1 , Site Class B) = 0.854g
- Maximum Considered Earthquake Spectral Response Acceleration for Short Period (S_{MS} , Site Class D) = 2.084g
- Maximum Considered Earthquake Spectral Response Acceleration for 1-Second Period (S_{M1} , Site Class D) = 1.282g
- Design Spectral Response Acceleration for Short Period (S_{DS} , Site Class D) = 1.389g
- Design Spectral Response Acceleration for 1-Second Period (S_{D1} , Site Class D) = 0.854g

7.04 Exterior Slabs

We recommend any exterior slabs-on-grade be supported on a minimum of 12 inches of imported, compacted, non-expansive fill. In areas of existing fill where new slabs are proposed, we recommend any old, existing fill underlying any proposed slabs be removed and recompact to the requirements of structural fill. If all of the old fill under proposed slabs cannot be removed, then some settlement, tilting, and cracking of the slab should be expected. In addition, a gap should be created between the building foundations and any slabs located adjacent to the building.

In order to minimize volume change of the subgrade soils, these materials should be scarified to a depth of 6 inches, moisture conditioned to slightly above optimum water content, and compacted to the requirements for structural fill. Prior to the construction of the slabs, the subgrade surface should be proof-rolled to provide a smooth, firm surface for slab support.

The slabs should be structurally independent from the perimeter foundation of the building, and should be free-floating. Score cuts or construction joints should be provided at a maximum spacing of 10 feet in both directions. The slabs should be appropriately reinforced according to structural requirements; concentrated loads may require additional reinforcing. Minor movement of the concrete slab with resulting cracking should be expected. Steps to the building from the slab area should be created with a void (expansion joint) between the steps and the building foundation. The recommendations presented above, if properly implemented, should help minimize the magnitude of this cracking.

It has been our experience that the installation of wire mesh for slab reinforcement has often not been performed properly during construction of the slab. As a result, we recommend that steel bar reinforcement be used to reinforce any proposed slabs.

7.05 Surface Drainage

We recommend that rainwater collected on the roof of the building be transmitted through gutters and downspouts to closed pipes that discharge into an appropriate discharge facility. Flexible drain pipe (flexline), 2000 pound crush pipe, leachfield, and ASTM F810 pipe are not recommended for use in these drainage systems because of the likelihood of damage to the pipe during installation due to the weak strength of these pipes. In addition, these drainpipes are sometimes difficult to clean with mechanical equipment without damaging the pipe. We recommend the use of Schedule 40 PVC, SDR 35 PVC or ABS, Contech A-2000 PVC drainpipe, or equivalent for the drain system.

Positive surface gradients of at least 2 percent should be provided adjacent to the building to direct water away from foundations and slabs toward suitable discharge facilities. Ponding of surface water should not be allowed adjacent to the structure or on pavements. Planter areas located next to the building should be avoided. If necessary, each planter should contain an area drain and allow for the collection of water.

7.06 Plan Review

We recommend that our firm be provided the opportunity of a general review of the geotechnical aspects of the design and specifications for the subject work at this site in order that the geotechnical recommendations may be properly interpreted and implemented in the design and specifications. If our firm is not accorded the privilege of making the recommended review, we can assume no responsibility for misinterpretation of our recommendations.

7.07 Construction Observation

The analyses and recommendations submitted in this report are based in part upon the data obtained from the soil borings and other data presented in our data report. The nature and extent of variations across the site may not become evident until construction. If variations then become apparent, it will be necessary to re-examine the recommendations of this report.

We recommend our firm be retained to provide geotechnical engineering services during the earthwork, foundation construction, and drainage phases of the work. This is to observe compliance with the design concepts, specifications, and recommendations, and to allow design changes in the event that subsurface conditions differ from those anticipated prior to the start of construction.

In order to effectively accomplish our observations during the project construction, we recommend that a pre-construction meeting be held to develop a mechanism for proper communications throughout the project. We also request that the client or the client's representative (the contractor) contact our firm at least two working days prior to the commencement of any of the items listed above. If our representative makes a site visit in response to a request from the client or the client's representative and it turns out that the visit was not necessary, our charges for the visit will still be forwarded to the client.

7.08 Wet Weather Construction

Although it is possible for construction to proceed during or immediately following the wet winter months, a number of geotechnical problems may occur which may increase costs and cause project delays. The water content of onsite soils may increase during the winter and rise significantly above optimum moisture content for compaction of subgrade or backfill materials. If this occurs, the contractor may be unable to achieve the recommended levels of compaction without using special measures and would likely have to:

- Wait until the materials are dry enough to become workable;
- Dispose of the wet soils and import dry soils; and
- Use lime or cement on the native materials to absorb water and achieve workability.

If utility trenches or excavations are open during winter rains, then caving of the trenches or excavations may occur. Also, if the trenches fill with water during construction, or if saturated materials are encountered at the anticipated bottom of the excavations, excavations may need to be extended to greater depths to reach adequate support capacity than would be necessary if dry weather construction took place.

We should also note that it has been our experience that increased clean-up costs will occur, and greater safety hazards will exist, if the work proceeds during the wet winter months.

8.00 REPORT LIMITATIONS AND CLOSURE

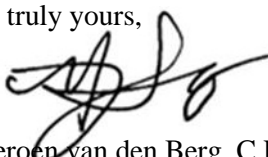
This report has been prepared for the exclusive use of you and your consultants for specific application to the proposed project in accordance with generally accepted geotechnical engineering practices. No other warranty, either expressed or implied, is made. In the event the nature, design, or location of the proposed project differs significantly from what has been noted above, the conclusions and recommendations contained in this report should not be considered valid unless the changes are reviewed and the conclusions of this report modified or verified in writing.

The findings of this report are valid as of the present date. However, the passing of time will likely change the conditions of the existing property due to natural processes or the works of man. In addition, due to new legislation or the broadening of knowledge, changes in applicable or appropriate standards may occur. Accordingly, the findings of this report may be invalidated, wholly or partly, by changes beyond our control. Therefore, this report should not be relied upon after three years without being reviewed by this office.

We are pleased to have been of service to you on this project and look forward to working with you during any supplemental investigation, plan review, and construction phases of the work.

If you have any questions concerning this letter, please call us.

Very truly yours,



M. Jeroen van den Berg, C.E.
Senior Engineer



MJV/jc

Copies: Addressee (PDF) – Nathan George: nathan@ndgre.com
Mark Rhoades: mark@rhoadesplanninggroup.com
Mia Perkins: mia@rhoadesplanninggroup.com

Attachments: Figure 1 – Vicinity Map
Figure 2 – Geology Map
Figure 3 – Seismic Hazards Map
Figure 4 – Site Plan

2744-2 Hearst Gardens - GI report rr

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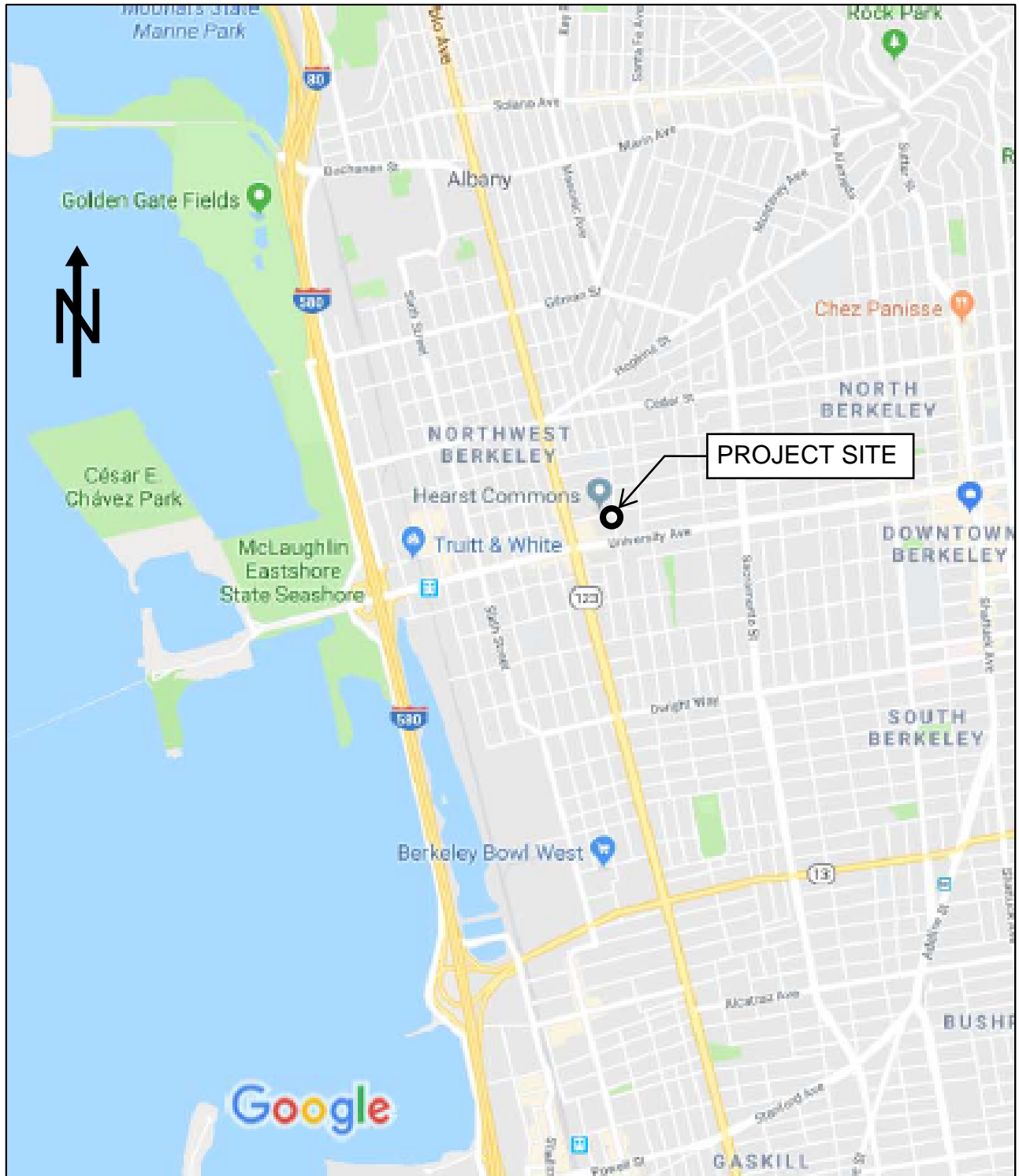
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U.S. Geological Survey, 2015, Topographic Map of the Oakland West Quadrangle, 7.5 Minute Series.



Original figure produced in color.



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VICINITY MAP

HEARST GARDENS
Berkeley, California

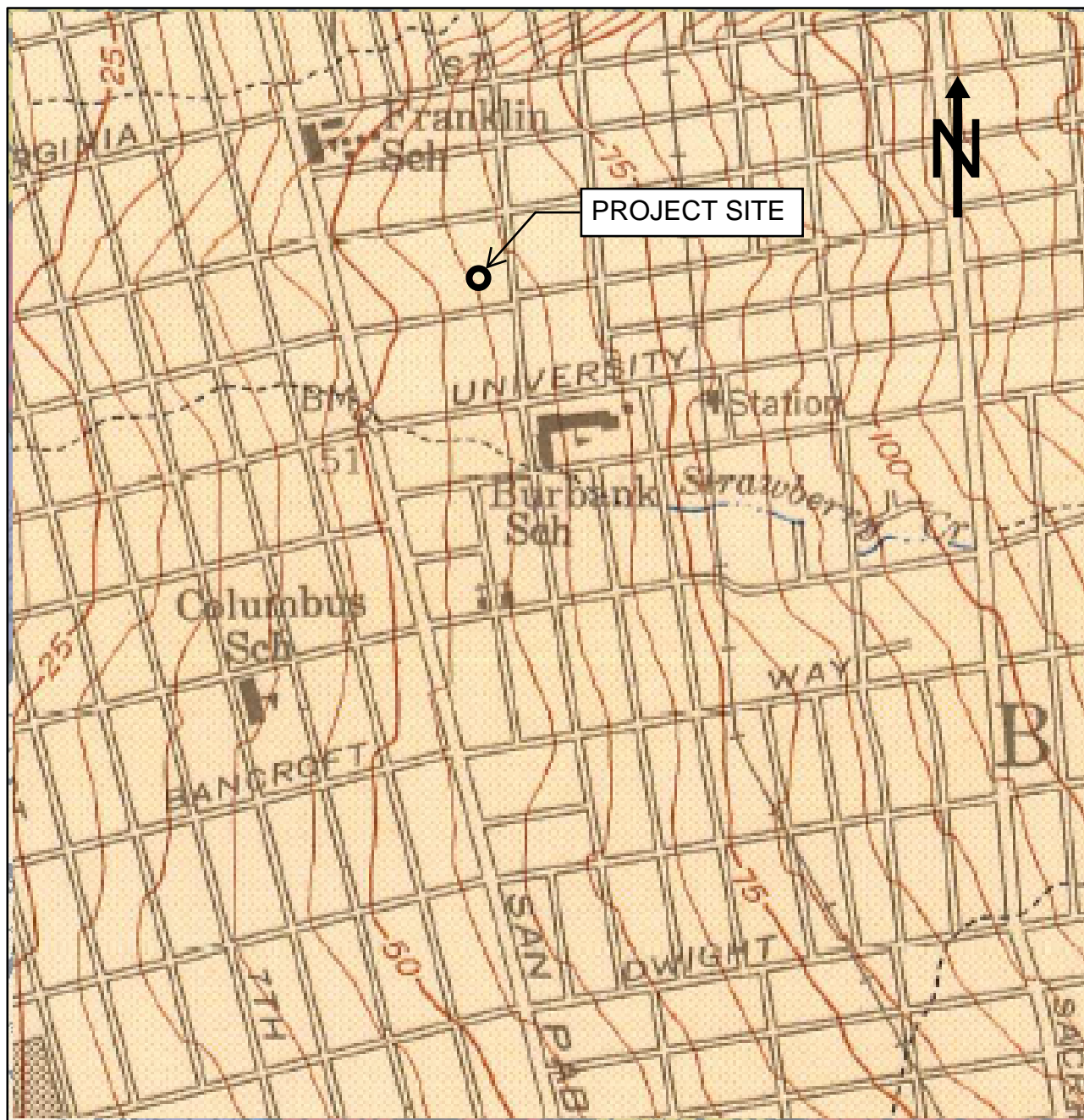
PROJECT NO.

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March 2019

FIGURE **1**

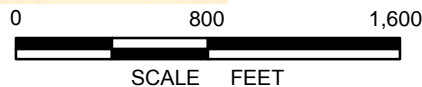


LEGEND

Source "Aerial and Engineering Geology of the Oakland West Quadrangle, California", Radbruch, 1957.

Qtc
Temescal formation
 Alluvial-fan deposit comprising interfingering lenses of clayey gravel, sandy silty clay, and sand-clay-silt mixtures.

Approximate boundaries of former shores, ponds, tidal flats, and streams now filled or concealed
 After unpublished U. S. Coast and Geodetic Survey planetable sheets nos. XXIV and XXV, U. S. Coast Survey, San Francisco Bay, Calif., 1856.



Original figure produced in color.



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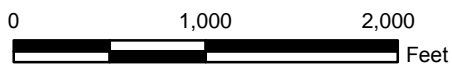
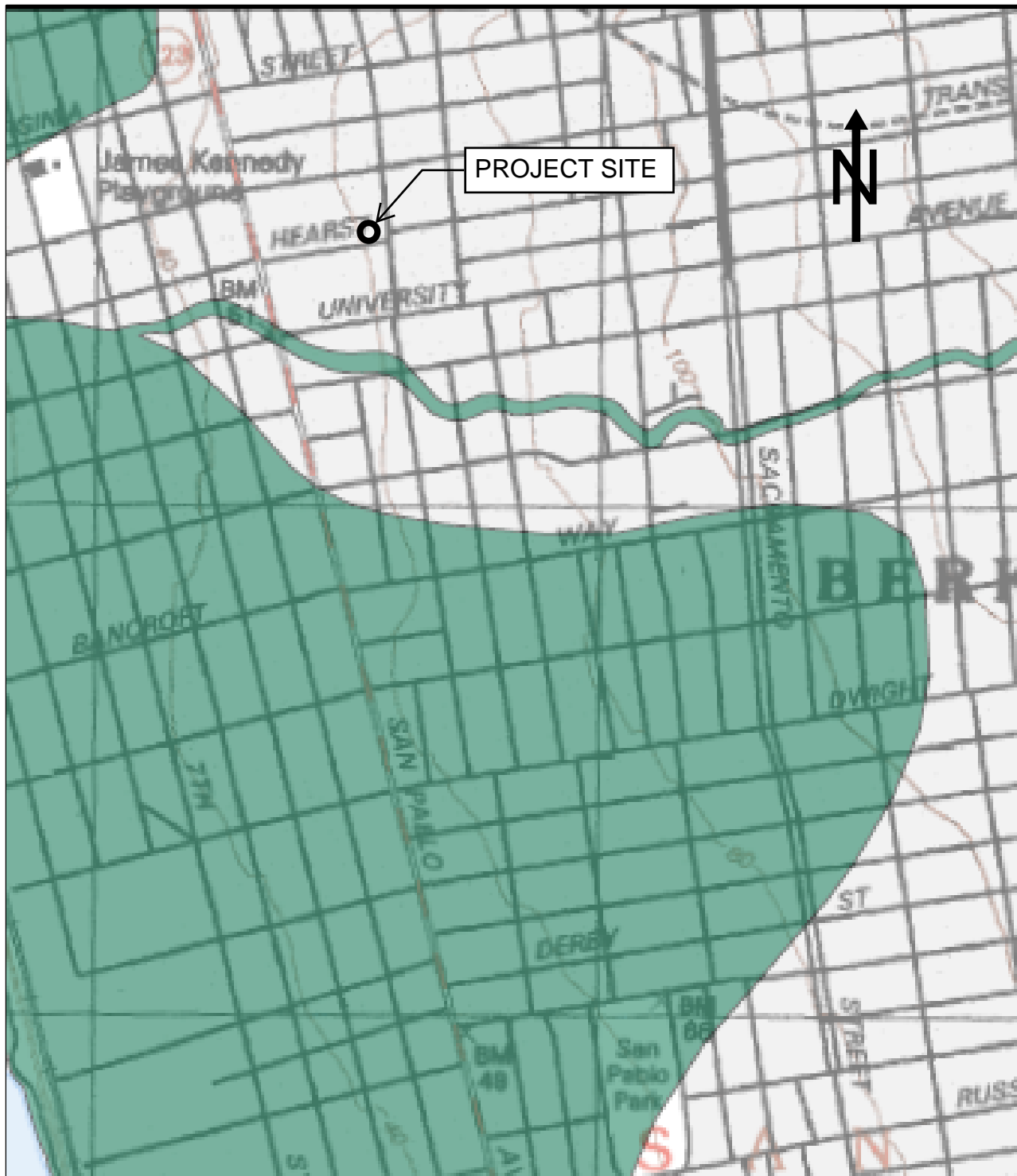
GEOLOGY MAP

HEARST GARDENS
 Berkeley, California

PROJECT NO.
 2744-2

DATE
 March 2019

FIGURE **2**



Source: California Geological Survey,
<http://gmw.consrv.ca.gov/shmp/MapProcessor.asp?Action=Download&Location=NoCal>

LEGEND



Liquefaction Zones
Areas where historical occurrence of liquefaction, or local geological, geotechnical and ground water conditions indicate a potential for permanent ground displacements such that mitigation as defined in Public Resources Code Section 2693(c) would be required.



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SEISMIC HAZARDS MAP

HEARST GARDENS
Berkeley, California

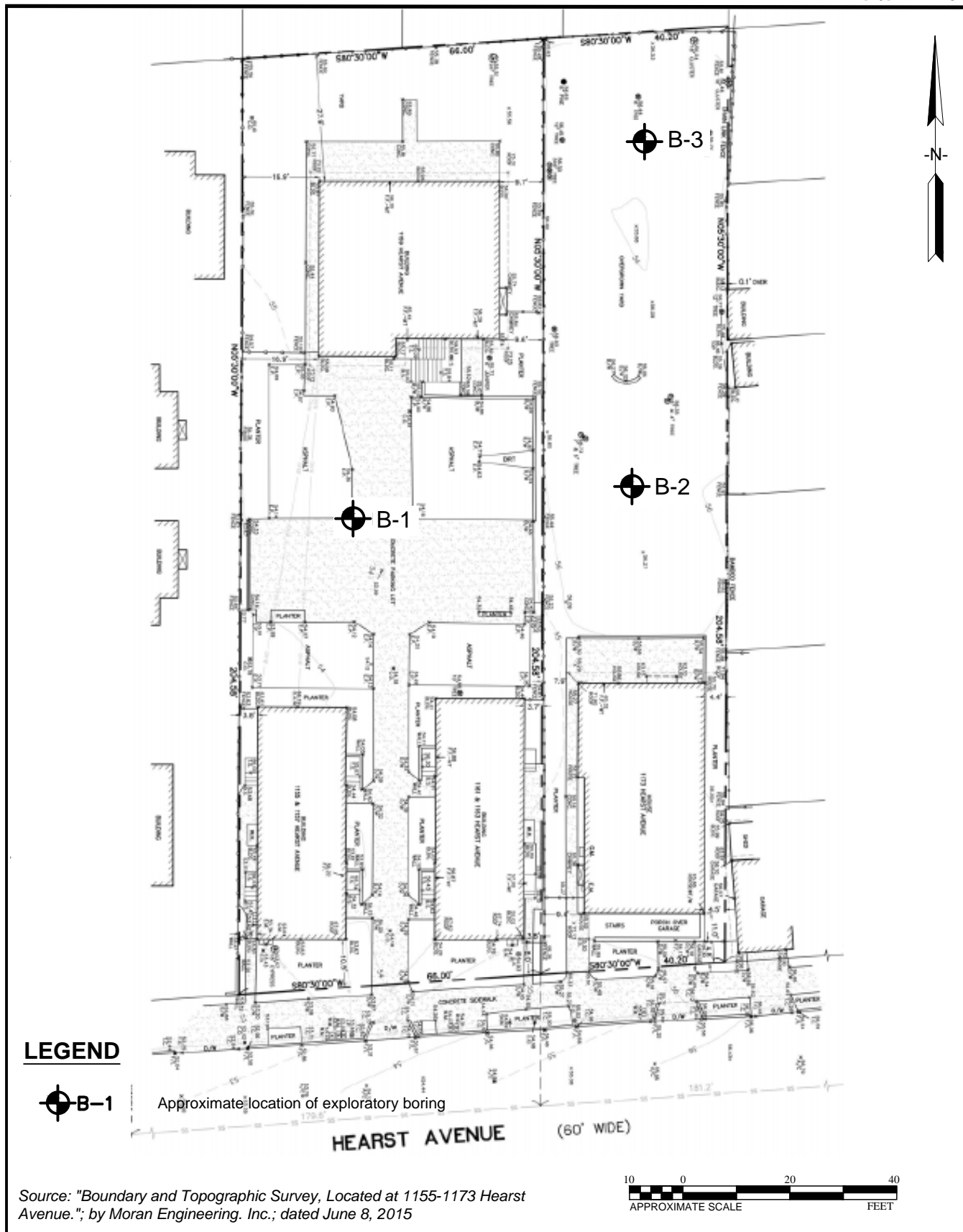
PROJECT NO.

DATE

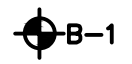
2744-2

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FIGURE **3**




LEGEND

 B-1 Approximate location of exploratory boring

Source: "Boundary and Topographic Survey, Located at 1155-1173 Hearst Avenue."; by Moran Engineering, Inc.; dated June 8, 2015



 <p>ALAN KROPP & ASSOCIATES <i>Geotechnical Consultants</i></p>	<p>SITE PLAN HEARST GARDENS Berkeley, California</p>	
	PROJECT NO. 2744-2	DATE March 2019
	FIGURE 4	

APPENDIX A
LOG OF BORINGS








SOIL CLASSIFICATION CHART					
PRIMARY DIVISIONS			SECONDARY DIVISIONS		
			CRITERIA *	GROUP SYMBOL	GROUP NAME
COARSE-GRAINED SOILS MORE THAN 50% RETAINED ON NO.200 SIEVE	GRAVELS MORE THAN 50% OF COARSE FRACTION RETAINED ON NO.4 SIEVE	CLEAN GRAVELS LESS THAN 5% FINES	$C_u \geq 4$ AND $1 \leq C_c \leq 3^A$	GW	Well-graded gravel
			$C_u < 4$ AND/OR $1 > C_c > 3$	GP	Poorly-graded gravel
		GRAVELS WITH FINES - MORE THAN 12% FINES	FINES CLASSIFY AS ML OR MH	GM	Silty gravel
			FINES CLASSIFY AS CL OR CH	GC	Clayey gravel
	SANDS 50% OR MORE OF COARSE FRACTION PASSES NO. 4 SIEVE	CLEAN SANDS LESS THAN 5% FINES	$C_u \geq 6$ AND $1 \leq C_c \leq 3$	SW	Well-graded sand
			$C_u < 6$ AND/OR $1 > C_c > 3$	SP	Poorly-graded sand
		SANDS WITH FINES - MORE THAN 12% FINES	FINES CLASSIFY AS ML OR MH	SM	Silty sand
			FINES CLASSIFY AS CL OR CH	SC	Clayey sand
FINE-GRAINED SOILS 50% OR MORE PASSES THE NO.200 SIEVE	SILTS AND CLAYS LIQUID LIMIT LESS THAN 50%	INORGANIC	PI > 7 AND PLOTS ON OR ABOVE "A" LINE	CL	Lean clay
			PI < 4 OR PLOTS BELOW "A" LINE	ML	Silt
		ORGANIC	$\frac{\text{LIQUID LIMIT - OVEN DRIED}}{\text{LIQUID LIMIT - NOT DRIED}} < 0.75$	OL	Organic Clay & Organic Silt
			PI PLOTS ON OR ABOVE "A" LINE	CH	Fat clay
	SILTS AND CLAYS LIQUID LIMIT 50% OR MORE	INORGANIC	PI PLOTS BELOW "A" LINE	MH	Elastic silt
			$\frac{\text{LIQUID LIMIT - OVEN DRIED}}{\text{LIQUID LIMIT - NOT DRIED}} < 0.75$	OH	Organic Clay & Organic Silt
		ORGANIC	PI PLOTS ON OR ABOVE "A" LINE	PT	Peat
			PI PLOTS BELOW "A" LINE		
HIGHLY ORGANIC SOILS					

REFERENCE: Unified Soil Classification System (ASTM D2487-11)

* Criteria may be done on visual basis, not necessarily based on lab testing

$$A - C_u = D_{60}/D_{100} \quad \& \quad C_c = (D_{30})^2 / (D_{10} \times D_{60})$$

GRAIN SIZES													
U. S. STANDARD SERIES SIEVE				CLEAR SQUARE SIEVE OPENINGS									
200		40		10		4		3/4"		3"		12"	
SILTS AND CLAYS		SAND				GRAVEL				COBBLES		BOULDERS	
		FINE		MEDIUM		COARSE		FINE						COARSE

ABBREVIATIONS	SYMBOLS
<p>INDEX TESTS</p> <p>LL - Liquid Limit (%) (ASTM D4318-17)</p> <p>PI - Plasticity Index (%) (ASTM D4318-17)</p> <p>-200 - Passing No. 200 Sieve (%) (ASTM D1140-17)</p> <p>STRENGTH TESTS</p> <p>PP - Field Pocket Penetrometer test of unconfined compressive strength (tsf)</p> <p>TV - Field Torvane test of shear strength (psf)</p> <p>UC - Laboratory unconfined compressive strength (psf) (ASTM D2166/2166M-16)</p> <p>TXUU - Laboratory unconsolidated, undrained triaxial test of undrained shear strength (psf) (ASTM D2850-15)</p> <p>MISCELLANEOUS</p> <p>ATOD - At time of drilling</p> <p>psf/tsf - pounds per square foot / tons per square foot</p> <p>psi - pounds per square inch (indicates relative force required to advance Shelby tube sampler)</p>	 Standard Penetration Test Split Spoon (2-inch O.D.)  Modified California Sampler (3-inch O.D.)  Thin-walled Sampler Tube (either Pitcher or Shelby) (3-inch O.D.)  Rock Core  Bag Sample  Groundwater Level during drilling  Groundwater Level after drilling



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KEY TO EXPLORATORY BORING LOGS

HEARST GARDENS
Berkeley, California

PROJECT NO.
2744-2

DATE
March 2019

FIGURE **A-1**

DRILL RIG: Hydraulic Portable	SURFACE ELEVATION: 54' +/- MSL	LOGGED BY: MJV
DEPTH TO GROUNDWATER: 10.0 feet (see notes)	BORING DIAMETER: 3.5 inches	DATE DRILLED: 8/4/18

DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (ft)	SAMPLER TYPE	SAMPLER BLOW COUNTS	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
3" AC / 6" AB - clayey			AC/AB						
SAND, Silty - with gravel, damp	Medium Brown	Medium Dense	SC	1 2 3 4					
[Fill]									
CLAY, Lean - with sand and gravel, moist to wet	Dark Brown	Soft	CL	5 6 7 8 9	X	[4]	23	99	-200 = 60.9 LL = 26 PI = 10
GRAVEL, Silty - moist	Brown	Medium Dense	GM	10 11	X				▼
SAND, Silty - moist	Gray Mottled with Orange	Medium Dense	SM	12 13		[27]			
GRAVEL, Silty - with sand, moist to wet	Gray	Medium Dense	GM	14 15 16 17 18 19	X	[41]			▼

(Continued on Next Page)

AKA BORING LOG 2744-2 HEARST GARDENS BORING LOGS.GPJ AKA_TEMPLATE.GDT 2/28/19



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EXPLORATORY BORING LOG
HEARST GARDENS
Berkeley, California

PROJECT NO.	DATE	SHEET	BORING NO.
2744-2	March 2019	1 of 2	1


DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (ft)	SAMPLER TYPE	SAMPLER BLOW COUNTS	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
<i>(Continued from Previous Page)</i>									
GRAVEL, Silty - with sand, moist to wet	Gray	Medium Dense	GM	21	X	[32]			LL = 37 PI = 21 -200 = 73.1
CLAY, Lean - with gravel, moist	Brown	Very Stiff	CL	22					
				23					
				24					
				25					
GRAVEL, Clayey - wet	Brown	Medium Dense	GC	25		20			
SAND, Clayey - wet	Brown	Medium Dense	SM	26		17			

Bottom of boring at 26.5 feet.

NOTES:

1. Groundwater was encountered at approximately 15.5 feet at the time of drilling and the boring was backfilled immediately after drilling. (See report for discussion.)
2. Stratification lines represent the approximate boundaries between material types and the transitions may be gradual.
3. Penetration resistance values (blow counts) marked with an asterisk (*) are not standard penetration resistance values.
4. Elevations were estimated from plans drawn by Moran Engineering Inc. dated June 2015.

AKA BORING LOG 2744-2 HEARST GARDENS BORING LOGS.GPJ AKA_TEMPLATE.GDT 2/28/19

 <p>ALAN KROPP & ASSOCIATES <i>Geotechnical Consultants</i></p>	EXPLORATORY BORING LOG			
	HEARST GARDENS Berkeley, California			
	PROJECT NO. 2744-2	DATE March 2019	SHEET 2 of 2	BORING NO. 1

DRILL RIG: Hydraulic Portable	SURFACE ELEVATION: 56' +/- MSL	LOGGED BY: MJV
DEPTH TO GROUNDWATER: (see notes)	BORING DIAMETER: 3.5 inches	DATE DRILLED: 8/4/18


DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (ft)	SAMPLER TYPE	SAMPLER BLOW COUNTS	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
SAND, Clayey - damp [Topsoil]	Medium Brown	Medium Dense	SC	1					
CLAY, Lean - with sand and gravel, moist	Dark Brown	Stiff	CL	2					
				3					
				4					
				5					
				6		[23]	13	87	LL = 34 PI = 18 -200 = 70
				7					
SAND, Clayey, Lean - moist	Light Brown	Medium Dense	SC	8					
				9					
GRAVEL, Clayey, Lean - with some sand, moist to wet	Medium Brown	Medium Dense	GC	10					
				11		[37]			

Bottom of boring at 11.5 feet.

NOTES:

1. No groundwater was encountered at the time of drilling and the boring was backfilled immediately after drilling. (See report for discussion.)
2. Stratification lines represent the approximate boundaries between material types and the transitions may be gradual.
3. Penetration resistance values (blow counts) marked with an asterisk (*) are not standard penetration resistance values.
4. Elevations were estimated from plans drawn by Moran Engineering Inc. dated June 2015.

AKA BORING LOG 2744-2 HEARST GARDENS BORING LOGS.GPJ AKA_TEMPLATE.GDT 2/28/19

 <p>ALAN KROPP & ASSOCIATES <i>Geotechnical Consultants</i></p>	EXPLORATORY BORING LOG			
	HEARST GARDENS Berkeley, California			
	PROJECT NO. 2744-2	DATE March 2019	SHEET 1 of 1	BORING NO. 2

DRILL RIG: Hydraulic Portable	SURFACE ELEVATION: 56' +/- MSL	LOGGED BY: MJV
DEPTH TO GROUNDWATER: (see notes)	BORING DIAMETER: 3.5 inches	DATE DRILLED: 8/4/18


DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (ft)	SAMPLER TYPE	SAMPLER BLOW COUNTS	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
SAND, Silty, Clayey - with some gravel, moist	Brown	Medium Dense	SC	1					
[Topsoil]				2					
CLAY, Lean, Sandy - moist	Black	Firm	CL	3					
				4					
				5					
				6		[11]	22	95	LL = 34 Pl = 19 -200 = 68.5
				7					
				8					
GRAVEL, Clayey, Lean - angular, moist	Medium to Dark Brown	Medium Dense	GC	9					
				10					
				11					

Bottom of boring at 11.5 feet.

NOTES:

1. No groundwater was encountered at the time of drilling and the boring was backfilled immediately after drilling. (See report for discussion.)
2. Stratification lines represent the approximate boundaries between material types and the transitions may be gradual.
3. Penetration resistance values (blow counts) marked with an asterisk (*) are not standard penetration resistance values.
4. Elevations were estimated from plans drawn by Moran Engineering Inc. dated June 2015.

AKA BORING LOG 2744-2 HEARST GARDENS BORING LOGS.GPJ AKA_TEMPLATE.GDT 2/28/19

 ALAN KROPP & ASSOCIATES Geotechnical Consultants	EXPLORATORY BORING LOG		
	HEARST GARDENS Berkeley, California		
	PROJECT NO. 2744-2	DATE March 2019	SHEET 1 of 1	BORING NO. 3

Memorandum

To: Leslie Mendez, City of Berkeley Planning & Development Department
From: Mark Rhoades, Rhoades Planning Group
Date: March 13, 2019
Re: 1155-1173 Hearst Avenue/ZP2016-0028

Dear Ms. Mendez,

This memo amends the June 20, 2018 Applicant Statement and serves to memorialize the owners' commitment to preserve the six existing rent controlled units in the project in perpetuity. The owners are prepared to have staff recommend this as a Condition of Approval when the project goes before the Zoning Adjustments Board. This commitment was also discussed at the meeting that was held on February 26, 2019 at the Berkeley Rent Board offices with Rent Board staff, Rhoades Planning Group, and the existing residents of 1155-1173 Hearst Avenue. The meeting was noticed by Rent Board staff well in advance of the meeting date, both by USPS and email. One resident attended the meeting and had the opportunity to have her questions answered by Rent Board staff, including a staff attorney.

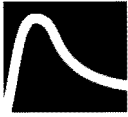
Rhoades Planning Group also submitted a geotechnical report to you on February 28, 2019, along with a letter from Clearwater Hydrology that stated that their conclusions and recommendations remain unchanged after their review of the geotechnical report. We understand that the City is currently conducting a peer review of the geotechnical analysis.

We look forward to moving this project forward at the Zoning Adjustments Board.

Sincerely,



Mark Rhoades, AICP
510-545-4341



COTTON, SHIRES AND ASSOCIATES, INC.
CONSULTING ENGINEERS AND GEOLOGISTS

March 14, 2019
Z5059

TO: Leslie Mendez
Senior Planner
CITY OF BERKELEY
1947 Center Street, 2nd Floor
Berkeley, California 94704

SUBJECT: **Geotechnical Peer Review**
RE: Rhoades Planning Group, Six Home Development, Renovations,
Remodels and Additions on Two Lots
ZP2016-0028; APN 57-2086-14 and 57-2086-13
1155, 1157, 1159, 1161, 1163 and 1173 Hearst Avenue

At your request, we have completed a geotechnical peer review of the proposed land use permit application at the subject property using:

- Geotechnical Investigation (report), prepared by Alan Kropp & Associates, Inc., dated March 1, 2019;
- Topographic Survey (1 sheet), prepared by Moran Engineering, Inc., dated June 8, 2015; and
- Architectural Plans (43 sheets), prepared by Devi Dutta Architecture, Inc., dated June 8, 2018.

In addition, we have reviewed pertinent technical maps and reports from our office files, and have reviewed documents compiled on the project website.

DISCUSSION

The applicant proposes to construct three additional duplex buildings resulting in a total of six new dwelling units on the two subject parcels (APN -14 and -13). The project will also consist of renovations and remodeling of four existing buildings (consisting of seven existing dwelling units) located on the subject parcels. Remodeling will consist of second story additions within the existing footprint of two one-story buildings and a two-story addition increasing the footprint of one existing building. New site flatwork, paving, and drainage improvements associated with the proposed site construction are also anticipated.

EVALUATIONS BY THE PROJECT GEOTECHNICAL CONSULTANT

The Project Geotechnical Consultant has advanced three site exploratory borings to depths of 10 to 25 feet. Groundwater was encountered at a depth of 10 feet below the ground surface during site exploration. The California Geological Survey has mapped the historic high groundwater at approximately 5 feet below the ground surface, and groundwater may be locally perched and variable as noted by the Project Geotechnical Consultant. Earth materials encountered in site borings include undocumented sandy fill, as well as shallow soft native clays, and alluvial deposits reported to be consistent with the Temescal Formation. The soft clay (CL, blow count of [4]) encountered in Boring B-1 is reported to underly approximately 5 feet of site undocumented fill and is approximately 4 feet thick. Undocumented fill is described as medium dense sand (SC) in provided boring logs but no standard penetration test (SPT) values are provided for our review. Regional geologic mapping (CGS - SHZR081) indicates that the project site is located on Pleistocene-aged alluvial fan deposits (Qpf). The proposed project is not located within a liquefaction hazard zone as mapped by the California Geological Survey. The Consultant concludes that liquefaction of site earth materials during a probable earthquake is low.

CONCLUSIONS AND RECOMMENDED ACTION

The subject property is potentially constrained by shallow groundwater, soft surficial earth materials prone to settlement and consolidation, and strong seismic ground shaking. The Project Geotechnical Consultant recommends a mat-slab foundation style designed to span 10 feet laterally, intended to mitigate the potential for differential settlement of surficial soft clay earth materials and potentially fill. The anticipated magnitude of potential differential settlement remains unclear, and the geotechnical engineering properties of site undocumented fill has not been provided. It appears that the Consultant recommends surficial subgrade preparation for new site foundations that would remove and replace the upper 18 inches of encountered site earth materials. We recommend that the Project Geotechnical Consultant address the following prior to approval of land use permit applications:

1. **Geotechnical Clarifications** - The applicant's geotechnical consultant should discuss the potential for consolidation and settlement compression of the soft clay layer encountered in Boring 1. We recommend the Project Geotechnical Consultant provide anticipated values of total and differential settlement for new structures. The Consultant should also provide blow counts for encountered undocumented fill and/or topsoil, if applicable. If SPT, or similar, were not performed on surficial earth materials, the Consultant should consider the undocumented fill as loose and provide recommendations to mitigate this material, as necessary. We recommend the applicant's consultant perform

consolidation testing of the encountered soft clays to better characterize the potential for future differential settlement.

We also recommend that the Consultant discuss whether and how the proposed mat-slab style foundations may behave differently than existing structure foundations during seismic shaking. The applicant's geotechnical consultant should also evaluate the condition of the existing one-story structures and provide supplemental geotechnical recommendations, as necessary, to support the proposed second story additions.


The results of the geotechnical clarifications and supplemental geotechnical recommendations or evaluations should be organized in a letter-report by the geotechnical consultant and submitted to the City for review by the City Geotechnical Consultant.

LIMITATIONS

This geotechnical peer review has been performed to provide technical advice to assist the City with its discretionary permit decisions. Our services have been limited to review of the documents previously identified. Our opinions and conclusions are made in accordance with generally accepted principles and practices of the geotechnical profession. This warranty is in lieu of all other warranties, either expressed or implied.

Respectfully submitted,

COTTON, SHIRES AND ASSOCIATES, INC.
CITY GEOTECHNICAL CONSULTANT



Ted Sayre
Engineering Geologist
CEG 1795



David T. Schrier
Principal Geotechnical Engineer
GE 2334

DTS:CS:TS

Memorandum

To: Leslie Mendez, City of Berkeley Planning & Development Department
From: Mark Rhoades, Rhoades Planning Group
Date: April 3, 2019
Re: 1155-1173 Hearst Avenue/ZP2016-0028

Dear Ms. Mendez,

This memo amends the June 20, 2018 Applicant Statement and serves to memorialize the owners' commitment to preserve the six existing rent controlled units in the project in perpetuity. In addition, the six existing rent controlled units will not be converted to condominiums, and no work proposed in this Use Permit, other than routine maintenance, will be performed on any building that is occupied by a resident. The owners are prepared to have staff recommend the above commitments as Conditions of Approval when the project goes before the Zoning Adjustments Board. These commitments were also discussed at the meeting that was held on February 26, 2019 at the Berkeley Rent Board offices with Rent Board staff, Rhoades Planning Group, and the existing residents of 1155-1173 Hearst Avenue. The meeting was noticed by Rent Board staff well in advance of the meeting date, both by USPS and email. One resident attended the meeting and had the opportunity to have her questions answered by Rent Board staff, including a staff attorney.

Rhoades Planning Group also submitted a geotechnical report to you on February 28, 2019, along with a letter from Clearwater Hydrology that stated that their conclusions and recommendations remain unchanged after their review of the geotechnical report. We understand that the City is currently conducting a peer review of the geotechnical analysis.

We look forward to moving this project forward at the Zoning Adjustments Board.

Sincerely,

Mark Rhoades, AICP
510-545-4341



ALAN KROPP
& ASSOCIATES, INC.

GEOTECHNICAL
CONSULTANTS



ALAN KROPP, CE, GE
JAMES R. LOTT, CE, GE
JERDEN VAN DEN BERG, CE
THOMAS M. BRENCIC, CE

April 17, 2019
2744-2A, L-31716

Mr. Nathan George
NDG Real Estate
c/o Hearst Avenue Cottages LLC
46 Shattuck Square, Suite 11
Berkeley, CA 94704

RE: Response to Geotechnical Peer Review Comments
Hearst Gardens
1155-1173 Hearst Avenue
Berkeley, California

Dear Mr. George:

In response to the peer review comments provided by Cotton, Shires and Associates, Inc. (CSA) in their letter dated March 14, 2019, we have prepared the following replies (CSA comments in italics):

“The applicant's geotechnical consultant should discuss the potential for consolidation and settlement compression of the soft clay layer encountered in Boring 1. We recommend the Project Geotechnical Consultant provide anticipated values of total and differential settlement for new structures.”

Based on settlement calculations using the Boring 1 profile, typical structural loads (estimated 0.3 kips/square foot) for wood-framed residential buildings, and using relatively conservative consolidation parameters estimated from our laboratory index testing, we estimate a total consolidation settlement value of 2 inches with 1 inch of differential settlement over the length of the building (approximately 50 feet). This settlement amount will likely take place over a period of 30 years or more. Settlement calculations were performed using Rocscience™ Settle3D and are included in Appendix A (attached).

“The Consultant should also provide blow counts for encountered undocumented fill and/or topsoil, if applicable. If SPT, or similar, were not performed on surficial earth materials, the Consultant should consider the undocumented fill as loose and provide recommendations to mitigate this material, as necessary.”

The report recommends typical removal and replacement of the top 30 inches of soft and/or loose material beneath new building foundations. The 30-inch replacement should be comprised of 18 inches (minimum) of compacted, non-expansive fill and an 18-inch thick structural mat slab embedded 12 inches below grade. The over-excavated subgrade (below the 30 inches) should be scarified by 6 inches and re-compacted per the recommendations contained in the report. The over-excavation and replacement should extend at least 3 feet laterally from the edge of the proposed mat slab in all directions. In addition, as is typical in circumstances such as this, we recommend that all fill encountered during grading for the foundations be removed and replaced with non-expansive fill. We believe that this method addresses undocumented fill and topsoil beneath the proposed building foundations.

Page 2
2744-2A

“We recommend the applicant's consultant perform consolidation testing of the encountered soft clays to better characterize the potential for future differential settlement.”

Our settlement calculations were based on conservative correlations of soil index properties.

“We also recommend that the Consultant discuss whether and how the proposed mat-slab style foundations may behave differently than existing structure foundations during seismic shaking. The applicant's geotechnical consultant should also evaluate the condition of the existing one-story structures and provide supplemental geotechnical recommendations, as necessary, to support the proposed second story additions.”

Regarding the two-story addition to the 1159 Hearst building, we do not recommend installing a foundation system that differs from the existing building. Based on information provided by the property manager and by the client, the 1159 Hearst building has not exhibited any signs of differential settlement (stucco or drywall cracking, sticking of doors or windows, or foundation element cracking) over the past several years. This indicates that the building and its foundation system have performed well, especially over the 40-plus year lifespan of the building. We recommend that the foundation system for the proposed two-story addition to the 1159 Hearst building generally match the existing foundations as the building loads in the addition appear to be similar to the loads in the existing building. This recommendation applies within the limits of the current state and local building codes.

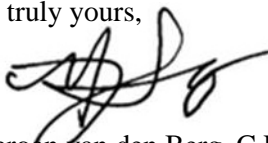
Evaluation of foundation elements for the existing one-story buildings was outside of our scope of services.

This letter has been prepared for the exclusive use of you and your consultants for specific application to the proposed project in accordance with generally accepted geotechnical engineering practices. No other warranty, either expressed or implied, is made. In the event the nature, design, or location of the proposed project differs significantly from what has been noted above, the conclusions and recommendations contained in this letter should not be considered valid unless the changes are reviewed and the conclusions of this report modified or verified in writing.

We are pleased to have been of service to you on this project and look forward to working with you during any supplemental investigation, plan review, and construction phases of the work.

If you have any questions concerning this letter, please call us.

Very truly yours,



M. Jeroen van den Berg, C.E.
Senior Engineer



MJV/jc

Copies: Addressee (PDF) – Nathan George - nathan@ndgre.com
Mark Rhoades - mark@rhoadesplanninggroup.com
Mia Perkins - mia@rhoadesplanninggroup.com

APPENDIX A
B-1 SETTLEMENT CALCULATION

Settle3D Analysis Information

Hearst Gardens

Project Settings

Document Name: Project 2
 Project Title: Hearst Gardens
 Analysis: B-1, Settlement of Soft Clay Layer
 Author: MJV
 Company: Alan Kropp and Associates
 Date Created: 4/9/2019, 3:16:24 PM
 Stress Computation Method: Boussinesq
 Use average properties to calculate layered stresses
 Groundwater method: Water Table
 Water Unit Weight: 0.0624 kips/ft³
 Depth to water table: 5 [ft]

Stage Settings

Stage #	Name
1	Stage 1

Results

Time taken to compute: 0.268051 seconds

Stage: Stage 1

Data Type	Minimum	Maximum
Total Settlement [in]	0	2.03157
Consolidation Settlement [in]	0	2.03157
Immediate Settlement [in]	0	0
Loading Stress [ksf]	0	0.219594
Effective Stress [ksf]	-0	1.05237
Total Stress [ksf]	0	1.30197
Total Strain	-0	0.0433859
Pore Water Pressure [ksf]	0	0.2496
Degree of Consolidation [%]	0	100
Pre-consolidation Stress [ksf]	0.00375	1.87163
Over-consolidation Ratio	1	3
Void Ratio	1.00889	1.1
Hydroconsolidation Settlement [in]	0	0

Loads

1. Rectangular Load

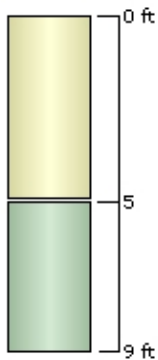
Length: 55 ft
 Width: 25 ft
 Rotation angle: 0 degrees
 Load Type: Rigid
 Area of Load: 1375 ft²
 Load: 0.3 ksf
 Depth: 1 ft
 Installation Stage: Stage 1

Coordinates



X [ft]	Y [ft]
-17.627	0.749
37.373	0.749
37.373	25.749
-17.627	25.749

Soil Layers

Layer #	Type	Thickness [ft]	Depth [ft]
1	Lean Clay (non-expansive fill)	5	0
2	Lean Clay (soft, alluvium)	4	5



Soil Properties

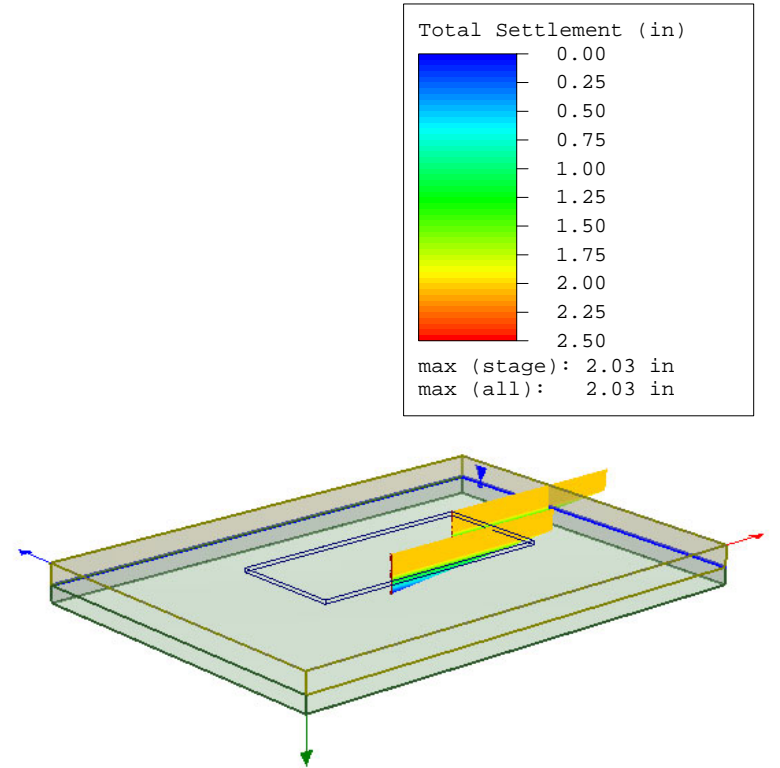
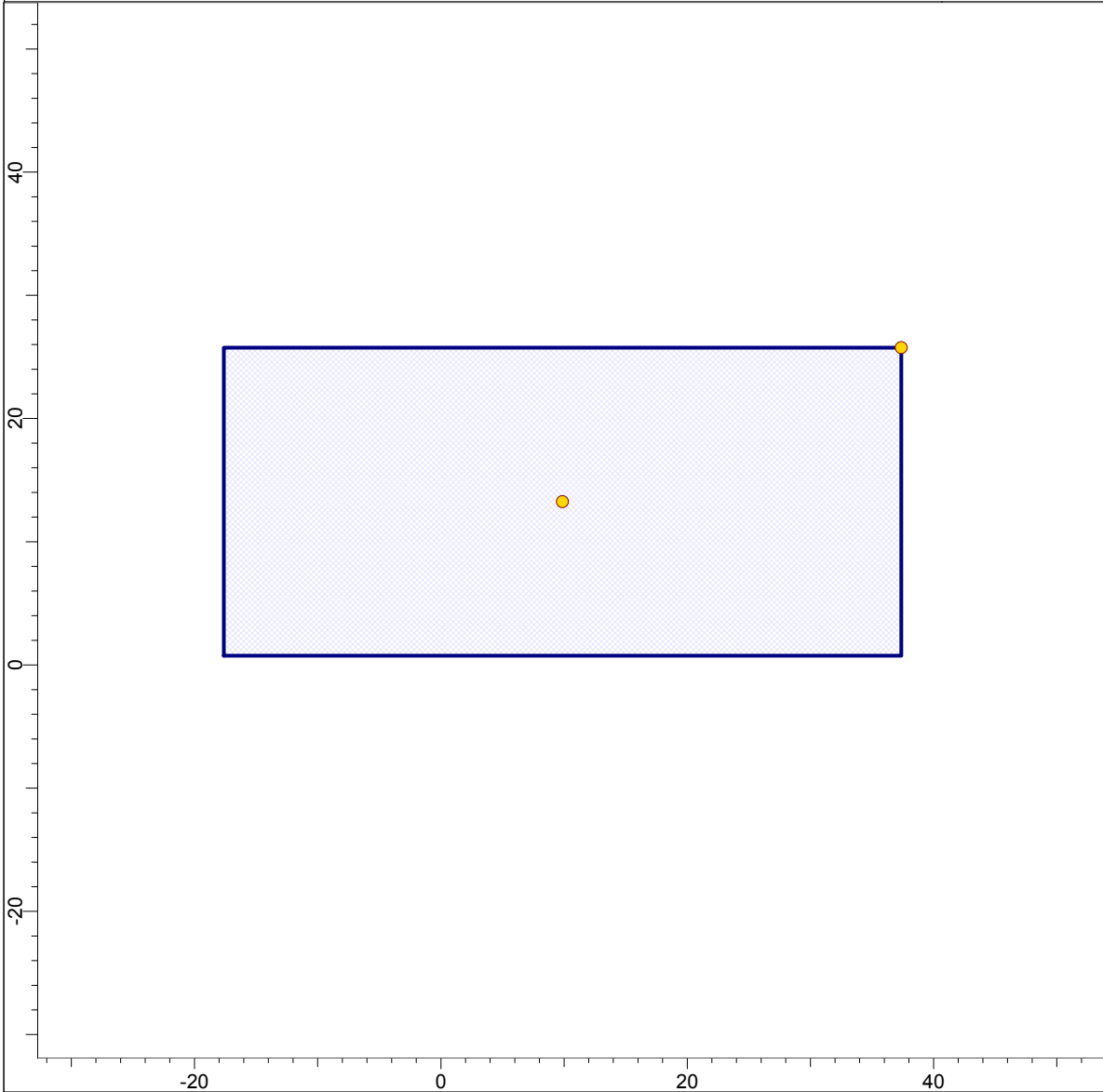
Property	Lean Clay (non-expansive fill)	Lean Clay (soft, alluvium)
Color		
Unit Weight [kips/ft ³]	0.125	0.115
Saturated Unit Weight [kips/ft ³]	0.115	0.115
Primary Consolidation	Enabled	Enabled
Material Type	Non-Linear	Non-Linear
Cc	0.03	0.7
Cr	0.003	0.07
e0	1.1	1.1
OCR	3	1


Query Points

Point #	(X,Y) Location	Number of Divisions
1	9.873, 13.249	Auto: 47
2	37.373, 25.749	Auto: 47

Stage 1

Data Type: Total Settlement



	Project		Hearst Gardens	
	Analysis Description		B-1, Settlement of Soft Clay Layer	
	Drawn By	MJV	Company	Alan Kropp and Associates
	Date	4/9/2019, 3:16:24 PM	File Name	2744-2A Hearst Settlement Estimate.s3z



1155-1173 Hearst Avenue Project

Categorical Exemption Report

prepared by

City of Berkeley

Planning and Development, Land Use Planning Division
1947 Center Street, 2nd Floor
Berkeley, California 94704
Contact: Leslie Mendez, Senior Planner, (510) 981-7426

prepared with the assistance of

Rincon Consultants, Inc.
449 15th Street, Suite 303
Oakland, California 94612

April 2019



RINCON CONSULTANTS, INC.

Environmental Scientists | Planners | Engineers

rinconconsultants.com

1155-1173 Hearst Avenue Project

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City of Berkeley
1155-1173 Hearst Avenue Project

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Appendices

Appendix A	Stormwater and Flooding Assessment and Mitigation Design for the Hearst Avenue Project, 1161-1173 Hearst Ave., Berkeley, CA
Appendix B	Trip Generation and Parking Analysis for the Proposed Residential Project at 1153 and 1173 Hearst Avenue

Categorical Exemption Report

This report serves as the technical documentation of an environmental analysis performed by Rincon Consultants, Inc. for the 1155-1173 Hearst Avenue Project in the City of Berkeley. The intent of the analysis is to document the project's eligibility for a Class 32 Categorical Exemption (CE). The report provides an introduction, project description, and evaluation of the project's consistency with the requirements for a Class 32 exemption. This includes an analysis of the project's potential impacts in the areas of traffic, noise, air quality and greenhouse gas, water quality, and historic resources; as well as an analysis of exception criteria to the exemption. The report concludes that the project is eligible for a Class 32 CE.

1. Introduction

The City of Berkeley proposes to adopt a Class 32 CE for a proposed project at 1155-1173 Hearst Avenue (Project). The State CEQA Guidelines Section 15332 states that a CE is allowed when:

- a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- c. The project site has no value as habitat for endangered, rare, or threatened species.
- d. Approval of the project would not result in any significant effects relating to traffic¹, noise, air quality, or water quality.
- e. The site can be adequately served by all required utilities and public services.

Additionally, State CEQA Guidelines Section 15300.2 provides exceptions to a categorical exemption as follows:

- a. Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.
- b. Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.
- c. Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.
- d. Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock

¹ Impacts related to parking are not discussed in this report, as such impacts are generally not considered as physical effect on the environment under CEQA.

outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

- e. Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.
- f. Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

Rincon Consultants, Inc. evaluated the project's consistency with the above requirements, including its potential impacts in the areas of biological resources, traffic, noise, air quality and greenhouse gas, water quality, and exceptions to the exemption to confirm the project's eligibility for the Class 32 exemption.

2. Project Location and Description

The project site is located in West Berkeley; University Avenue is located one block to the south and San Pablo Avenue (State Highway 123) is located one block to the west. Figure 1 shows the regional location of the project site. The neighborhood mainly consists of one- to two-story single- and multi-family dwellings, with a few three- and four-story structures located towards San Pablo Avenue. This West Berkeley neighborhood is proximal to several bus transit lines, commercial businesses, and the West Berkeley library. The project site consists of two separate parcels located on the north side of Hearst Avenue on the block bound by San Pablo Avenue to the west and Curtis Street to the east.

The proposed project is considered an infill project because the site is currently developed with residential uses and surrounded on all sides by residential development. The project would involve rehabilitation and expansion of seven existing dwelling units located at 1155-63 and 1173 Hearst Avenue, and construction of six new condominium dwelling units. All of the units would be arranged around a central paseo on site that would provide access to all of the units and serve as shared open space.

The parcel located at 1155-63 Hearst Avenue contains two single-story duplex buildings which have two residential units each (the Azalea building in the southwest corner of the parcel and the Begonia building in the southeast corner of the parcel, both fronting Hearst Avenue), and one two-story duplex building that contains two residential units (the Freesia building in the northwest portion of the site). The three existing buildings contain a total of six residential units, which would all be rehabilitated as part of the project.

The parcel located at 1173 Hearst Avenue contains one two-story single-family residential building with a two-car tandem garage. This building would also be rehabilitated as part of the project.

The project includes construction of three two-story buildings; the Geranium building would be located on the 1155-63 Hearst Avenue parcel between the Azalea and Freesia buildings, and the Daffodil and Edelweiss buildings would be constructed on the northern portion of the 1173 Hearst Avenue Parcel behind the single-family residential building. The three new buildings would each contain two units, for a total of six new residential units on the project site. The project would include approximately 4,911 square feet of open space located in the center of site that would contain landscaping with low-water, low-maintenance plants on all sides of the buildings and

throughout the project site. **Error! Reference source not found.** provides a summary of project characteristics.

Figure 2 and Figure 3 show the existing and proposed building footprints. Figure 4 shows the proposed project’s site plan.

Table 1 Project Characteristics

Assessor’s Parcel Numbers	047 208601400, 057 208601300			
Lot Area	21,673 SF (0.5 acre)			
	Existing		Proposed	
Address	1155-63 Hearst	1173 Hearst	1155-63 Hearst	1173 Hearst
Gross Floor Area (SF)	Azalea: 992 SF Begonia: 1,018 SF Freesia: 2,830 SF	Camelia: 2,348 SF	Azalea: 2,031 SF Begonia: 1,879 SF Freesia: 3,724 SF Geranium: 2,330 SF	Camelia: 2,404 SF Daffodil: 1,819 SF Edelweiss: 1,819 SF
		Total: 7,188 SF		Total: 16,006 SF
Dwelling Units	6 units	1 unit	6 rehab units 2 new units	1 rehab unit 4 new units
		Total: 7 units		Total: 13 units
Automobile Parking	6 surface spaces	1 covered space	12 spaces	1 covered space (plus 1 tandem space)
		Total: 7 spaces		Total: 13 spaces
Maximum Building Height	2 stories 23 feet		2 stories 28 feet	
Source: Devi Dutta Architecture, Inc. 2018				
SF = square feet				

City of Berkeley
1155-1173 Hearst Avenue Project

Figure 1 Project Location

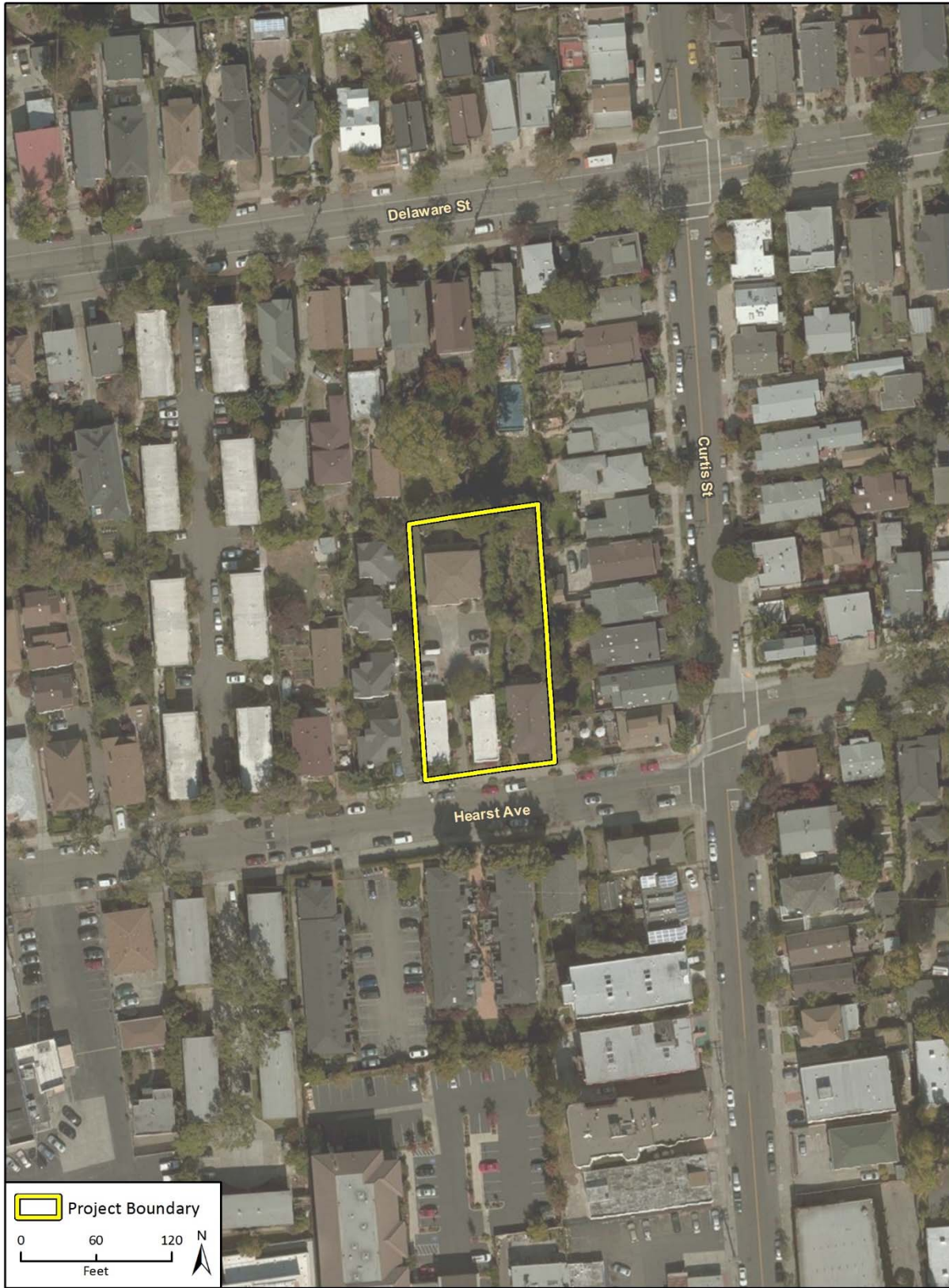


Figure 2 Existing Building Footprint



Source: Devi Dutta Architecture, Inc. 2018

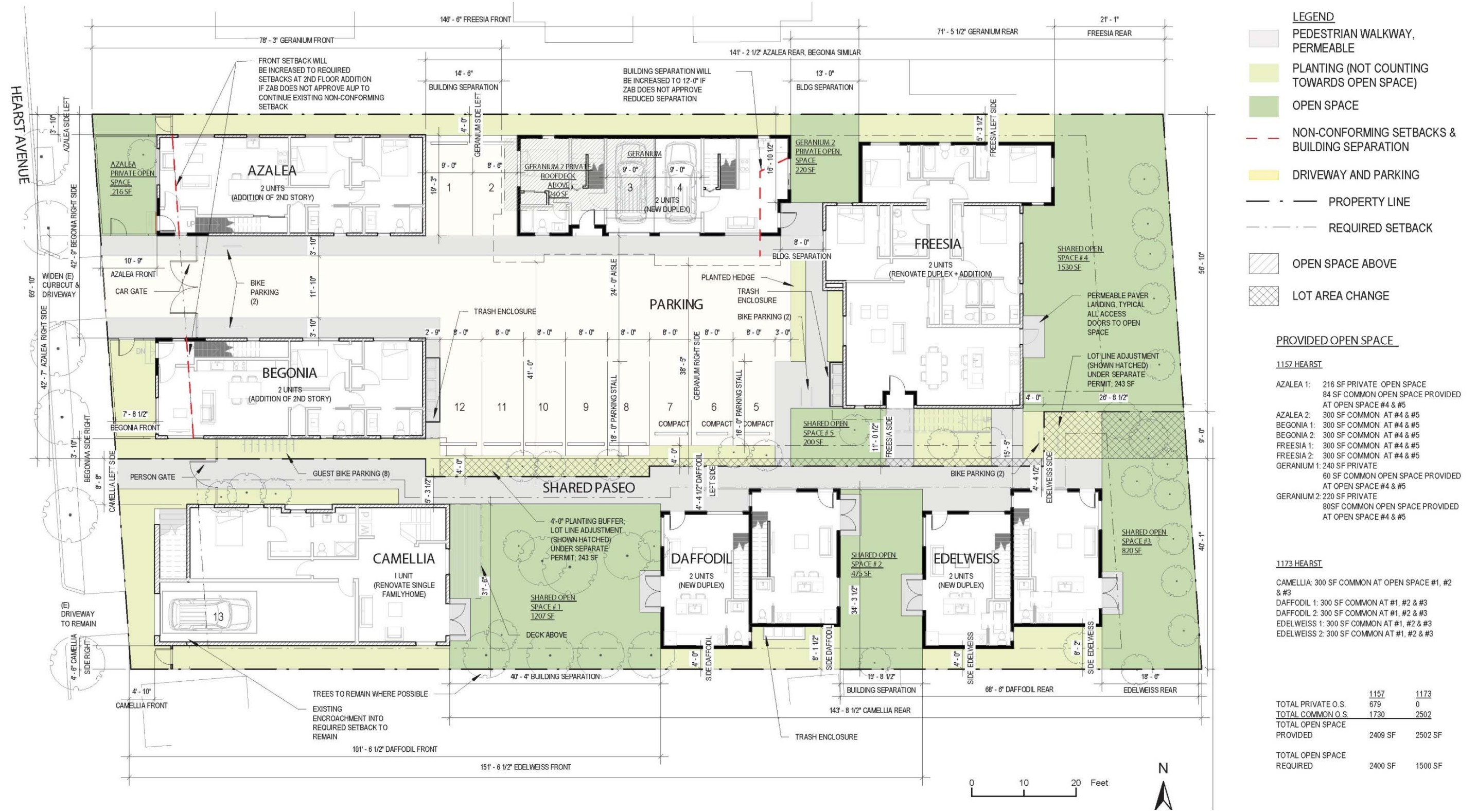
City of Berkeley
1155-1173 Hearst Avenue Project

Figure 3 Proposed Building Footprint



Source: Devi Dutta Architecture 2018

Figure 4 Proposed Site Plan



Source: Devi Dutta Architecture, Inc. 2018

3. Existing Site Conditions

The project site is comprised of two parcels. The parcel to the west (1155-63 Hearst Avenue, APN 047 208601400) is a rectangular lot with one two-story duplex toward the rear of the lot and two single-story duplexes situated toward the front of the lot (fronting Hearst Avenue) with a paved parking area between the two-story duplex and two single-story duplexes. The parcel to the east (1173 Hearst Avenue, APN 057 208601300) is also rectangular, and is developed with a two-story single-family dwelling with an attached tandem car garage. The project site is zoned Restricted Multiple Family Residential (R2-A), which allows one dwelling unit per each 1,650 square feet of lot area and one additional dwelling unit if the remainder lot area is 1,300 square feet or greater. The project site is located in a developed residential neighborhood, surrounded by predominantly one- to two-story single- and multi-family dwellings, with a few three- and four-story structures located toward the west/San Pablo Avenue. Table 2 provides a summary of existing land uses in the immediate vicinity of the project site.

Table 2 Existing Land Use

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Three duplexes, one single-family dwelling	R-2A	High Density Residential
Surrounding Properties	North	Single-family dwellings	R-2	Medium Density Residential
	South	Multi-family dwellings	R-3	High Density Residential
	East	Single-family dwellings	R-2	Medium Density Residential
	West	Multi-family dwellings	R-2A	High Density Residential

Photos of current project site conditions are provided in Figure 5a through Figure 5c.

Vegetation on the project site consists of ornamental shrubs and trees. Ornamental vegetation is clustered around the building perimeters on the 1155-63 Hearst Avenue parcel, and there are shade trees located in the front of the Azalea building (fronting Hearst Avenue) and behind the Begonia building. Shade trees line the perimeter of the backyard located on the 1173 Hearst Avenue parcel behind the Camellia building.

The surrounding neighborhood has generally flat topography. However, the project site is located in a topographic depression roughly bounded to the south by Hearst Avenue, to the north by Delaware Street, to the east by Curtis Avenue, and to the west by a residential driveway that traverses a row of apartment buildings located approximately 100 to 200 feet west of the project site (Clearwater Hydrology 2017). The project site is not located in a flood zone or a liquefaction zone (California Office of Emergency Services 2019; California Department of Conservation 2018). However, recurrent ponding and flooding occurs in the topographic depression during rain events, experienced by the residents located to the east of the project site along Curtis Street.

The project site is located in the Strawberry Creek Watershed and encompasses an underground branch of the historic Strawberry Creek. The Stormwater and Flooding Assessment and Mitigation Design report (Assessment) completed for the project site by Clearwater Hydrology states that the topographic depression in the project site vicinity may be a remnant feature of the former drainage

of the Strawberry Creek channel (Clearwater Hydrology 2017; Appendix A). The historic trace of Strawberry Creek is labeled “Not Protected” according to BMC Section 17.08 “Preservation and Restoration of Natural Watercourses” and as shown on the City’s GIS maps (City of Berkeley 2019a).

Stormwater runoff backs up along Curtis Street, north of the Hearst Avenue intersection, and discharges over residential driveways into a topographic depression west of Curtis Street (Clearwater Hydrology 2017). The depression and uneven topography create ponding of stormwaters up a depth of one foot in the backyards of the properties on the west side of Curtis Street prior to discharging west-southwest through the project site and Hearst Avenue. The Assessment states that minor nuisance ponding of accumulated stormwater occurs in the southwestern corner of the parking lot on the project site before it is discharged through the side yard corridor to the Hearst Avenue gutter located between 1153-1155 Hearst Avenue.

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Figure 5a Photographs of the Project Site



Left to right: View of project site along Hearst Avenue, southwest corner (1155 Hearst Avenue; Azalea building) to southeast (1173 Hearst Avenue; Camellia building)

Figure 5b Photographs of the Project Site



Left to right: View of project site along Hearst Avenue, southeast to southeast corner (1173 Hearst Avenue; Camellia building)



Left to right: Driveway entrance to off-street parking between 1155 Hearst Avenue and 1161 Hearst Avenue (Azalea and Begonia buildings).
View of parking area and 1157 Hearst Avenue (Freesia building)

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Figure 5c Photographs of the Project Site



Left to right: View of parking area and Freesia to east; view of parking area and Azalea to southwest; view of Azalea and Begonia to south; view of parking area and Begonia to southeast

4. Class 32 Exemption Analysis

Criterion (a)

The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

The proposed project would involve rehabilitation of seven existing residential dwelling units and infill development of six new dwelling units. The proposed project is consistent with the City of Berkeley's General Plan designation of High Density Residential (HDR) and applicable policies in the City's General Plan. The project would provide six new residential units located within one quarter mile of the San Pablo/University intersection that is served by existing AC Transit bus lines and would comply with the City's Inclusionary Ordinance by either providing one below market rate unit for a Low Income Household and payment into the Affordable Housing Trust Fund of the remainder 0.2 unit fee, or payment of the in-lieu fee.

The project is also consistent with the Restricted Multiple-Family Residential District (R-2A) zoning designation and regulations. The proposed project is consistent with the general use designation, density, building intensity, and applicable standards specified for the project area in the City's Zoning Ordinance, specifically with the R-2A zoning district.

Consistency with applicable BMC requirements for the R-2A zone is analyzed below and shown in Table 3.

BMC Section 23D.32.070B states that one dwelling unit is allowed for each 1,650 square feet of lot area with one additional dwelling unit permitted if the remainder lot area is no less than 1,300 square feet. Therefore, the 1155-63 Hearst Avenue parcel can accommodate up to eight residential units ($13,469 \text{ SF} / 1,650 \text{ SF} = 8.16$) and the 1173 Hearst Avenue parcel can accommodate up to five residential units ($8,204 \text{ SF} / 1,650 \text{ SF} = 4.97$), resulting in a combined total of 13 residential units.

The proposed project would meet the purposes of the R-2A District as stated in BMC Section 23D.32.020, as it would provide smaller multiple-family garden-type apartment buildings with the maximum feasible amount of usable open space consistent with this type of development. The buildings would be constructed with sufficient separation on the subject lot, and with ample distance from adjacent single-family residences. The project would further the goals of the R-2A District by providing medium density housing development in a transit-oriented location and rehabilitating the units fronting Hearst Avenue.

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Table 3 Consistency with Zoning Ordinance Requirements

R-2A Standard BMC Sections 23D.32.070-080	Permitted/Required	Existing	Proposed
1155-1163 Hearst Avenue (APN 057 208601400)			
Lot Area (SF)	5,000 SF min	13,469 SF	13,469 SF
Gross Floor Area (SF)	–	5,300 SF	9,665 SF
Dwelling Units (DU)	8 DU max	6 DU	8 DU
Lot Coverage (%)	40% max for 2-story main building	32.8%	38.7%
Usable Open Space (SF)	300 SF/DU 2,400 SF min	2,560 SF	2,409 SF
Maximum Building Height	28 feet	23 feet	28 feet
Automobile Parking	8 spaces (1 space/DU)	6 spaces	12 spaces
1173 Hearst Avenue (APN 057 208601300)			
Lot Area (SF)	5,000 SF min	8,204 SF	8,204 SF
Gross Floor Area (SF)	–	3,323 SF	6,042 SF
Dwelling Units (DU)	8 DU max	1 DU	5 DU
Lot Coverage (%)	40% max for 2-story main building	17.5%	39.9%
Usable Open Space (SF)	300 SF/DU 2,400 SF min	5,599 SF	2,502 SF
Maximum Building Height	28 feet	23 feet	28 feet
Automobile Parking	5 spaces (1 space/DU)	1 space	1 space
Setbacks			
Front	15 feet	–	–
Rear	15 feet	15'10"	16'3" minimum
Side	4 feet	3'10" (west), 4'6" (east)	3'10" (west), 4'6" (east)
Street Side	6 feet	4'10" – 10'6"	4'10" – 10'6"

SF = square feet

BMC Section 23D.32.070D lists setback standards for the project site. The project site contains the following existing non-conforming setbacks:

- Front yard setback by the existing Azalea (1155-57 Hearst Avenue) and Begonia (1161-63 Hearst Avenue) buildings
- Side yard setback on the west side of the project site by the existing Azalea building

The rehabilitation and new construction on existing buildings would maintain the non-conforming setbacks pursuant to BMC Section 23C.04.070.B, as noted above in Table 3. All new buildings (Geranium, Daffodil, and Edelweiss) would be constructed to meet setback standards and the remainder of the development standards of the R-2A District for building height, usable open space, lot coverage, and parking.

An Administrative Use Permit (AUP) is requested to allow an extension of the non-conforming front and side yard setbacks per BMC Section 23C.04.070.B, and to reduce the building separation between the Freesia and Geranium buildings (from 8 feet on the first floor and 12 feet on the

second floor, to 6 feet and one inch) per BMC Section 23D.32.070.D.4. The reduction in building separation between the Freesia and Geranium buildings is also conditionally permissible.

Implementation of the project would not require a General Plan land use or zoning designation amendment since the proposed project is consistent with existing land use and zoning designations. Therefore, the project is consistent with criterion 'a' of State CEQA Guidelines Section 15332, pertaining to Class 32 exemptions for infill development projects.

Criterion (b)

The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

The project site is comprised of two parcels which are 21,673 square feet or approximately 0.5 acre total. The project site vicinity is a developed urban neighborhood, and the site is immediately surrounded by urban residential uses on all sides, as summarized in Table 2 above. The project site is developed with residential uses, and proposed new buildings would constitute infill development on site. Therefore, the project is consistent with criterion 'b' of State CEQA Guidelines Section 15332, pertaining to Class 32 exemptions for infill development projects.

Criterion (c)

The project site has no value as habitat for endangered, rare, or threatened species.

The project site is developed with a paved surface parking lot, three residential duplex buildings, and one single-family dwelling. The project site is located in a developed urban residential neighborhood that lacks habitat that would be suitable for sensitive animal or plant species. Vegetation on the project site consists of maintained ornamental shrubs and trees. The vegetation on site does not provide quality or sufficient habitat for sensitive species due to the small size, lack of native vegetation, and urban context. Therefore, the project is consistent with criterion 'c' of State CEQA Guidelines Section 15332, pertaining to Class 32 exemptions for infill development projects.

Criterion (d)

Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

The following discussion provides an analysis of the project's potential effects with respect to traffic, noise, air quality and greenhouse gas, and water quality.

A. Traffic

The following analysis of potential traffic impacts from the proposed project is based on the trip generation and parking analysis completed by Abrams Associates Traffic Engineering, Inc. (Abrams Associates) in January 2016. Abrams Associates was retained by the project applicant to prepare the trip generation and parking analysis, which was then peer reviewed by City Planning staff and the City's Senior Traffic Engineer. The analysis report is included as Appendix B.

The trip generation and parking analysis provides an analysis of impacts based on the previous project design, which entailed construction of 11 new units in addition to the seven rehabilitated

units for a total of 18 units on the project site. A total of 18 off-street parking spaces with 26 secure bicycle parking spaces were included with the previous project design.

Trip Generation

The proposed project would entail the rehabilitation of seven existing dwelling units and construction of six new units on a 0.5-acre lot.

Trip rates used in the trip generation and parking analysis were based on estimates from Trip Generation, 9th Edition (Institute of Transportation Engineers [ITE], 2012), which are based on a compilation of empirical trip generation surveys at locations throughout the country to forecast the number of trips that would be generated by the project. The trip rate for “Apartments” (ITE code 220) was applied to the new dwelling units. Table 4 provides trip generation rates for the previously designed 11 new dwelling units (included in Appendix B) and adjusted rates for the proposed project. The proposed project is expected to generate an increase of 40 new daily trips, with three AM peak hour trips and four PM peak hour trips.

Table 4 Trip Generation

Land Use	New Units	Daily Trip Rate Per Unit	AM Trip Rate Per Unit	PM Trip Rate Per Unit	Daily Trips	AM Peak Hour Trips	PM Peak Hour Trips
ITE Apartment Rates – Trips per unit	–	6.65	0.51	0.62	–	–	–
Previous Design	11	–	–	–	73	6	7
Proposed Project ¹	6	–	–	–	40	3	4

¹ Adjusted for proposed project, which entails construction of six new dwelling units.
Source: Abrams and Associates 2016 (Appendix B)

The trip generation and parking analysis states that since the project site is located in an area with numerous bus connection and in walking distance to the North Berkeley BART Station (approximately 0.5 mile east), the vehicle trip rate per unit would be less than that of a typical apartment that is not located in a transit district. However, no reductions were taken in the analysis to account for existing transit connections in proximity to the project site in order to complete a conservative analysis.

Intersection Impacts

The trip generation and parking analysis did not include an intersection impact analysis based on the project. The portion of Hearst Avenue that fronts the project site to the south is a collector street in a residential neighborhood that discourages vehicular speeds above 25 miles per hour and is designed to maintain a smooth flow of traffic. Hearst Avenue had an average total daily traffic volume of 6,132 vehicles in 2000 (City of Berkeley 2007). The additional 40 daily trips generated by the proposed project would account for approximately 0.07 percent of the total daily traffic volume along Hearst Avenue. The increase in trips resulting from the project would result in a minimal amount of traffic generated by the project relative to existing traffic volumes on local roadways. Therefore, a detailed intersection analysis was not required; the project would have a less than significant impact on intersection operations.

Parking Supply and Demand

Per BMC Section 23D.32.080, the project is required to provide one parking space per unit. The proposed project entails the provision of 13 off-street parking spaces (plus one tandem space for the single-family residential dwelling at 1173 Hearst Avenue), which would meet the City's requirements. The project also includes the provision of 13 bicycle parking spaces for residential use on the east side of the Begonia building, though none are required according to the BMC.

The trip generation and parking analysis states that residential parking demand from the project may be further limited due to the location of the project site in a transit district (in proximity to established AC Transit bus routes and stops, the North Berkeley BART Station, and car sharing locations within 0.5-mile of the project site).

Site Access

As shown in Figure 4, the 12 off-street parking spaces would be centrally located on the project site, for use by the residents of the 12 duplex units (6 rehabilitated plus 6 new). Two of the off-street parking spaces would be located on the ground floor of the Geranium building, and one of the 12 spaces would be ADA compliant. The centrally located parking spaces would be accessed through a shared driveway between the Azalea and Begonia buildings, as is currently the case.

The single-family dwelling located in the southeast corner of the project site would retain the attached parking garage that would provide one covered parking space, plus one tandem parking space inside the garage for up to two off-street parking spaces for use by the residents of the single-family dwelling.

No changes would be made to the existing driveway that serves one-way traffic from Hearst Avenue onto the project site. The driveway, parking spaces, and garage would be subject to all applicable City and Fire Department requirements. Therefore, no significant impacts would occur with regard to site access.

Construction Traffic

Construction traffic impacts could be significant if the project would create a prolonged impact due to lane closure; impede emergency vehicle access; create traffic hazards to bicycles and/or pedestrians; or result in similar substantial impediments to circulation or safety. Based on the following assumptions, project construction is not anticipated to cause significant traffic impacts:

It is anticipated that the construction vehicles, haul trucks, and construction workers would travel along University Avenue, San Pablo Avenue, Sacramento Street, and Hearst Avenue. According to BMC Section 14.56.070, Hearst Avenue between San Pablo Avenue and Sacramento Street is a "restricted street" whereby commercial trucks exceeding three tons gross vehicle weight are prohibited. As stated Section 2, *Project Description*, construction of the project would involve approximately three round-trip hauling trips during the grading phase. The project construction schedule would be approximately 12-14 months, and would be roughly as follows: two to three months for site preparation, grading, and excavation; eight to ten months for establishing the foundation for the three new proposed buildings, and rehabilitation and construction; one to two months for paving and architectural coating. Thus, over approximately two to three months during the grading and excavation phase, there would be approximately one round-trip haul trip per day for about three days, or up to three in one day to export approximately 55 cubic yards of soil from

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the site (assuming 20 cubic yards of soil per truck, which would entail approximately three round-trip hauling truck trips).

Assuming that a maximum of three trips are spread out over a 12-hour construction day (7:00 AM to 7:00 PM in accordance with BMC Section 13.40.070), less than one trip would generally occur per hour. Therefore, construction trucks would not significantly disrupt the flow of traffic on Hearst Avenue, San Pablo Avenue, University Avenue, or Sacramento Street. Furthermore, the total number of construction trips would generally be staggered throughout the day for the duration of the construction period, with most trips occurring during off-peak hours.

The proposed project would not involve road closures during the construction period that would significantly affect emergency vehicle access or create significant hazards to bicycles and pedestrians.

To reduce temporary disruptions on the adjacent roadway network due to construction activities, the project would be subject to the standard City of Berkeley conditions of approval requiring preparation and approval of a Construction Management Plan prior to the issuance of grading permits and initiation of construction activities. This plan would address the following items:

- Maintain existing access for land uses in proximity of the project site during project construction
- Schedule deliveries and hauling of construction materials to non-peak travel periods, including night hours and weekends
- Coordinate deliveries and hauling to reduce the potential of trucks waiting to load or unload for extended periods of time
- Minimize obstruction of through traffic lanes on Hearst Avenue
- Meet the requirements of the Planning and Development Department and Public Works/Transportation Departments with respect to construction scheduling and coordination with other construction near the project site, heavy hauling and material delivery routing, types of trucks, use limitations per hour, hours of operations, traffic plan submission for different stages, pedestrian and vehicular access, street use permit process, daily street cleanliness and maintenance and safety after work, and parking management for construction workers.

Additionally, on-street parking of construction-related vehicles is not allowed. The maximum number of construction parking spaces would be identified, and the applicant would be required to accommodate parking either at the project site or at a nearby site from which workers would be transported to the site. With the provision of such parking, it is anticipated that for workers traveling to the project site there would be sufficient on-site access. Therefore, no additional management plans for construction workers would be necessary.

Finally, it should be noted that construction traffic impacts are temporary by their nature, and would have no effect on traffic and circulation beyond the construction period.

Conclusion

Based on the assessment of traffic impacts, parking supply and demand, site access, and construction impacts, implementation of the project would have no significant impacts related to traffic.

B. Noise

Noise Characteristics and Measurement

Noise level (or volume) is generally measured in decibels (dB) using the A-weighted sound pressure level (dBA). The A-weighting scale is an adjustment to the actual sound power levels to be consistent with that of human hearing response, which is most sensitive to frequencies around 4,000 Hertz (about the highest note on a piano) and less sensitive to low frequencies (below 100 Hertz).

One of the most frequently used noise metrics that considers duration as well as sound power level is the equivalent noise level (L_{eq}). The L_{eq} is defined as the steady A-weighted level that is equivalent to the same amount of energy as that contained in the actual varying levels over a period of time (essentially, L_{eq} is the average sound level).

Noise Standards

The City of Berkeley's General Plan incorporates comprehensive goals, policies, and actions related to noise and acceptable noise levels. These policies address unnecessary, excessive, and annoying noise levels and sources, such as vehicles, construction, special sources (e.g., radios, musical instrument, animals) and stationary sources (e.g., heating and cooling systems, mechanical rooms).

For traffic-related noise, impacts would be significant if project-generated traffic results in the exposure of sensitive receptors to a perceptible increase in roadway noise. Roughly a doubling of traffic volume would be necessary to generate a perceptible increase in roadway noise levels of 3 dBA or more.

Impacts relating to onsite activities are significant when project-related activities create noise exceeding the standards as identified for the applicable noise zone for the project site. The project is located in an area zoned for multi-family residential use. The nearest sensitive receptors to the project site are the adjacent residences located north, east, and south of the project site. Multi-family residential buildings are located approximately 70 feet to the south and approximately 15 feet to the west of the project site, and single-family residential dwellings are located approximately 30 feet to the north and east of the project site.

Existing Ambient Noise Levels

The primary source of noise in the vicinity of the project site is motor vehicle traffic, including automobiles, trucks, buses, and motorcycles. San Pablo Avenue and University Avenue produce vehicle traffic noise as major streets. Secondary sources of roadway noise include traffic on Hearst Avenue and Curtis Street, which are collector streets. While typical backyard and rooftop/balcony activities such as conversations may occur at nearby residences, traffic is the main contributor to existing ambient noise levels.

According to the City's General Plan Environmental Management Element, the project site is within the 65 to 70 dBA day-night noise level (L_{DN}).

Construction Noise

The project would result in temporary noise level increases during site preparation, excavation, paving, and building. The grading phase of project construction tends to create the highest construction noise levels because of the operation of heavy equipment. As shown in Table 5, noise

levels associated with heavy equipment typically range from about 76 to 89 dBA at 50 feet from the source, as measured from the property line. Since construction of the three new proposed buildings would occur within 15 feet of the nearest sensitive receptors (multi-family buildings adjacent to the west) and grading up to the property line could occur, noise levels may be even higher. Pursuant to the City’s noise ordinance (BMC Section 13.40.070), a significant impact would occur if construction activities occurring on the project site would exceed 75 dBA for short-term operation (less than ten days) of mobile equipment or 60 dBA for long-term operation (ten days or more) of stationary equipment between 7:00 AM to 7:00 PM on the weekdays or 9:00 AM to 8:00 PM on weekends and Federal Holidays.

While construction noise would be a short-term annoyance to adjacent residences, it would be temporary and restricted to the hours permitted by the City’s noise ordinance. Because no activities generating unusually high noise levels, such as pile driving or major excavation, are proposed, construction noise would be typical of that associated with small- to medium sized construction projects in residential neighborhoods. Furthermore, the project would be required to comply with modified construction hours per the City’s conditions, which limit construction activities to between the hours of 8:00 AM to 6:00 PM on the weekdays, between 9:00 AM and 12:00 PM on Saturdays, and no construction-related activities on Sunday or any Federal Holiday. Thus, impacts due to construction noise would be less than significant.

Table 5 Typical Noise Levels at Construction Sites

Equipment	Typical Level (dBA) 50 Feet from the Source	Typical Level (dBA) 30 Feet from the Source
Air Compressors	81	85
Backhoe	80	84
Concrete Mixer	85	89
Jackhammer	88	92
Paver	89	93
Saw	76	74
Scraper	89	93
Truck	88	92

Source: Federal Highway Administration 2006

Construction Vibration

Vibration is a unique form of noise because its energy is carried through buildings, structures, and the ground, whereas most ambient noise is simply carried through the air. Thus, vibration is generally felt rather than heard. Some vibration effects can be caused by noise (e.g., the rattling of windows from truck pass-bys). This phenomenon is caused by the coupling of the acoustic energy at frequencies that are close to the resonant frequency of the material being vibrated. Typically, groundborne vibration generated by manmade activities attenuates rapidly as distance from the source of the vibration increases and vibration rapidly diminishes in amplitude with distance from the source. The ground motion caused by vibration is measured as particle velocity in inches per second and is referenced as vibration decibels (VdB) in the U.S.

The vibration velocity level threshold of perception for humans is approximately 65 VdB. A vibration velocity of 75 VdB is the approximate dividing line between barely perceptible and distinctly perceptible levels for many people. Most perceptible indoor vibration is caused by sources within buildings such as operation of mechanical equipment, movement of people, or the slamming of doors. Typical outdoor sources of perceptible groundborne vibration are construction equipment, steel wheeled trains, and traffic on rough roads. If a roadway is smooth, the groundborne vibration from traffic is barely perceptible. The range of interest is from approximately 50 VdB, which is the typical background vibration velocity, to 100 VdB, which is the general threshold where minor damage can occur in fragile buildings.

Significant impacts occur when vibration or groundborne noise levels exceed the Federal Railroad Administration (FRA) maximum acceptable level threshold of 65 VdB for buildings where low ambient vibration is essential for interior operations (such as hospitals and recording studios), 72 VdB for residences and buildings where people normally sleep (including hotels), and 75 VdB for institutional land uses with primary daytime use (such as churches and schools).

Construction activities that would occur on the project site have the potential to generate groundborne vibration. Table 6 identifies various vibration velocity levels for the types of construction equipment that are likely to operate at the project site during construction.

Table 6 Vibration Source Levels for Construction Equipment

Equipment	Approximate VdB	
	25 Feet	50 Feet
Large Bulldozer	87	81
Loaded Trucks	86	80
Jackhammer	79	73
Small Bulldozer	58	52

Source: Federal Transit Administration 2018

Based on the information presented in Table 6, vibration levels could be approximately 87 VdB at the existing single-family residences located 30 feet north and east of the project site. As noted above, impacts would be significant if vibration levels exceeded 72 VdB during recognized sleep hours (as established by the Federal Transit Administration for places where people normally sleep). Though vibration levels may exceed 72 VdB at nearby sensitive receptors, construction activities would be limited to daytime hours between 8:00 AM to 6:00 PM Monday through Friday per the City’s conditions for the project. Therefore, vibration levels would not affect residents during sleep hours. In addition, the project would not exceed vibration levels that could potentially damage nearby buildings.

Construction activity would be temporary, and the use of heavy equipment would be primarily limited to the excavation, site preparation, and exterior construction phases. As construction of the outer shell of the building progresses, the building itself would contain much of the construction activity, and the likelihood of utilizing bulldozers and jackhammers decreases. Trucks would still be anticipated to bring construction materials to the site, which may periodically generate vibration levels which may be felt by nearby receptors. However, truck vibrations would not persist for long periods of time. Because vibration would be a temporary impact during construction and would not occur during normal sleep hours, impacts would be less than significant.

Operational Noise

Existing uses near the project site may periodically be subject to noises associated with operation of the proposed project, including noise that is typical of residential development such as conversations, music, trash hauling, engine noise from the movement of vehicles in the parking area, beeping from locking and unlocking vehicles, and noise associated with rooftop ventilation and heating systems. Additionally, conversations taking place on the ground-floor outdoor paseo may be heard at adjacent residences. However, this activity would not substantially contribute to average ambient noise levels and would be comparable to similar activities at the existing residential uses on neighboring properties.

In addition, the proposed project would generate traffic noise from vehicles traveling to and from the project site. As shown in Table 4, the proposed project would generate approximately 40 average daily trips, with three AM peak hour trips and four PM peak hour trips. As stated above in the analysis for Intersection Impacts, the additional 40 daily trips generated by the proposed project would account for approximately 0.07 percent of the total daily traffic volume along Hearst Avenue. Roughly a doubling of traffic volume would be necessary to generate a perceptible increase in roadway noise levels of 3 dBA or more. Therefore, the minimal amount of traffic generated by the proposed project relative to existing traffic volumes on local roadways would not result in a perceptible increase in roadway noise.

Conclusion

The proposed project would not result in a significant long-term increase in traffic noise levels, and temporary construction noise impacts would be less than significant based on compliance with the City's time restrictions on construction activities per the City's standard conditions for the project. The project's operational noise would be similar to noise from other nearby residences, and would be less than significant in the context of the existing noise in the surrounding area. Therefore, noise-related impacts resulting from implementation of the proposed project would be less than significant.

C. Air Quality

A significant adverse air quality impact may occur when a project individually or cumulatively interferes with progress toward the attainment of the ozone standard by releasing emissions that equal or exceed the established long term quantitative thresholds for pollutants, or causes an exceedance of a state or federal ambient air quality standard for any criteria pollutant. Primary criteria pollutants are emitted directly from a source (e.g., vehicle tailpipe, an exhaust stack of a factory, etc.) into the atmosphere. Commonly found primary criteria pollutants include reactive organic gases (ROG), nitric oxides (NO_x), carbon monoxide (CO), and particulate matter (PM₁₀ and PM_{2.5}). PM₁₀ is particulate matter measuring no more than 10 microns in diameter, while PM_{2.5} is fine particulate matter measuring no more than 2.5 microns in diameter.

The project site is located in the San Francisco Bay Area Air Basin (Basin), which is under the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). The BAAQMD has developed screening criteria to provide lead agencies and project applicants with a conservative indication of whether a project could result in potentially significant air quality impacts. If all of the screening criteria are met by a project, then the lead agency or applicant would not need to perform a detailed air quality assessment of their project's air pollutant emissions. These screening levels are generally representative of new development on greenfield sites without any form of mitigation

measures taken into consideration. For projects that are infill, such as the proposed project, emissions would be less than the greenfield-type project on which the screening criteria are based (BAAQMD 2017b). For multi-family residences (low-rise apartments), the BAAQMD's operational criteria pollutant screening size is 451 dwelling units and the construction-related screening size is 240 dwelling units. The proposed project consists of 11 dwelling units and is well below the screening criteria.

Conclusion

The proposed project is below the BAAQMD's screening criteria for operational and construction pollutants. Therefore, the project would not generate significant air quality impacts. Additionally, as discussed in the analysis for criterion d.a. (Traffic), this project would not result in significant increases in traffic at intersections based on estimated project trip generation. Thus, the project would not require analysis for CO hotspots, based on the BAAQMD's recommendations.

D. Greenhouse Gas Emissions

Climate Change and Greenhouse Gases

Climate change is the observed increase in the average temperature of the earth's atmosphere and oceans along with other substantial changes in climate (such as wind patterns, precipitation, and storms) over an extended period of time. Climate change is the result of numerous, cumulative sources of greenhouse gases (GHG), gases that trap heat in the atmosphere, analogous to the way in which a greenhouse retains heat. Common GHGs include water vapor, carbon dioxide (CO₂), methane (CH₄), nitrous oxides (N₂O), fluorinated gases, and ozone. GHGs are emitted by both natural processes and human activities. Of these gases, CO₂ and CH₄ are emitted in the greatest quantities from human activities. Emissions of CO₂ are largely by-products of fossil fuel combustion, whereas CH₄ results from off-gassing associated with agricultural practices and landfills. Man-made GHGs, many of which have greater heat-absorption potential than CO₂, include fluorinated gases, such as hydrofluorocarbons (HFC), perfluorocarbons (PFC), and sulfur hexafluoride (SF₆) (CARB 2019).

The accumulation of GHGs in the atmosphere regulates the earth's temperature. Without the natural heat-trapping effect of GHGs, Earth's surface would be about 34° C cooler (CARB 2019). However, it is believed that emissions from human activities, particularly the consumption of fossil fuels for electricity production and transportation, have elevated the concentration of these gases in the atmosphere beyond the level of naturally occurring concentrations.

Proposed Project GHG Emissions

The BAAQMD developed screening criteria to provide lead agencies and project applicants with a conservative indication of whether a project could result in potentially significant GHG impacts. If all of the screening criteria are met by a project, then the lead agency or applicant would not need to perform a detailed GHG assessment of their project's GHG emissions (BAAQMD 2017b). For multi-family residences (low-rise apartments), the operational GHG screening size is 78 dwelling units. The proposed project consists of 11 dwelling units and is well below the screening criteria. Therefore, a detailed GHG assessment is not required for the project since the project would not result in GHG emissions above thresholds that were established by BAAQMD to identify projects that require additional mitigation measures to achieve statewide GHG targets.

The proposed project entails infill development in an urban area. The project would not conflict with the 2017 Climate Change Scoping Plan developed per Assembly Bill 32, the land use assumptions in the Plan Bay Area, or regulations adopted by the City of Berkeley to reduce greenhouse gas emissions. Therefore, the project will have a less than significant impact related to GHG emissions.

Conclusion

The proposed project is below the BAAQMD's screening criteria for operational GHG emissions. Therefore, the project would not generate significant climate change impacts.

E. Water Quality

The following analysis of potential water quality impacts from the proposed project is partially based on the Stormwater and Flooding Assessment and Mitigation Design assessment (Assessment) completed by Clearwater Hydrology in January 2016 (revised July 2017). Clearwater Hydrology was retained by the project applicant to complete the stormwater and flooding assessment for the project site, and design and analyze the efficacy of proposed onsite stormwater management systems. The Assessment was peer reviewed by Balance Hydrologics on behalf of the City. The report is included as Appendix A.

The project would be required to comply with Alameda County C.3 Guidelines of the Municipal Regional Stormwater Permit (MRP) adopted by the San Francisco Bay Regional Water Quality Control Board (Clearwater Hydrology 2017) since the project would create and/or replace more than 10,000 square feet of impervious surface on site. The guidelines require development projects to provide a combination of stormwater controls that include site design measures (as discussed above and analyzed in the Assessment), source control measures, and low impact development (LID) treatment measures.

The project would include a trapezoidal grassed swale with side slopes 3:1, channel slope of 1 percent, and a minimum depth of 0.3 feet extending eastward from the parking lot to the eastern project boundary. The Assessment concluded that such a grassed swale area located adjacent to proposed and existing buildings would capture and filter roof runoff before being discharged to the site drainageways. A minimum area of 436 square feet (or 4 percent of the total impervious surface area footprint on site) would be required based on the volume of discharge needing treatment.

Construction Runoff

Construction activities on the project site would have the potential to cause soil erosion from exposed soil, an accidental release of hazardous materials such as vehicle fuels and lubricant, or temporary siltation from storm water runoff. Soil disturbance would occur during excavation for the proposed building foundations, demolition of the existing buildings, and grading of the project site. However, proponents of development projects are required to comply with BMC Chapter 17.20 relating to the requirements of the City's National Pollutant Discharge Elimination System (NPDES) permit, and construction contractors are responsible for implementing and monitoring erosion and sedimentation control/drainage plans to ensure that contaminants are not released into urban runoff, in order to prevent significant adverse impacts to water quality.

The project would be also subject to standard conditions of the City's Toxics Management Division (TMD) requiring that a Soil and Groundwater Management Plan (SGMP) be submitted to the TMD with the project's building permit application and be approved by TMD prior to issuance of the

building permit. The SGMP is required to identify procedures for soil and groundwater management, including identification of pollutants and disposal methods, and is required to comply with the hazardous materials and waste management standards required by BMC Section 15.12.100, the RWQCB's Order No. R2-2015-0049 C.3 and C.6, California hazardous waste generator regulations (Title 22 California Code of Regulations (CCR) 66360 et seq.), and the East Bay Municipal Utility District's Ordinance 311. Furthermore, the following requirements for construction and development are applicable to the project per BMC Section 17.20.050:

1. Any construction contractor performing work in the City shall provide filter materials at catch basins to retain any debris, dirt, or other pollutants generated by such work to prevent said pollutants from flowing into the city's storm drain system.
2. Any applicant for a building or grading permit from the City shall, as a condition of receiving such permit, sign a certification stating that the applicant has read and shall use, to the maximum extent practicable, applicable portions of the State stormwater best management practices manual for construction activity, a copy of which shall be available to the applicant where building and grading permits are obtained.
3. The City Manager may establish controls on the volume and rate of stormwater runoff from new developments and redevelopments as may be appropriate to minimize the discharge and transport of pollutants into the storm drain system.

Construction contractors are responsible for implementing and monitoring erosion and sedimentation control/drainage plans to ensure that the above requirements are being met, and that contaminants are not released into urban runoff, in order to prevent significant adverse impacts to water quality. For all the reasons stated above, the project would not violate water quality standards or otherwise substantially degrade water quality, and this impact would be less than significant.

Conclusion

Required compliance with existing regulations would ensure that the project would have a less than significant impact on water quality.

Criterion (e)

The site can be adequately served by all required utilities and public services.

The project site is in an urbanized area, served by existing public utilities and services. The project entails rehabilitation of seven existing residential dwelling units and infill development of six new residential dwelling units, for a total of 13 dwelling units on site. A substantial increase in demand for services or utilities would not occur with implementation of the proposed project. The East Bay Municipal Utilities District (EBMUD) provides water and sewer services to the existing residential buildings and would continue to provide these services to the proposed project. The City provides solid waste collection services to the project site and vicinity, and would continue to provide services to the proposed project. Other services, including gas and electricity, would also continue to be provided to the proposed project by existing service providers. Therefore, the project is consistent with criterion 'e' of State CEQA Guidelines Section 15332, pertaining to Class 32 exemptions for infill development projects.

5. Exceptions to the Exemption Analysis

Criterion (a)

Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

This exception only applies to Class 3, 4, 5, 6, and 11 categorical exemptions. The proposed project is an infill development project, consistent with a Class 32 categorical exemption. Therefore, exception criterion ‘a’ does not apply to the project.

Criterion (b)

Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

The project site is located in a developed residential neighborhood. Existing uses in the immediate vicinity of the project site consist of single- and multi-family residential dwellings. There are several similar residential renovation, rehabilitation, and/or construction projects within a 0.25-mile radius of the project site, summarized in Table 7. The proposed project entails residential uses on a site that is developed with existing residential uses. As stated in the analysis above for Class 32 categorical exemption criterion ‘a,’ the proposed project is consistent with development standards applicable to the existing zoning district. The proposed project would also be subject to City of Berkeley conditions of approval to ensure construction would result in less than significant environmental impacts to residents in the immediate vicinity of the project site. All of the projects listed in Table 7 are likewise subject to City conditions and/or mitigation measures applied on a project-by-project basis. Therefore, exception criterion ‘b’ does not apply to this project.

Table 7 Cumulative Projects within 0.25-mile Radius of Project Site

Address	Use	Project Type	CEQA Status	Year
1818 Curtis Street	Single-family residence	Addition	Exempt §15301	2018
1157 Virginia Street	Single-family residence	New construction	Exempt §15332	2018
1923 Ninth Street	Multi-family residence	New construction	Exempt §15332	pending
2129 Ninth Street	Single-family residence	New construction	Exempt §15332	2018
2100 San Pablo Avenue	Mixed-use, Residential care facility	New construction	ND (Coretese List)	2019
2198 San Pablo Avenue	Mixed-use	New construction	Exempt §15332	pending
1111 Allston Way	Single- and Multi-family residence	New construction	TBD	pending
1110 University Avenue	Mixed-use	New construction	MND (Cortese List)	pending
1250 University Avenue	Commercial – Gas Station	Addition/Renovation	MND (Cortese List)	2018
1353 Berkeley Way	Single-family residence	New construction	Exempt §15303	2018

Source: City of Berkeley 2019. www.Berkeley.buildingeye.com/planning

Criterion (c)

Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

A project-specific hydrology report was completed by Clearwater Hydrology (included as Appendix A) and peer reviewed by Balance Hydrologics on behalf of the City. The hydrologic conditions at the project site were evaluated to determine whether unusual circumstances that preclude application of a categorical exemption exist (Appendix A). The project contains a historic trace of Strawberry Creek and there is evidence of flooding in the backyards of the neighborhood. Stormwater runoff backs up along Curtis Street, north of the Hearst Avenue intersection, and discharges over residential driveways into a topographic depression west of Curtis Street (Clearwater Hydrology 2017). The depression and uneven topography create ponding of stormwaters up a depth of one foot in the backyards of the properties on the west side of Curtis Street during intense storm events, prior to discharging west-southwest through the project site and Hearst Avenue. Minor nuisance ponding of accumulated stormwater occurs in the southwestern corner of the parking lot on the project site before it is discharged through the side yard corridor to the Hearst Avenue gutter located between 1153-1155 Hearst Avenue.

The City completed field visits to the project site during and following heavy rain events on November 29, 2018 and on January 16, 2019, and observed runoff flowing through the existing Hearst Avenue gutter with no impediments. City Public Works engineering staff stated no concerns regarding the existing storm drain system and its ability to accommodate additional flow, in its current state, from the proposed infill project.

Occasional flooding is not unique to this project site nor this neighborhood, and the project site is not located in a FEMA flood zone. Several areas throughout the City experience seasonal flooding including the northwest corner of University and San Pablo Avenues; Derby Street near Martin Luther King Jr. Way; Derby Street between Shattuck and Telegraph Avenues; and the area around Malcolm X Elementary School south of Ashby Avenue and west of the Ashby BART station, among other similar urbanized areas (City of Berkeley 2019c). These areas are generally over either historic traces of streams or underground creek beds, labeled "Not Protected" on the City's GIS maps (City of Berkeley 2019a). Ponding and flooding conditions vary throughout the City, but are not uncommon or otherwise unusual on the numerous properties overlaying historic traces of hydrologic features. Therefore, exception criterion 'c' does not apply to the project.

Criterion (d)

Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

The project site is not located near designated scenic highways (Caltrans 2018). The project site is relatively flat, and located in an urbanized residential neighborhood. Therefore, exception criterion 'd' does not apply to the project.

Criterion (e)

Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

The project site is not listed as a hazardous waste site according to the EnviroStor and GeoTracker databases (DTSC 2019; SWRCB 2015). Therefore, exception criterion 'e' does not apply to the project.

Criterion (f)

Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

The project site is fully developed and contains four residential buildings: three duplexes on the 1155-1163 Hearst Avenue parcel and one single-family dwelling on the 1173 Hearst Avenue parcel. The project entails rehabilitation of the existing buildings which contain seven residential dwelling units, and the construction of three new buildings which would contain six residential dwelling units. There are no buildings or structures of historic significance on the project site or immediate vicinity (City of Berkeley 2016).

No known cultural resources have been identified on the project site. As noted in Section 2, *Project Description*, ground disturbance during project construction would occur in order to excavate and establish for the foundations of the new proposed buildings. Excavation would result in approximately 55 cubic yards of exported soil.

The project would comply with the City's standard conditions pertaining to tribal cultural resources, archaeological resources, human remains, and paleontological resources should such resources, previously unknown, be encountered during ground disturbing construction activities. The City's standard conditions would ensure that procedures are in place to halt work until found resources are appropriately handled, assessed, and/or recorded by qualified personnel to prevent damage to found resources.

Therefore, the proposed project would not have a significant impact on historic resources, and exception criterion 'f' does not apply to the project.

6. Summary

Based on this analysis, the proposed 1155-1173 Hearst Avenue Project meets all criteria for a Class 32 Categorical Exemption pursuant to Section 15332 of the State CEQA Guidelines. There are no exceptions, pursuant to State CEQA Guidelines Section 15300.2, to the Class 32 Categorical Exemption that apply to the project.

7. References

- Abrams Associates Traffic Engineering, Inc. 2016. Trip Generation and Parking Analysis for the Proposed Residential Project at 1153 and 1173 Hearst Avenue.
- Bay Area Air Quality Management District (BAAQMD). 2017a. *Clean Air Plan*.
http://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-_proposed-final-cap-vol-1-pdf.pdf?la=en. Accessed April 2019.
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- _____. 2019b. Berkeley Municipal Code. <https://www.codepublishing.com/CA/Berkeley/>. Accessed April 2019.
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- California Air Resources Board (CARB). 2019. Climate Change Programs. <https://www.arb.ca.gov/cc/cc.htm>. Accessed April 2019.
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- California Water Resources Control Board (SWRCB). 2015. GeoTracker. <https://geotracker.waterboards.ca.gov/>. Accessed April 2019.
- Caltrans. 2018. Scenic Highway Routes. <http://www.dot.ca.gov/design/lap/livability/scenic-highways/>. Accessed April 2019.
- Clearwater Hydrology. 2017. Stormwater and Flooding Assessment and Mitigation Design for the Hearst Avenue Project 1161-1173 Hearst Ave., Berkeley, CA.
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City of Berkeley
1155-1173 Hearst Avenue Project

Federal Transit Administration. 2018. Transit Noise and Vibration Impact Assessment Manual, FTA Report No. 0123. https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf. Accessed April 2019.

Appendix A

Stormwater and Flooding Assessment and Mitigation Design for the Hearst Avenue Project
1161-1173 Hearst Ave., Berkeley, CA

Appendix B

Trip Generation and Parking Analysis for the Proposed Residential Project at 1153 and 1173
Hearst Avenue



Planning and Development Department
Land Use Planning Division
1947 Center Street, 2nd Floor
Berkeley, CA 94704

ZONING ADJUSTMENTS BOARD NOTICE OF PUBLIC HEARING

SUBJECT: 1155-1173 Hearst Avenue
Use Permit #ZP2016-0028

WHEN: Thursday, May 9, 2019.
Meeting starts at 7:00 pm.

WHERE: Berkeley Unified School District Board Room
1231 Addison Street
Wheelchair accessible.

«NAME1»

«NAME2»

«ADDRESS1», «ADDRESS2»

**SUBJECT: 1155-1173 Hearst Avenue**

Use Permit #ZP2016-0028 to develop two parcels, including the substantial rehabilitation of the existing seven dwelling units and construction of six new dwelling units.

CEQA Guidelines: Categorically exempt pursuant to Section 15332 of the CEQA Guidelines (“In-Fill Development Projects”).

**NOTICE CONCERNING
YOUR LEGAL RIGHTS:**

If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing or in written correspondence delivered to the Board at, or prior to, the public hearing.

All persons are welcome to attend the hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.

Send written comments to: Zoning Adjustments Board, 1947 Center Street, 2nd Floor, Berkeley, CA 94704, or e-mail to: ZAB@CityofBerkeley.info. To ensure inclusion in the packet, submit correspondence seven (7) days before the hearing. For any correspondence submitted less than seven days before the meeting, submit 15 copies for staff to deliver to the Board at its meeting. For more information, call the Land Use Planning division (510) 981-7410.

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418(V) or 981-6347(TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

**Post and Mail Date:
April 25, 2019**

PLEASE NOTE: If your contact information is included in any communication to the Board, it will become part of the public record, and will be accessible on the City Website.

The Zoning Application for this project is available at the Permit Service Center, 1947 Center Street, Berkeley, and at our website:

<http://www.cityofberkeley.info/zoningapplications>

The agenda and staff report for this meeting will be available 3 to 5 days prior to this meeting at the Permit Service Center, 1947 Center Street, Berkeley, and at our website:

<http://www.cityofberkeley.info/zoningadjustmentsboard>

1155-73 Hearst Ave

319 notices

NAME1	NAME2	ADDRESS1	ADDRESS2
Berkeley McGee Neighborhood Group	1627 BERKELEY WAY	BERKELEY CA	94703
Addison-Acton Sreet Neighborhood Group	1341 ADDISON ST	BERKELEY CA	94702
Milvia-King Alliance	1731 MILVIA ST	BERKELEY CA	94709
West Branch, Berkeley Public Library	1125 UNIVERSITY AVE	BERKELEY CA	94702
South Oceanview Neighborhood Association	1815 EIGHTH ST	BERKELEY CA	94710
Schoolhouse-Lincoln Creeks Watershed Neighborhood Assoc.	1546 MILVIA ST	BERKELEY CA	94709
University of California, Facilities Services	A&E Building, Room 300 University of California Berkeley	BERKELEY CA	94720-1382
Urban Creeks Council	861 REGAL RD	BERKELEY CA	94708
California Delaware McGee Neighborhood Association	1612 DELAWARE ST	BERKELEY CA	94703
Bananas Inc.	5232 CLAREMONT AVE	OAKLAND CA	94618
Berkeley Central Library	2090 KITTREDGE STREET	BERKELEY CA	94704
Adams Broadwell Joseph & Cardoza	601 GATEWAY BLVD. Su 1000	SO SAN FRANCISCO CA	94080
Public Notice Journal	PO Box 330356 San Francisco, CA 94133	SAN FRANCISCO CA	94133
KRAMER ROBERT & SUZANNE M TRS & 1970 CURTIS LLC	1070 RAHARA DR	LAFAYETTE CA	94549
SOTELOMENCHACA ANGELA & MENCHACA LETICIA B	1126 DELAWARE ST	BERKELEY CA	94702
COHEN MICHAEL B	1126 DELAWARE ST, #3	BERKELEY CA	94702
HAGEN KATHLEEN F TR	1128 DELAWARE ST	BERKELEY CA	94702
VERGA RUFO	1129 HEARST AVE, A	BERKELEY CA	94702
MOORE WILLIAM H SR & LIUMOORE XIAO P	1129 HEARST AVE, B	BERKELEY CA	94702
MARTIN TALIVA D	1129 HEARST AVE, C	BERKELEY CA	94702
GANESHALINGAM MOHAN & KAO JANICE TRS	1129 HEARST AVE, D	BERKELEY CA	94702
HOWARD RODNEY C & LAURA T TRS	1130 DELAWARE ST	BERKELEY CA	94702
PICKARD REBEKAH & REBEKAH R	1131 HEARST AVE	BERKELEY CA	94702
CHOW EMILY & HANSEN SVEN J	1132 DELAWARE ST	BERKELEY CA	94702
BENNET YOHANNES	1134 HEARST AVE	BERKELEY CA	94702
FREED ELLEN B	1139 DELAWARE ST	BERKELEY CA	94702
WATANABE ANDREW T & CARL K & SUMIKO	1140 1/2 DELAWARE ST	BERKELEY CA	94702
COMMON AREA OF PM 6439 59 & 60	1140 DELAWARE ST	BERKELEY CA	94702
RUDOY JOHN D & GUNASEKERA GESHRI M	1140 DELAWARE ST, #1	BERKELEY CA	94702
CORY CAROLYN L	1141 HEARST AVE	BERKELEY CA	94702
VYTILA VAMSI & JAMES SOPHIE ETAL	1142 DELAWARE ST	BERKELEY CA	94702
WATSON ERIN M TR	1144 DELAWARE ST	BERKELEY CA	94702
STUKIN ANNA	1145 HEARST AVE	BERKELEY CA	94702
SHAIN PAUL L & GETZ BARBARA TRS	1146 DELAWARE ST	BERKELEY CA	94702
KACPRZAK MALGORZATA & PACK STEVEN J	1147 HEARST AVE	BERKELEY CA	94702
ORMSBY PAMELA A TR	1148 DELAWARE ST	BERKELEY CA	94702
COURTEMANCHE MATHIEU & KASSAM FARAH	1150 DELAWARE ST	BERKELEY CA	94702
ALLEN EDISON JR & SIGRID	1151 DELAWARE ST	BERKELEY CA	94702
GIANOPOULOS DENO	1151 HEARST AVE	BERKELEY CA	94702

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JOYNT PATRICK R	1156 DELAWARE ST	BERKELEY CA	94702
VONDELING JOHANNA	1164 HEARST AVE	BERKELEY CA	94702
SHAH REHMAN & RAZIA ETAL	1187 DELAWARE ST	BERKELEY CA	94702
FRETZ MICHAEL T & BUCHANAN ELIZABETH	1191 DELAWARE ST	BERKELEY CA	94702
CLINGMAN CURTIS D & THORESEN MARY J	1195 HEARST AVE	BERKELEY CA	94702
WONG BETTY	1198 HEARST AVE	BERKELEY CA	94702
SALAS FLOYD TR & ORTALDA CLAIRE TR	1206 DELAWARE ST	BERKELEY CA	94702
COMMON AREA OF PM 6777 38 & 39	1209 HEARST AVE	BERKELEY CA	94702
WHITE LEIF E & RAMIREZ FELISA	1210 DELAWARE ST	BERKELEY CA	94702
WOOG SYLVIE & SPRAGUE CLAUDE TRS	1210 HEARST AVE	BERKELEY CA	94702
BRETTHAUER ROBERT F & MATSUI MINAKO TRS	1241 HEARST AVE	BERKELEY CA	94702
COMMON AREA OF PM 5717 54 THRU 57	1256 QUEENS RD	BERKELEY CA	94708
TAN RICARDO & JANNETTE TRS	1300 SAN PABLO AVE	BERKELEY CA	94702
SCHMIER ERIC S TR & SCHMIER KENNETH J TR	1475 POWELL ST, #201	EMERYVILLE CA	94608
BASKENT DENIZ & SARAMPALIS ANASTASIOS	1600 MACARTHUR BLVD	OAKLAND CA	94602
GOFFSTOWN MONTEVIDEO TRADING LLC	1621 SONOMA AVE	BERKELEY CA	94707
HARLEY GEORGE J & PAGE ALLYSON	1787 SONOMA AVE	BERKELEY CA	94707
RONQUILLO RAYMOND M TR & BATES JENNIFER L ETAL	1801 CURTIS ST	BERKELEY CA	94702
HOTCHKISS CHRISTINE L & LOCKETT ELLEN	1801 CURTIS ST, #1	BERKELEY CA	94702
RASTRULLO JACQUELINE M & NORONA PATROCINIO	1801 CURTIS ST, #2	BERKELEY CA	94702
HOENACK FRANK	1802 CURTIS ST	BERKELEY CA	94702
DALY LUCINDA A TR	1806 CURTIS ST	BERKELEY CA	94702
NAKAISHI MICHELLE & HILGERT JEANNETTE	1809 CURTIS ST	BERKELEY CA	94702
MASON CARRIE & ROCKHOLT RACHEL	1810 CURTIS ST	BERKELEY CA	94702
AMES ALEXANDER K TR & BROOKES AMY	1811 CURTIS ST	BERKELEY CA	94702
PRINS ALMA G & WOODLIEF BLAZE	1812 CURTIS ST	BERKELEY CA	94702
TEAL A MAJOR & ROLF S WILLIAMS TRUST	1814 CURTIS ST	BERKELEY CA	94702
CURRY DAMIEN X & BILLSTROM AMY E	1815 CURTIS ST	BERKELEY CA	94702
SHULMAN STACEY R TR	1818 CURTIS ST	BERKELEY CA	94702
MICHAEL JOSEPH R	1819 1/2 CURTIS ST	BERKELEY CA	94702
ANANIA DALE A	1819 CURTIS ST	BERKELEY CA	94702
REYSEN BRENDA J & LINDA	1820 CURTIS ST	BERKELEY CA	94702
SUSSMAN RAIN	1824 CURTIS ST	BERKELEY CA	94702
VENUGOPAL VIJAYAKUMAR	1826 CURTIS ST	BERKELEY CA	94702
HRDLICKA SANDRA L	1827 CURTIS ST	BERKELEY CA	94702
WADLE DAWN M	1828 CURTIS ST	BERKELEY CA	94702
COMMON AREA OF PM 5808 31 & 32	1901 CURTIS ST	BERKELEY CA	94702
KURZ PAMELA L	1901 CURTIS ST, #1	BERKELEY CA	94702
ROBERTS WILLIAM E & RANDICE M TRS	1905 CURTIS ST	BERKELEY CA	94702
PARSONS DAVID & KESSEL KRISTINA	1907 CURTIS ST	BERKELEY CA	94702

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MORENO KATHY & DAVID TRS	1913 CURTIS ST	BERKELEY CA	94702
AKSOMBOON SOMCHAI & KWANRUAN TRS	1920 CURTIS ST	BERKELEY CA	94702
HEARST AVENUE COTTAGES LLC	1958 A UNIVERSITY AVE	BERKELEY CA	94704
HEARST AVENUE COTTAGES LLC	1958 UNIVERSITY AVE, A	BERKELEY CA	94704
RESOURCES FOR COMMUNITY DEVELOPMENT	2220 OXFORD ST	BERKELEY CA	94704
JACALA VINCE A & FERRER MARY Y TRS	2440 EDWARDS ST	BERKELEY CA	94702
1931 SAN PABLO PARTNERS LLC	2625 ALCATRAZ AVE, #501	BERKELEY CA	94705
WHELAN MICHAEL & CARTY PAUL	29 GREENWOOD CT	ORINDA CA	94563
MOK FRANNIE S TR	320 10TH ST, #128	OAKLAND CA	94607
SEYRANIAN COLLEEN & PALMER KENNETH & COLLEEN ETAL	4144 REDWOOD RD	OAKLAND CA	94619
MIYASHIRO STEPHEN & FLORENCE & STEPHANIE	4200 PARK BLVD, #100	OAKLAND CA	94602
WYLDE RACHEL C & AIDAN G	4321 GILBERT ST	OAKLAND CA	94611
FINK ROBERT W & FOX KIMBERLY S TRS	5856 W 74TH ST	LOS ANGELES CA	90045
ROSENBERG CHARLES J & FAN WENHONG	6033 SHADYGROVE DR	CUPERTINO CA	95014
RITZ LLC	6149 VIEWCREST DR	OAKLAND CA	94619
CLARKE LYDIA J & TIMOTHY	743 COLUSA AVE	EL CERRITO CA	94530
ALAN WOFSY & ASSOCIATES	PO BOX 2210	SAN FRANCISCO CA	94126
OPPENHEIMER 1530 LLC	PO BOX 9395	BERKELEY CA	94709
OCCUPANT	1126 DELAWARE ST 1	BERKELEY CA	94702
OCCUPANT	1126 DELAWARE ST 2	BERKELEY CA	94702
OCCUPANT	1128 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1130 1/2 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1130 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1132 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1133 HEARST AVE	BERKELEY CA	94708
OCCUPANT	1133 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1133 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1133 HEARST AVE C	BERKELEY CA	94702
OCCUPANT	1133 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST A	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST B	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST C	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST D	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST E	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST F	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST G	BERKELEY CA	94702
OCCUPANT	1134 DELAWARE ST H	BERKELEY CA	94702
OCCUPANT	1135 HEARST AVE	BERKELEY CA	94708
OCCUPANT	1135 HEARST AVE A	BERKELEY CA	94702

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OCCUPANT	1135 HEARST AVE B	BERKELEY CA	94702
OCCUPANT	1135 HEARST AVE C	BERKELEY CA	94702
OCCUPANT	1135 HEARST AVE D	BERKELEY CA	94702
OCCUPANT	1136 DELAWARE ST	BERKELEY CA	94702
OCCUPANT	1136 DELAWARE ST A	BERKELEY CA	94702
OCCUPANT	1136 DELAWARE ST B	BERKELEY CA	94702
OCCUPANT	1136 DELAWARE ST C	BERKELEY CA	94702
OCCUPANT	1136 DELAWARE ST D	BERKELEY CA	94702
OCCUPANT	1136 HEARST AVE	BERKELEY CA	94702
OCCUPANT	1136 HEARST AVE A	BERKELEY CA	94702
OCCUPANT	1136 HEARST AVE B	BERKELEY CA	94702
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1155-73 Hearst Ave

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1155-73 Hearst Ave

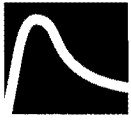
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OCCUPANT	1970 CURTIS ST 9	BERKELEY CA	94702
HEARST AVENUE COTTAGES LLC, c/o Rhoades Planning Grp	46 Shattuck Square, Suite 11	BERKELEY CA	94704



COTTON, SHIRES AND ASSOCIATES, INC.
CONSULTING ENGINEERS AND GEOLOGISTS

April 29, 2019
Z5059A

TO: Leslie Mendez
Senior Planner
CITY OF BERKELEY
1947 Center Street, 2nd Floor
Berkeley, California 94704

SUBJECT: **Supplemental Geotechnical Peer Review**
RE: Rhoades Planning Group, Six Home Development, Renovations,
Remodels and Additions on Two Lots
ZP2016-0028; APN 57-2086-14 and 57-2086-13
1155, 1157, 1159, 1161, 1163 and 1173 Hearst Avenue

At your request, we have completed a supplemental geotechnical peer review of the proposed land use permit application using:

- Response to Geotechnical Peer Review Comments (letter), prepared by Alan Kropp & Associates, Inc., dated April 17, 2019;
- Geotechnical Investigation (report), prepared by Alan Kropp & Associates, Inc., dated March 1, 2019;

In addition, we have reviewed pertinent technical maps and reports from our office files, and completed a recent site reconnaissance.

DISCUSSION

The applicant proposes to construct three additional duplex buildings resulting in a total of six new dwelling units on the two subject parcels (APN -14 and -13). The project will also consist of renovating and remodeling four existing buildings (consisting of seven existing dwelling units) located on the subject parcels. Remodeling will consist of second story additions within the existing footprint of two one-story buildings and a two-story addition increasing the footprint of one existing building. New site flatwork, paving, and drainage improvements associated with the proposed site construction are also anticipated.

Leslie Mendez
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In our previous geotechnical peer review dated March 14, 2019, we recommended the Project Geotechnical Consultant clarify geotechnical aspects of the site subsurface investigation and address concerns related to potential settlement and consolidation of existing site earth materials encountered. We also recommended the Project Geotechnical Consultant evaluate the condition of existing structures and impacts from new addition loads and discuss potential constraints to new construction (i.e. adverse seismic affects, differential settlement, etc.). We understand that potential site flooding issues **will be addressed to the satisfaction of the City Engineer.**

RECENT EVALUATIONS BY THE PROJECT GEOTECHNICAL CONSULTANT

The Project Geotechnical Consultant has previously advanced 3 site exploratory borings to depths of 10 to 25 feet. Groundwater was encountered at a depth of 10 feet below the ground surface during site exploration. Earth materials encountered in site borings include undocumented sandy fill, as well as shallow soft native clays, and alluvial deposits reported to be consistent with the Temescal Formation. The soft clay (CL, blow count of [4]) encountered in Boring B-1 is reported to underly approximately five feet of site undocumented fill and is approximately 4 feet thick. Borings B-2 and B-3 are not reported to have encountered undocumented fill. The undocumented fill is described as medium dense sand (SC) in provided boring logs but no standard penetration test (SPT) values were provided for our review; however, the Project Geotechnical Consultant clarifies that all fill underlying and within three feet of proposed building footprints will be excavated and replaced as engineered fill during site construction.

Regional geologic mapping (CGS - SHZR081) indicates that the project site is located on Pleistocene-aged alluvial fan deposits (Qpf). The proposed project is not located within a liquefaction hazard zone as mapped by the California Geological Survey and the Consultant concludes that liquefaction of site earth materials during a probable earthquake is low. The California Geological Survey has mapped the historic high groundwater at approximately five feet below the ground surface, and groundwater may be locally perched and variable as noted by the Project Geotechnical Consultant. Regional topographic data indicates the site is located within a broad and subdued swale approximately 800 feet wide, potentially associated with a relic subparallel tributary alignment of Strawberry Creek. The currently mapped alignment of Strawberry Creek is located approximately 800 feet south of the site.

The Project Geotechnical Consultant has completed supplemental settlement calculations using correlations of soil index properties, anticipated building loads, and previously completed subsurface investigation data. They provide an estimate of approximately two inches of total consolidation settlement with one inch of differential settlement. This differential settlement is anticipated across the length of the building (approximately 50 feet). The Geotechnical Consultant concludes that an existing structure (1159 Hearst) has performed well based on information provided to the

Consultant by the property manager and their client. Based on this information they also conclude that any new foundations added to the structure for proposed additions consistent of similar foundation elements. The Project Geotechnical Consultant notes they did not evaluate one-story structures which are not intended to receive new foundation elements but are intended to support second-story additions. During our recent site reconnaissance, we observed numerous hairline width, vertical and oblique cracks to existing stucco exteriors. These cracks typically stemmed from the corners of windows, doorways, or brick staircases. Doorways appeared slightly out of level, potentially due to previous settlement of the existing structures and foundations.

CONCLUSIONS AND RECOMMENDED ACTION

The subject property is potentially constrained by shallow groundwater, reported seasonal flooding, undocumented fill of variable depth (up to five feet thick), soft surficial earth materials prone to settlement and consolidation, and strong seismic ground shaking. The Project Geotechnical Consultant has provided settlement magnitudes for new site foundations based on engineering assumptions derived in conformance with generally accepted geotechnical engineering practice in this area. The Geotechnical Consultant does not address potential flooding or hydrologic concerns within the scope of their work. It appears the Project Geotechnical Consultant has evaluated the performance of select existing structures with information provided by their client, it is unclear whether field distress observations or field foundation observations by the Project Geotechnical Consultant were completed as part of this evaluation. The provided geotechnical recommendations and provided settlement magnitudes appear to be in general conformance with the prevailing standard of practice. We note the Project Geotechnical Consultant recommends that all fill underlying and within three feet of proposed building footprints be excavated and replaced as engineered fill during site construction. We recommend geotechnical approval of subject land use permits with the following three conditions attached:

1. **Structural Engineering Evaluations** - As part of project geotechnical approval we recommend involvement of a Project Structural Engineer to evaluate the integrity of existing site structures, as deemed applicable by the City, and provide recommendations and evaluations of their expected future performance (static and seismic) considering the provided geotechnical evaluations and proposed new loads (additions). This evaluation should be completed and reviewed by appropriate City Staff or their designee prior to building permit approval.
2. **Geotechnical Plan Review** - The applicant's Geotechnical Consultant shall review and approve all geotechnical aspects of the project building and grading plans (i.e., site preparation and

grading, site drainage improvements and design parameters for foundations) to ensure that their recommendations, including their evaluations dated April 17, 2019, have been properly incorporated.

The results of the geotechnical plan review should be summarized by the geotechnical consultant in a letter and submitted to the City for review and approval by appropriate City staff prior to issuance of building permits.

3. **Geotechnical Construction Inspections** - The geotechnical consultant shall inspect, test (as needed), and approve all geotechnical aspects of the project construction. The inspections should include, but not necessarily be limited to: site preparation and grading, removal and replacement of undocumented fill, site surface and subsurface drainage improvements, and excavations for foundations prior to the placement of steel and concrete.

The results of these inspections and the as-built conditions of the project should be described by the geotechnical consultant in a letter and submitted to the City for review prior to final (granting of occupancy) project approval.

Leslie Mendez
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April 29, 2019
Z5059A

LIMITATIONS

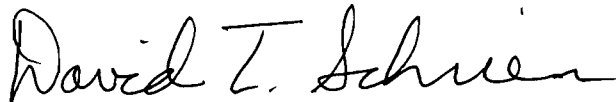
This supplemental geotechnical peer review has been performed to provide technical advice to assist the City with its discretionary permit decisions. Our services have been limited to review of the documents previously identified. Our opinions and conclusions are made in accordance with generally accepted principles and practices of the geotechnical profession. This warranty is in lieu of all other warranties, either expressed or implied.

Respectfully submitted,

**COTTON, SHIRES AND ASSOCIATES, INC.
CITY GEOTECHNICAL CONSULTANT**

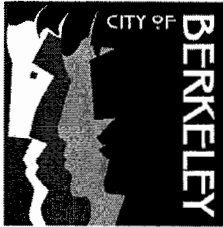


Ted Sayre
Engineering Geologist
CEG 1795



David T. Schrier
Principal Geotechnical Engineer
GE 2334

DTS:CS:TS



Rent Stabilization Board

May 7, 2019

To: Members of the Zoning Adjustments Board

From: Jay Kelekian, Executive Director, Berkeley Rent Stabilization Board

Subject: 1155-1173 Hearst Ave – Use Permit ##ZP2016-0028

On July 3, 2018, we wrote to you to provide information on the rental history and status of the properties at 1157 and 1173 Hearst Avenue. In that letter (see attached) we explained that the project would not impact the existing tenant protections that apply to these properties, and we proposed conditions of approval that could help mitigate the effect of the project upon the sitting tenants.

On February 26, 2019, we hosted a meeting at the Rent Board to counsel the sitting tenants about their rights under local law. At that meeting the applicant stated his intention not to convert any of the existing units to condominiums, and also said he would not seek to renovate the interior of any sitting tenant's unit until that unit was vacant. He reiterated this point in an email to the ZAB dated May 6, 2019 as follows: "there will be no work performed on occupied units that will require tenants to move out. The only work contemplated for any of the occupied duplexes are cosmetic exterior treatments, such as painting."

Although we do not foresee any risk that the sitting tenants could be displaced by legal action of the applicant, we are concerned that the parties' respective understandings of tenant's rights and obligations may be at odds with one another. For that reason we have written this letter to help clarify the rights that are most directly implicated by this project.

Tenant Relocation

Although the Relocation Ordinance (B.M.C. 13.84) does not apply to projects that seek to upgrade rental housing rather than to make necessary repairs to correct code violations, it is common for the ZAB to apply conditions of approval requiring that an applicant provide relocation benefits commensurate with those set forth under the Relocation Ordinance. One of the reasons for this practice is the fact that a landlord does not have the right to evict a tenant or *even enter a rental unit* to perform work that is not necessary or agreed upon. Simply put, if the applicant wants to do work on the interiors of the existing units, he will need to reach an agreement with each tenant to gain access to each occupied unit.

At our February 26, 2019 meeting we made this point clearly to the applicant, and he stated that he had no intention of performing any work in the interior of any occupied unit. Given the repeated statements of the applicant, it seems appropriate to include conditions of approval consistent with those statements,

such as Conditions 15 and 16. It is wise to include these conditions because they do not abridge the right of the applicant to enter the unit and perform routine maintenance and repairs, and they make clear that approval of the project does not somehow impair the rights of the tenants under state law to refuse the landlord access to their rental units to perform work that is neither necessary nor agreed upon. In the absence of such conditions, the legal right of the tenants to refuse the landlord may result in unnecessary conflict between the applicant (or his successor in interest) and the tenants.

Good Cause is Required for Eviction

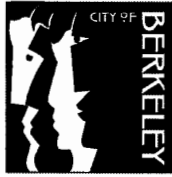
The tenants are protected by the eviction protections set forth in the Rent Stabilization Ordinance (B.M.C. 13.76) namely the requirement that the applicant or any successor in interest must allege and prove one of the enumerated Good Causes for Eviction. The landlord's desire to perform renovations is not good cause for eviction, even if the landlord has obtained a Use Permit for such renovation work. This is another reason why it is expedient for the ZAB to impose conditions (such as Condition 15 and 16) that clarify the circumstances under which the applicant may become entitled to perform the work upon occupied rental units.

Conclusion

This project does not put any tenants in direct legal jeopardy, but conditions acknowledging and accounting for the tenants' legal rights are appropriate to ensure that the applicant and any successor in interest fully understands the scope of those rights, and the legal alternatives at their disposal should they seek to perform interior renovations that require access to the occupied rental units.

Name and Telephone Number of Contact Person:

Jay Kelekian, Executive Director (510) 981-4949



Rent Stabilization Board

July 3, 2018

To: Leslie Mendez, Senior Planner, Planning & Development Department

From: Jay Kelekian, Executive Director

By: Lief Bursell, Associate Management Analyst

Subject: **1155-73 Hearst Avenue**

The following information on the rental history and status under the Rent Stabilization Ordinance of the properties at 1157 and 1173 Hearst Avenue. We have also included a recommendation on proposed conditions of approval related to the work proposed to the existing, tenant occupied buildings.

Property History

1157 Hearst Avenue is listed as owned by Hearst Avenue Cottage LLC with a purchase date of January 22, 2015. Alameda County records indicate the property has a county use designation of "Residential Property 5+ Units". City of Berkeley records show that the property at 1157 Hearst Avenue originally contained two duplex structures built in 1926. A 3rd structure containing a single residential unit was constructed in 1957. In 1985 a zoning application was submitted requesting the City acknowledge the 3rd structure as a duplex in order to add a 2nd meter for the lower unit addressed 1159 Hearst Ave #B. Since address 1159 Hearst Ave. #B is currently active, it appears the City allowed the owner to legalize this unit.

1173 Hearst Avenue is also listed as owned by Hearst Avenue Cottage LLC with a purchase date of January 22, 2015. Alameda County records indicate the property has a county use designation of "Single Family Residential Home". City of Berkeley records show that the existing building at 1173 Hearst Avenue was constructed in 1927 for use as a single family home.

Rental History

Rent Stabilization Board records also reflect that 1157 Hearst Avenue and 1173 Hearst Avenue are separate properties:

1173 Hearst Avenue contains one dwelling that is exempt from rent regulation per the Costa Hawkins Rental Housing Act. Previously this property contained a second unit with the address 1173 Hearst Ave. #Lower that was rented and under rent control from 1980 through 1996. The unit was claimed as "not available for rent" from 2000 until 2015 when the current owner claimed this unit had been removed because it was unpermitted. Rent Board staff inspected the property and verified the 2nd kitchen had been removed from the lower level, and that the

property was being rented as a single dwelling. On July 2, 2015 1173 Hearst Avenue #Lower was inactivated.

The property at 1157 Hearst Avenue contains six (6) dwelling units. The following table includes the address, occupancy status, date tenancy began, and rent ceiling for each unit:

Address	Occupancy Status	Tenancy Began	2018 Rent Ceiling	No. Bedrooms
1155 Hearst Ave.	Rented	8/10/2011	\$1,170.91	1
1157 Hearst Ave.	Rented	7/1/2009	\$1,135.22	1
1159 Hearst Ave. #A	Rented	5/31/1980	\$1,259.56	1
1159 Hearst Ave. #B	Rented	6/14/1997	\$1,136.65	3
1161 Hearst Ave.	Rented	10/15/2015	\$624.85	1
1163 Hearst Ave.	Rented	12/12/2011	\$1,226.66	1

Ellis Act

No buildings at either 1157 or 1173 Hearst Avenue have been removed from the rental market under the Ellis Act at any time during the preceding five (5) years.

Harassment or Illegal Eviction

The Rent Board has no record of any verified cases of harassment or threatened or actual illegal eviction occurring at either 1157 or 1173 Hearst Avenue.

Rent Control Status

Rent Board records indicate that all six units at 1157 Hearst Avenue are “controlled rental units” with a history of being rented and fully subject to the Rent Stabilization Ordinance. The property at 1173 Hearst Avenue has a history of being a rent controlled duplex, but is now exempt from rent regulation per Costa Hawkins as long as the property only contains a single dwelling unit.

Project Analysis

The project proposes to build 6 new condominium units by creating 3 new duplex structures, and substantially improve the 7 existing units through renovation and the addition of new floor area. Two of the duplex structures are proposed on the 1173 Hearst parcel, and the 3rd duplex structure is proposed for the 1157 Hearst Avenue parcel. Since there are no proposed changes to the existing units, there is no impact to their existing tenant protections or rent control status. The 6 proposed units would qualify for the “new construction” exemption from rent control if the project is approved, but they would be subject to the eviction protections.

While there are no changes proposed that will impact the existing tenant protections that apply to these properties, the renovation of the existing buildings will cause the existing units to become temporary uninhabitable. The applicant has indicated that the owners intend to construct the new units first, and then to renovate the existing buildings at a later date when the units are vacant. We recommend the Zoning Adjustments Board (ZAB) include conditions of approval to ensure the work does not take place until the units are voluntarily vacated by the existing tenants and have drafted language for two conditions for the ZAB’s consideration (see the recommendation section).

The applicant also mentioned that the owner may wish to convert the existing units to condominiums at some point in the future. This is a separate application process under Berkeley's Condominium Conversion Ordinance, which provides ample protection to the existing tenants by providing them with the right to stay in the unit, stabilized rent, and the exclusive right to purchase their unit as a condominium.

Recommendation

Since the application proposes both interior and exterior alteration to the existing, tenant occupied units, we recommend the Zoning Adjustments Board attach the following conditions of approval to the project:

1. Prior to building permit approval for any interior improvements, renovations or additions to the existing buildings at 1157 and 1173 Hearst Avenue, the property owner shall provide proof that all tenants have voluntarily vacated or proof that the owner and tenants have come to a written agreement on a plan for temporary relocation.
2. The property owner shall provide a minimum of 2 weeks written notice to existing tenants prior to performing any exterior work to any of the existing, tenant occupied buildings.

Conditions of approval are typically included to reduce the impact of construction to neighboring properties, but in this case there will also be significant impacts to the existing tenants who live on site. Individual tenants may also have specific concerns related to how the development will impact the accessibility and livability of their units during construction. If the standard conditions of approval do not address these concerns, we recommend that the ZAB consider including additional conditions that specifically mitigate the projects impact to the existing tenant households.

Please feel free to contact Mr. Bursell with any further questions regarding this matter.

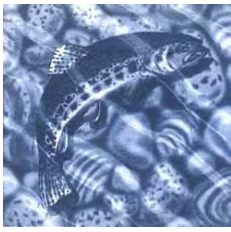
1155-1173 Hearst Avenue
Hydrology & Geotechnical Analyses



Hydrology & Geotechnical Analyses

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March 14, 2019
4. Alan Kropp & Associates Geotechnical Investigation
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5. Clearwater Hydrology Review of Geotechnical Analysis (Reviewed prior to submittal to COB)
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6. Clearwater Hydrology Revised Report (revised per peer review)
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7. Balance Hydrologics, Inc. Peer Review of Clearwater Hydrology Report
March 16, 2017



CLEARWATER HYDROLOGY

Consultants in Hydrology
and Water Resources

Watershed Management

Stream and Wetland
Restoration

Wetland Delineation
and Permit Acquisition

Stormwater Drainage
and Flooding

2974 Adeline St.
Berkeley, CA 94703
Tel: 510 8411836
Fax: 510 8411610

Oct. 9, 2019

Mark Rhoades
Hearst Avenue Cottages LLC
Oakland, CA

RE: Supplemental Discussion of Hydrologic and Hydraulic Concerns Raised by
Terraphase Engineering- Proposed Hearst Gardens Residential Project, 1161-1173
Hearst. Ave., Berkeley,
CA

Dear Mark,

In 2016-2017, Clearwater Hydrology evaluated the hydrology of the project site and adjoining areas that contribute surface runoff to the Hearst Avenue corridor west of Sacramento Street in Berkeley. We also modeled the hydraulic behavior of storm flows as they accumulate along Hearst Avenue and Curtis Street to the east of the site and are conveyed west toward storm drain system inlets at San Pablo Avenue. Our final results were detailed in our design report, entitled: "Stormwater and Flooding Assessment and Mitigation Design for the Hearst Avenue Project, 1161-1173 Hearst Ave., Berkeley, CA, July 12, 2017". An earlier version of our report, submitted in January of 2016, was reviewed by Lucas Paz, PhD, of Terraphase Engineering. The Draft Technical Memorandum from Terraphase presenting preliminary review comments was submitted to Rain and Guy Sussman of 1824 Curtis Street on Feb. 19, 2016.

Subsequent to our final report, Dr. Paz has appeared at one or more City hearings and expressed his technical opinions and concerns regarding the proposed project. The purpose of the present discussion is to address the main concerns he raised at the hearing(s), as well as to reiterate CH's well-documented findings regarding the behavior of on-site and off-site stormwater flows during significant rainstorms

PRINCIPAL ISSUES RAISED BY TERRAPHASE (DR. PAZ)

Alan Kropp, G.E. of Alan Kropp & Associates, Inc. has prepared responses that address some of Dr. Paz's contentions on geotechnical grounds. Based on review of the Terraphase Draft Technical Memorandums (Oct 7, 2015, Feb. 2016) and the video and oral testimony of Dr. Paz's testimony at the City Zoning Adjustment Board (ZAB) hearing on May 13, 2019, the primary hydrologic issues raised focus on the following contentions:

1. The foundations of the proposed new structures slated for the currently pervious eastern portion of the project site will create subsurface conditions that will “dam” groundwater flow and induce more frequent ponding/flooding along the adjoining backyards of Curtis Street residences.
2. The on-site groundwater conditions are dictated by the presence of a historical tributary of Strawberry Creek, which was buried by fill for development in the early part of the 20th century, and whose subsurface sediments form an unconfined groundwater body in direct hydraulic connection with the surface soils at the site and two or more properties to the east along Curtis Street (between Delaware Street and Hearst Avenue). Furthermore, the summer borings drilled and logged by Kropp & Associates in Aug. 2018 were insufficient to determine the likely winter elevations/depths of groundwater at the site.
3. The topographic depression that covers the central portion of the current site functions as a “rain garden” wherein accumulated storm runoff ponds and infiltrates into the subsurface; whereas the post-project condition would replace this rain garden with impervious surface, thus eliminating site infiltration capacity.
4. The development of the site as proposed would worsen the existing nuisance flooding conditions for the properties along the west side of Curtis Street (east of the project site) due to the introduction of new impervious surfaces and additional stormwater runoff.

CH RESPONSES TO TERRAPHASE CONTENTIONS:

Issue 1: “Damming” of Groundwater Flow

The analogy made equating the placement of a dam across an above-ground stream or river with the placement of very shallow and discontinuous engineered fill and mat foundations on the project site is misleading and wholly inaccurate. A surface dam creates an impermeable barrier across the entire width of a stream channel and its floodplain, and must seamlessly tie-into similarly impermeable formations to either side of the dam structure or embankment. It is also vertically keyed into an impermeable bedrock or other impermeable material (e.g. clay) such that it severely restricts seepage underneath the dam. The project conditions would replicate none of the physical constraints on hydraulic characteristics that are imposed by dam and reservoir construction.

Figure 1 below depicts the actual conditions that would occur along the eastern edge of the site where two new buildings are proposed. The soil profile layers delineated in the Figure were derived from three soil borings drilled by Kropp & Associates in the summer of 2018.

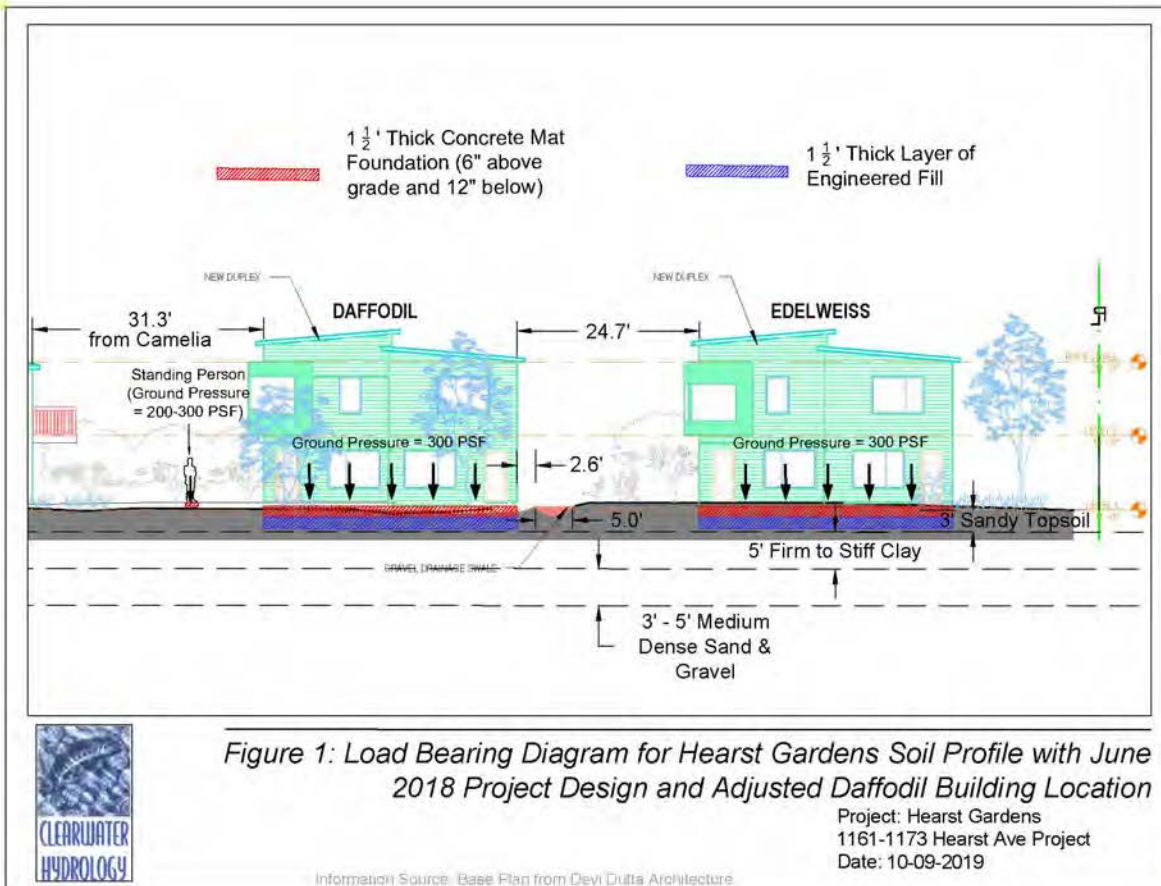


Figure 1 is scaled, and reference to the scale bar shows that the new building foundations do not span the entire site as a single structure, as a dam would. Rather, openings of roughly 15 ft. will exist to either side of these buildings. More importantly, the vertical extents of the engineered fill that would be placed beneath the mat foundations and the overlying mat foundations would not extend to more than 3 ft. below the existing ground. As shown, this depth matches that of the surface soil layer, which is underlain by 3-5 feet of firm clay. Such clay layers are typically considered non-water bearing soil strata and do not readily transmit water vertically, either from the surface via infiltration or from the subsurface via rising groundwater tables.

Groundwater that occurs under the site flows in a roughly east-west direction and will preferentially favor the coarser materials that underlie the clay layer. At this depth and at the ground pressures exerted by the buildings (300 pounds per square foot, psf), no effects from the mat foundations would be transmitted that could alter the hydraulic conductivity of the water bearing layer. Groundwater would continue to flow freely under the shallow foundations

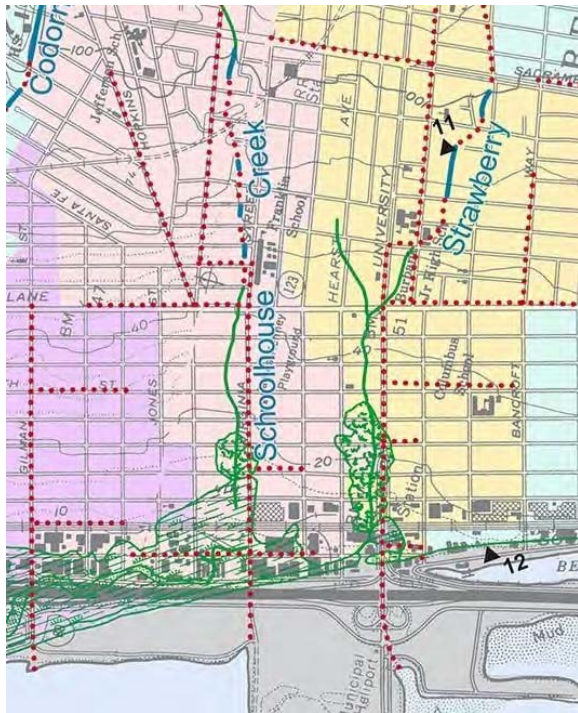
within the dense sand and gravel layer beneath the clay. As is also shown in Figure 1, the ground pressure exerted by a standing person of moderate stature (200-300 psf) is not substantially different from the pressure exerted by the mat foundations.

Issue 2: Unconfined Character of the Local Groundwater System

The Terraphase Memorandum and Dr. Paz's testimony infer that the soil materials underlying the site comprise a single, unconfined groundwater system, i.e. that groundwater is free to rise or fall without impediment in response to seasonal groundwater recharge from areas to the east of the site. This is not technically accurate. The local groundwater system is at least partially confined, as discussed below.

First, it is important to note that the majority of historical, pre-urbanized groundwater recharge to this now-filled tributary channel has been captured and diverted to streets by impervious surfaces and subsurface drains (e.g. French drains) installed for residential development. So a small fraction of the pre-urbanized recharge zone actually contributes infiltrated rainfall to the shallow water bearing layer that the Kropp & Assoc. borings suggest lies roughly 8-13 ft. below the ground surface (bgs). As discussed below, those borings were drilled in August and only one of the three showed any evidence of groundwater interception, and that was at a depth of 10 ft. bgs. A. Kropp has stated that based on those borehole results and his familiarity with groundwater conditions in this area of Berkeley, the expected winter groundwater depths would be about 5 ft. bgs.

The historical map of Strawberry Creek and its tributaries (Sowers 1993-2000) published by the Oakland Museum of CA shows the pre-development trace of the former project area tributary as originating on the properties along the east side of Curtis Street (see below). There is evidence, therefore, that all or portions of multiple properties along the north side of Hearst Avenue and both sides of Curtis Street (e.g. 1819, 1820, 1821, 1824, 1825 and 1827 Curtis Street), between Hearst Avenue and Delaware Street), were also founded on fills placed within that former tributary.



Source: Sowers (1993-2000)

Second, the available evidence from the aforementioned site boring logs indicates that the on-site groundwater system does not comprise a single unconfined aquifer with an unimpeded water table that can respond linearly to seasonal infiltrated rainfall/recharge (winter) and evapotranspiration (loss of water through atmospheric evaporation and plant transpiration during the dry season). Instead, the logs suggest that the water bearing stratum, consisting of dense sands and gravels, is overlain by lower permeability clays that restrict the free vertical exchange of water, both downward and upward.

The site boring log location map and borehole logs are attached. Two of the borings, B-2 and B-3, are located along the eastern portion of the property, while the third (B-1) was drilled in the uneven and cracked concrete driveway that forms a topographic depression in the middle of the currently developed site where surface runoff ponds before moving south out the driveway toward the Hearst Avenue gutter. An actual groundwater table was intercepted in Boring B-1 at about 10 ft. below the ground surface (i.e. bgs), within the dense, but coarser sand and gravel deposits. Sands and gravels are the normal constituents of water bearing deposits that yield water to wells. Borings B-2 and B-3 weren't as deep as B-1, but no groundwater was detected in those borings at depths of 11.5 feet bgs. If a continuous water table did exist through the site, similar observation of groundwater in the borings would have been expected. More likely, the presence of the 3-5 ft. thick clay layer at roughly 3-8 ft. bgs severely restricts percolation of rainfall that infiltrates the upper 3 ft. of the soil profile. This condition is known as a perched groundwater condition, because the extent of this "aquifer" is localized, discontinuous and the impeding clay layer transmits water vertically much more slowly than coarser soil materials.

As such, perched groundwater essentially lacks a direct hydraulic connection to the deeper, regional groundwater system. In this case, infiltrated rainfall or local runoff eventually saturates the surface soil layer and induces surface ponding. This can occur independent of the relative position of the underlying regional groundwater table. Typically, monitoring wells in perched aquifers will exhibit groundwater levels at higher elevations than wells established in the deeper regional aquifer.

Issue 3: Elimination of the Existing “Rain Garden”

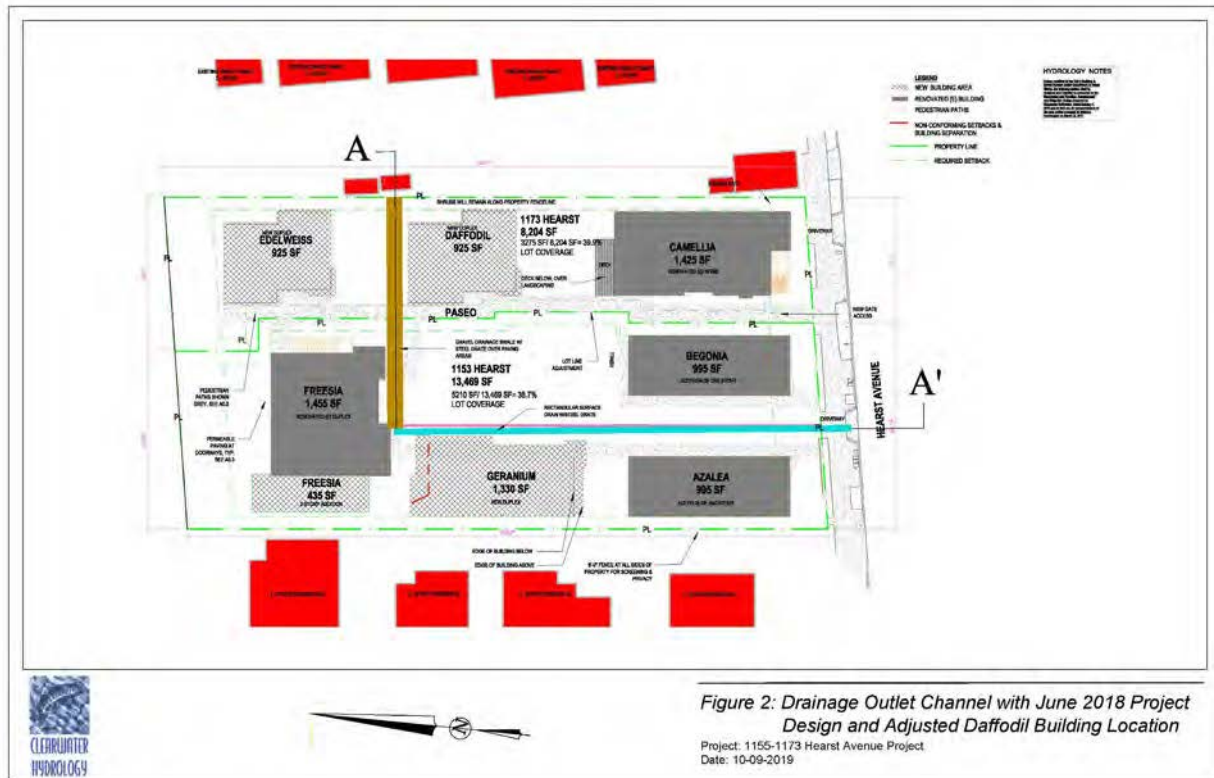
In its initial Draft Technical Memorandum (Oct. 2015), Terraphase proposes a baseline analytical scenario that the topographic depression existing on the central portion of the site acts as a rain garden. Rain gardens are usually constructed on sites to retain and pond stormwater runoff which can then prolong the opportunity for infiltration into the soil profile, rather than run-off into a storm drain system. These features only work where surface and near surface soils are relatively permeable and soil rather than concrete forms the “garden” depression. This is not the case at the project site, where the existing depression largely encompasses a settled concrete parking/driveway area, underlain by a low permeability clay substrate. Thus, while stormwater may pond, before it breaks out and flows toward Hearst Avenue, the clayey nature of the subsoil does not provide the infiltration opportunities that a true rain garden would. Evaporation is more likely to dissipate the majority of the ponded stormwater.

Issue 4: The Proposed Stormwater Design Fails to Improve Nuisance Flooding Conditions

The CH Stormwater and Flooding Assessment and Mitigation Design report (July 2017) detailed the hydrologic and hydraulic analyses that were conducted for the Hearst Avenue corridor, including the relevant block of Curtis Street, and the project site. The hydraulic analysis used the most conservative estimates of peak flows generated over the project site and the west side Curtis Street properties, including modeled overflow from the Curtis Street gutter down the residential driveways and into the low lying backyards immediately east of the site. CH conducted a supplemental total station survey of Curtis Street between Delaware St. and Hearst Avenue. Based on the integrated and expanded site topography, we determined that the lowest backyard elevations at the western Curtis Street property lines were 1.0 ft. lower than the elevations along the eastern 1161-1173 site property line. In other words, the backyard at 1173 Hearst Ave. was 1.0 ft. higher than the Curtis Street backyards. This existing physical condition creates the likelihood of backyard flooding due wholly to runoff from portions of the Curtis Street buildings, driveways and concrete patios/backyard areas.

The CH design recognized this existing impediment to more efficient drainage along the Curtis Street backyard areas and developed a solution that would provide for construction of a surface drainage channel to capture and drain-off roughly 50% of the ponded water during higher

recurrence interval (i.e. more intense) rainstorms. The layout of the new drainage channel is below in Figure 2. While this feature will not completely eliminate the existing backyard nuisance flooding for those properties, it will improve the existing drainage from those lots and reduce the depth of flooding experienced by the west side Curtis Street properties.



In addition to the surface swale and outlet drainage channel within the new project driveway- the alignments of which are also shown in the Figure 2, CH evaluated the volumetric increase in site stormwater runoff for the post-project condition. The estimated insignificant increase of 5.6 cubic feet, or 119 gallons could be completely addressed by incorporating a rain barrel (cistern) into the project design. If an additional safety factor is desired, the new buildings along the eastern portion of the site be fitted with 150-200 gal. rain cisterns.









I believe that the above responses address the concerns identified by Terraphase and Dr. Paz in its memoranda and testimony regarding the project. I can also be available to offer testimony at the next City hearing on the project should you deem it helpful.

Yours truly,

A handwritten signature in black ink, appearing to read "William Vandivere", followed by a horizontal line extending to the right.

William Vandivere, M.S., P.E.
Principal

APPENDIX A
LOG OF BORINGS


SOIL CLASSIFICATION CHART								
PRIMARY DIVISIONS				SECONDARY DIVISIONS				
				CRITERIA *		GROUP SYMBOL	GROUP NAME	
COARSE-GRAINED SOILS MORE THAN 50% RETAINED ON NO.200 SIEVE	GRAVELS MORE THAN 50% OF COARSE FRACTION RETAINED ON NO.4 SIEVE	CLEAN GRAVELS LESS THAN 5% FINES	$C_u \geq 4$ AND $1 \leq C_c \leq 3^A$		GW	Well-graded gravel		
			$C_u < 4$ AND/OR $1 > C_c > 3$		GP	Poorly-graded gravel		
		GRAVELS WITH FINES - MORE THAN 12% FINES	FINES CLASSIFY AS ML OR MH		GM	Silty gravel		
			FINES CLASSIFY AS CL OR CH		GC	Clayey gravel		
	SANDS 50% OR MORE OF COARSE FRACTION PASSES NO. 4 SIEVE	CLEAN SANDS LESS THAN 5% FINES	$C_u \geq 6$ AND $1 \leq C_c \leq 3$		SW	Well-graded sand		
			$C_u < 6$ AND/OR $1 > C_c > 3$		SP	Poorly-graded sand		
		SANDS WITH FINES - MORE THAN 12% FINES	FINES CLASSIFY AS ML OR MH		SM	Silty sand		
			FINES CLASSIFY AS CL OR CH		SC	Clayey sand		
FINE-GRAINED SOILS 50% OR MORE PASSES THE NO.200 SIEVE	SILTS AND CLAYS LIQUID LIMIT LESS THAN 50%	INORGANIC	$PI > 7$ AND PLOTS ON OR ABOVE "A" LINE		CL	Lean clay		
			$PI < 4$ OR PLOTS BELOW "A" LINE		ML	Silt		
		ORGANIC	$\frac{\text{LIQUID LIMIT} - \text{OVEN DRIED}}{\text{LIQUID LIMIT} - \text{NOT DRIED}} < 0.75$		OL	Organic Clay & Organic Silt		
			PI PLOTS ON OR ABOVE "A" LINE		CH	Fat clay		
	SILTS AND CLAYS LIQUID LIMIT 50% OR MORE	INORGANIC	PI PLOTS BELOW "A" LINE		MH	Elastic silt		
			$\frac{\text{LIQUID LIMIT} - \text{OVEN DRIED}}{\text{LIQUID LIMIT} - \text{NOT DRIED}} < 0.75$		OH	Organic Clay & Organic Silt		
		ORGANIC		PRIMARILY ORGANIC MATTER, DARK IN COLOR, AND ORGANIC ODOR		PT	Peat	
		HIGHLY ORGANIC SOILS						
REFERENCE: Unified Soil Classification System (ASTM D2487-11)				* Criteria may be done on visual basis, not necessarily based on lab testing $A - C_u = D_{60}/D_{100}$ & $C_c = (D_{30})^2 / (D_{10} \times D_{60})$				
GRAIN SIZES								
U. S. STANDARD SERIES SIEVE				CLEAR SQUARE SIEVE OPENINGS				
	200	40	10	4	3/4"	3"	12"	
SILTS AND CLAYS	SAND			GRAVEL		COBBLES	BOULDERS	
	FINE	MEDIUM	COARSE	FINE	COARSE			
ABBREVIATIONS					SYMBOLS			
<p>INDEX TESTS</p> <p>LL - Liquid Limit (%) (ASTM D4318-17)</p> <p>PI - Plasticity Index (%) (ASTM D4318-17)</p> <p>-200 - Passing No. 200 Sieve (%) (ASTM D1140-17)</p> <p>STRENGTH TESTS</p> <p>PP - Field Pocket Penetrometer test of unconfined compressive strength (tsf)</p> <p>TV - Field Torvane test of shear strength (psf)</p> <p>UC - Laboratory unconfined compressive strength (psf) (ASTM D2166/2166M-16)</p> <p>TXUU - Laboratory unconsolidated, undrained triaxial test of undrained shear strength (psf) (ASTM D2850-15)</p> <p>MISCELLANEOUS</p> <p>ATOD - At time of drilling</p> <p>psf/tsf - pounds per square foot / tons per square foot</p> <p>psi - pounds per square inch (indicates relative force required to advance Shelby tube sampler)</p>					<p>SYMBOLS</p> <p> Standard Penetration Test Split Spoon (2-inch O.D.)</p> <p> Modified California Sampler (3-inch O.D.)</p> <p> Thin-walled Sampler Tube (either Pitcher or Shelby) (3-inch O.D.)</p> <p> Rock Core</p> <p> Bag Sample</p> <p> Groundwater Level during drilling</p> <p> Groundwater Level after drilling</p>			
 <p>ALAN KROPP & ASSOCIATES</p> <p><i>Geotechnical Consultants</i></p>				KEY TO EXPLORATORY BORING LOGS				
				HEARST GARDENS Berkeley, California				PROJECT NO.	DATE	FIGURE A-1
				2744-2	August 2018			

DRILL RIG: 89.; <=2Ä ?; @A6	SURFACE ELEVATION: Ä 0BÄ Ä D&	LOGGED BY: +, -
DEPTH TO GROUNDWATER:) "%Ä66 @766Ä ? @YG	BORING DIAMETER: *%Ä 23456	DATE DRILLED: / 0/).

DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (ft)	SAMPLER TYPE	SAMPLER BLOW COUNTS	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
3" AC / 6" ABÄ Ä 4969			NT/NI						
SAND, SiltyÄÄ VÄ < V6Ä < YZ	+6 : 2-YÄ ; ?U3	+6 : 2-YÄ R6376	DT)					
[Fill]				0					
CLAY, LeanÄÄ 73:Ä < 3:Ä V< V6Ä > Y ? Z @Ä U6@	R<[ÄI; ?U3	D?E@	T&	1	X	Ä0]	!*	ÄÄ	!" "Ä#Ä\$ %Ä &&Ä#Ä\$ ' (Ä#Ä)
GRAVEL, SiltyÄ Ä Y Z @	I; ?U3	+6 : 2-YÄ R6376	M+	)	X				▼
SAND, SiltyÄ Ä Y Z @	M; <9Ä ? @Ä U2@ J ; <3V6	+6 : 2-YÄ R6376	D+	)!	X	ÄÄH]			
GRAVEL, SiltyÄÄ 73:Ä XÄ ? Z @Ä U6@	M; <9	+6 : 2-YÄ R6376	M+	)0	X				▼
	+6 : 2-YÄ ; ?U3			)\$	X	Ä0)]			

(Continued on Next Page)

NONÄ K(L MÄ J MÄ H0 ! Ä P NKDÄ M NK RPL DÄ J K(L MÄ J MD%Ä. ÄNON SP+* & NCP% R CÄÄ,)Y).

 <p>ALAN KROPP & ASSOCIATES Geotechnical Consultants</p>	EXPLORATORY BORING LOG		
	HEARST GARDENS Berkeley, California		
	PROJECT NO. 2744-2	DATE August 2018	SHEET 1 of 2

I J K(LMÄ J % **1**

DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (ft)	SAMPLER TYPE	SAMPLER BLOW COUNTS	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
(Continued from Previous Page)									
GRAVEL, Silty	M; <9	+6 : 2Y R6376	M+	!)</td <td></td> <td></td> <td></td> <td></td> <td></td>					
CLAY, Lean	I; ?U3	- 6; 9A	T&	!!					8&A#H ' (A#A) !" " A#H%)
				!* !0 !1					
GRAVEL, Clayey	I; ?U3	+6 : 2Y R6376	MT	!1					
SAND, Clayey	I; ?U3	+6 : 2Y R6376	D+	!\$					

I? @Y AEA?; 2VA @ \$% 1S6 @

LJQ PD^


) %AM? = 3: U < @AU 7A64? = 3 @ 6: A @ Z; ?_Y < @ 9A) 1% A6 @ 56 @ 2A 6A; 2>> 2sY A @ 5A?; 23VU < 7A < 4 [E >> 2Y 6: 2 @ 9A 6 @ A; 2 > 29V
FD6A6Z?; @ A; 24 = 7723 %

! %A @ @ 2 @ 2A 267A; 6; 6763 @ 5A Z; ?_Y < @ 6A = 3: < 57A @ 663A < @ 2 > 6Z 67A 3: A @ 6A @ 37 @ 37A < 9A 6A; < = < %

*% A 636 @ @ 3A 6727 @ 46A < = 67A > U 4? = 3 @ 5 < ; [6: A 2 @ 3A 7 @ 7 [AFGA 6A 3 @ 63; < .; A 336 @ @ 2A; 67 @ 346A < = 67%

0% A 6V @ 27A 6; 6A 6 @ 2 @ 6A PY A Z 37A; < U 3A 6A +?; < 3A RV 266; 2VA 34A < @ A = 36A ") 1%

NONAU K(LM&J M&A H0 ! 8 PINKO&MINKRPL DA J K(LM&J MD%W. ANONSDP+ * &NCP%RCA.A.)Y).

 <p>ALAN KROPP & ASSOCIATES <i>Geotechnical Consultants</i></p>	EXPLORATORY BORING LOG			
	HEARST GARDENS Berkeley, California			
	PROJECT NO. 2744-2	DATE August 2018	SHEET 2 of 2	I J K(LM&J % 1

DRILL RIG: 89: ;<=2Ä ?; @A6	SURFACE ELEVATION: Ä \$BÄ Ä D&	LOGGED BY: +, -
DEPTH TO GROUNDWATER: F76Ä3 @G	BORING DIAMETER: *%Ä 23456	DATE DRILLED: / 0/).

DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (ft)	SAMPLER TYPE	SAMPLER BLOW COUNTS	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
SAND, Silty, Clayey Ä Ä DÄ ?Y 6ÄY <V6 X Y?Z@	I; ?U3	+6 : 2Y ÄR6376	DT	0 - 1					
[Topsoil]									
CLAY, Lean, Sandy Ä Ä YZ@	I > 4[	a2Y	T&	1 - 2			!!	Ä1	ÄÄÄ0 ' (ÄÄÄ !" " ÄÄ\$ %1
GRAVEL, Clayey, Lean ÄÄ 3V=; XÄ ?Z@	+ 6:2Y ÄÄ < ; I; ?U3	+6 : 2Y ÄR6376	MT	2 - 3					

I? @Y ÄEA?; 2VÄ @) %1 Ä6 @

LJQ PD^

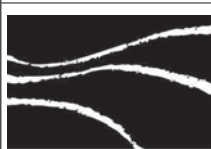
)%Ä ?ÄY? =3: U< @Ä U7Ä 64? =3 @6: Ä < @5 Ä 76Ä Ä; 23 VÄ s: Ä 6ÄÄ ?; 2VÄ < 7Ä < 4[26: ÄY 6:2 < @9 Ä Ä; 23 VÄ D66Ä 6Z?; @P;
: Z4=7723%

! %Ä @ 24 @ 2Ä 267Ä; 6:6763 @ 5Ä Z; ?_ Y < @Ä =3: < ; 57Ä 6 @ 663Ä < @ 2 > Ä 767Ä 3: Ä 6Ä @ 372 237Ä < 9Ä 6Ä; < = < %

*Ä Ä 636 @ < @ 3Ä 6727 @ 46Ä = 67Ä > 2Ä ? = 3 @Ä < ; [6: Ä 2Ä 3Ä 7 @ 7[Ä 6Ä 6Ä 3 @ 6Ä < ; Ä 36 @ < 2Ä; 67 @ 346Ä = 67%

0% Ä 6VÄ @ 27Ä 6; 6Ä 6 @ 2 @ 6Ä Y Ä Z 37Ä; < U3Ä 6Ä +?; < 3Ä 6V 266; 2VÄ 34Ä < @ Ä = 36Ä ") 1%

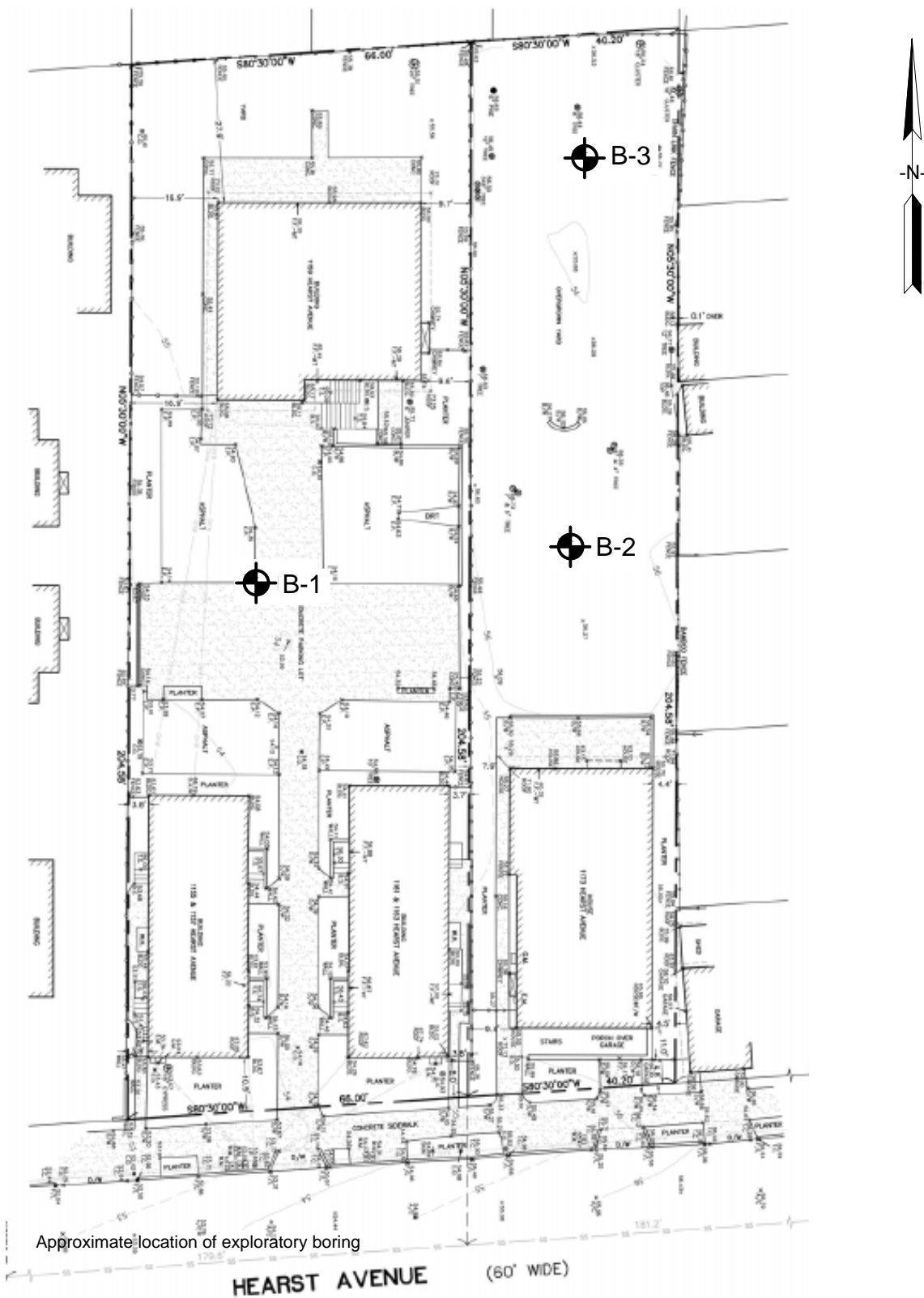
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**ALAN KROPP
& ASSOCIATES**
*Geotechnical
Consultants*

EXPLORATORY BORING LOG
HEARST GARDENS
Berkeley, California

PROJECT NO. 2744-2	DATE August 2018	SHEET 1 of 1	I J K(LMÄJ % 3
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LEGEND



Approximate location of exploratory boring

Source: "Boundary and Topographic Survey, Located at 1155-1173 Hearst Avenue."; by Moran Engineering, Inc.; dated June 8, 2015



**ALAN KROPP
& ASSOCIATES**
*Geotechnical
Consultants*

SITE PLAN

HEARST GARDENS
Berkeley, California

PROJECT NO.
2744-2

DATE
August 2018

FIGURE **4**



ALAN KROPP
& ASSOCIATES, INC.

GEOTECHNICAL
CONSULTANTS

ALAN KROPP, CE, GE
JAMES R. LOTT, CE, GE
JEROEN VAN DEN BERG, CE
THOMAS M. BRENCIC, CE

August 30, 2019
2744-2A, L-31854

Mr. Nathan George
NDG Real Estate
c/o Hearst Avenue Cottages LLC
46 Shattuck Square, Suite 11
Berkeley, CA 94704

RE: Supplemental Geotechnical Engineering Comments
Hearst Gardens
1155-1173 Hearst Avenue
Berkeley, California

Dear Mr. George:

My firm has been providing geotechnical engineering consultants to you regarding your proposed residential project to be located at 1157 and 1173 Avenue in Berkeley, California. We previously prepared a geotechnical investigation report dated March 1, 2019, and also submitted a response to peer review comments letter dated April 17, 2019. Some concerns have been expressed by the community regarding surface and subsurface water issues related to your project, and many of these concerns were presented in draft technical memos by Terraphase Engineering dated October 15, 2015, and February 16, 2016. Reference has also been made to an earlier subsurface drainage study by Kamman Hydrology & Engineering dated June 26, 2002. The purpose of this letter is to provide a response to the geotechnical engineering aspects of the issues raised.

KEY CONCERNS

It is my understanding that there is a concern that ponding which occurs in the backyards of homes on Curtis Street that back up to the site of your proposed development may worsen after the new construction. Specifically, it seems that there are three primary concerns have been raised which may relate to the geotechnical aspects of the project. These are:

1. The foundations for the new buildings will act as “dams” and cause water to back up.
2. The weight of the buildings will compress the underlying saturated soils, and “squeeze water up out of the ground like compressing a sponge.”
3. The level of groundwater encountered in our investigation borings at the site drilled during the summer are not representative of the groundwater depths during the winter.

We will provide comments on each of these issues in the paragraphs below.

FOUNDATIONS CREATING A DAM

A dam impounds a reservoir because the dam is nearly impermeable, and it is built between impermeable abutments at each end. Thus, water cannot flow around or below the impermeable barriers that are created and the water backs up. However, in the case of your two new building foundation near the Curtis Street properties (Daffodil and Edelweiss), there is about 15 feet between the buildings, about 15 feet behind the Edelweiss building, and about 40 feet in front of the Daffodil building. In addition, the foundations for these buildings will only be embedded 12 to 18 inches below the ground. Therefore, there is plenty of area for subsurface water flow that flows against the foundations to flow around the buildings or below the foundations.

SQUEEZING WATER OUT OF THE GROUND

The new building foundations will be founded on structural mat slabs that will be embedded about 12 to 18 inches below the ground surface. Due to weak soils and fill, the soils will be removed to a depth of about 30 inches, the subgrade properly compacted, and then the suitable portions of the soils placed back and compacted as engineered fill. Because the mat slabs will spread out the building loads in a relatively uniform pattern across the entire building area, the pressure on the soil will be very small, on the order of 300 pounds per square foot. To provide an example of how small this load is, a person standing will exert 200 to 300 pounds per square foot of pressure on the ground. This means that the pressure is so small it will not have any significant impact on the water in the ground. Furthermore, should any water movement caused by these small pressures occur, the water could simply move laterally or below the foundation/engineered fill area, and it would be highly unlikely any water would move up to the ground surface.

SUMMER VERSUS WINTER GROUNDWATER LEVELS

Our borings at the site were drilled on August 4, 2018. The two borings in the area of the Daffodil and Edelweiss buildings were each extended to a depth of 11.5 feet and neither encountered groundwater at the time of drilling nor in the 30 minutes between the completion of drilling and the hole being grouted. Our third boring near the western boundary was drilled to a depth of 26.5 feet. In this boring, groundwater was encountered at a depth of about 15.5 feet at the time of drilling and the water level rose to about 10 feet just before the hole was grouted about one hour after drilling. Based on this information, I conclude the summer water level depth is probably about 10 feet. I agree that the groundwater level may rise during the winter months, as I have seen water levels at 5 to 10 feet on various other projects in this area. Therefore, our report recommended a design groundwater level of 5 feet for the project. I should note that ponding on the surface of the ground is a function of surface water flow, and does not indicate the groundwater has built up to the ground surface.

CLOSURE

This letter has been prepared in accordance with generally accepted geotechnical engineering practices. No other warranty, either expressed or implied, is made. If you have any questions concerning this letter, please call me.

Very truly yours,

Alan Kropp
Alan Kropp, G.E.
Principal Engineer



AK/jc

Copies: Addressee (PDF) – Nathan George - nathan@ndgre.com
Mark Rhoades - mark@rhoadesplanninggroup.com
Mia Perkins - mia@rhoadesplanninggroup.com

2744-2A Hearst Gardens Supplemental Comments



ALAN KROPP
& ASSOCIATES, INC.

GEOTECHNICAL
CONSULTANTS



ALAN KROPP, CE, GE
JAMES R. LOTT, CE, GE
JERDEN VAN DEN BERG, CE
THOMAS M. BRENCIC, CE

April 17, 2019
2744-2A, L-31716

Mr. Nathan George
NDG Real Estate
c/o Hearst Avenue Cottages LLC
46 Shattuck Square, Suite 11
Berkeley, CA 94704

RE: Response to Geotechnical Peer Review Comments
Hearst Gardens
1155-1173 Hearst Avenue
Berkeley, California

Dear Mr. George:

In response to the peer review comments provided by Cotton, Shires and Associates, Inc. (CSA) in their letter dated March 14, 2019, we have prepared the following replies (CSA comments in italics):

“The applicant's geotechnical consultant should discuss the potential for consolidation and settlement compression of the soft clay layer encountered in Boring 1. We recommend the Project Geotechnical Consultant provide anticipated values of total and differential settlement for new structures.”

Based on settlement calculations using the Boring 1 profile, typical structural loads (estimated 0.3 kips/square foot) for wood-framed residential buildings, and using relatively conservative consolidation parameters estimated from our laboratory index testing, we estimate a total consolidation settlement value of 2 inches with 1 inch of differential settlement over the length of the building (approximately 50 feet). This settlement amount will likely take place over a period of 30 years or more. Settlement calculations were performed using Rocscience™ Settle3D and are included in Appendix A (attached).

“The Consultant should also provide blow counts for encountered undocumented fill and/or topsoil, if applicable. If SPT, or similar, were not performed on surficial earth materials, the Consultant should consider the undocumented fill as loose and provide recommendations to mitigate this material, as necessary.”

The report recommends typical removal and replacement of the top 30 inches of soft and/or loose material beneath new building foundations. The 30-inch replacement should be comprised of 18 inches (minimum) of compacted, non-expansive fill and an 18-inch thick structural mat slab embedded 12 inches below grade. The over-excavated subgrade (below the 30 inches) should be scarified by 6 inches and re-compacted per the recommendations contained in the report. The over-excavation and replacement should extend at least 3 feet laterally from the edge of the proposed mat slab in all directions. In addition, as is typical in circumstances such as this, we recommend that all fill encountered during grading for the foundations be removed and replaced with non-expansive fill. We believe that this method addresses undocumented fill and topsoil beneath the proposed building foundations.

Page 2
2744-2A

“We recommend the applicant's consultant perform consolidation testing of the encountered soft clays to better characterize the potential for future differential settlement.”

Our settlement calculations were based on conservative correlations of soil index properties.

“We also recommend that the Consultant discuss whether and how the proposed mat-slab style foundations may behave differently than existing structure foundations during seismic shaking. The applicant's geotechnical consultant should also evaluate the condition of the existing one-story structures and provide supplemental geotechnical recommendations, as necessary, to support the proposed second story additions.”

Regarding the two-story addition to the 1159 Hearst building, we do not recommend installing a foundation system that differs from the existing building. Based on information provided by the property manager and by the client, the 1159 Hearst building has not exhibited any signs of differential settlement (stucco or drywall cracking, sticking of doors or windows, or foundation element cracking) over the past several years. This indicates that the building and its foundation system have performed well, especially over the 40-plus year lifespan of the building. We recommend that the foundation system for the proposed two-story addition to the 1159 Hearst building generally match the existing foundations as the building loads in the addition appear to be similar to the loads in the existing building. This recommendation applies within the limits of the current state and local building codes.

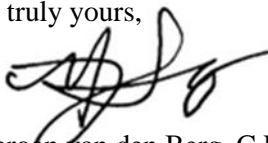
Evaluation of foundation elements for the existing one-story buildings was outside of our scope of services.

This letter has been prepared for the exclusive use of you and your consultants for specific application to the proposed project in accordance with generally accepted geotechnical engineering practices. No other warranty, either expressed or implied, is made. In the event the nature, design, or location of the proposed project differs significantly from what has been noted above, the conclusions and recommendations contained in this letter should not be considered valid unless the changes are reviewed and the conclusions of this report modified or verified in writing.

We are pleased to have been of service to you on this project and look forward to working with you during any supplemental investigation, plan review, and construction phases of the work.

If you have any questions concerning this letter, please call us.

Very truly yours,



M. Jeroen van den Berg, C.E.
Senior Engineer



MJV/jc

Copies: Addressee (PDF) – Nathan George - nathan@ndgre.com
Mark Rhoades - mark@rhoadesplanninggroup.com
Mia Perkins - mia@rhoadesplanninggroup.com

2744-2A Hearst Gardens Response to Peer Review r

APPENDIX A
B-1 SETTLEMENT CALCULATION

Settle3D Analysis Information

Hearst Gardens

Project Settings

Document Name: Project 2
 Project Title: Hearst Gardens
 Analysis: B-1, Settlement of Soft Clay Layer
 Author: MJV
 Company: Alan Kropp and Associates
 Date Created: 4/9/2019, 3:16:24 PM
 Stress Computation Method: Boussinesq
 Use average properties to calculate layered stresses
 Groundwater method: Water Table
 Water Unit Weight: 0.0624 kips/ft³
 Depth to water table: 5 [ft]

Stage Settings

Stage #	Name
1	Stage 1

Results

Time taken to compute: 0.268051 seconds

Stage: Stage 1

Data Type	Minimum	Maximum
Total Settlement [in]	0	2.03157
Consolidation Settlement [in]	0	2.03157
Immediate Settlement [in]	0	0
Loading Stress [ksf]	0	0.219594
Effective Stress [ksf]	-0	1.05237
Total Stress [ksf]	0	1.30197
Total Strain	-0	0.0433859
Pore Water Pressure [ksf]	0	0.2496
Degree of Consolidation [%]	0	100
Pre-consolidation Stress [ksf]	0.00375	1.87163
Over-consolidation Ratio	1	3
Void Ratio	1.00889	1.1
Hydroconsolidation Settlement [in]	0	0

Loads

1. Rectangular Load

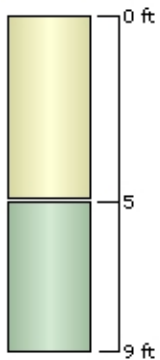
Length: 55 ft
 Width: 25 ft
 Rotation angle: 0 degrees
 Load Type: Rigid
 Area of Load: 1375 ft²
 Load: 0.3 ksf
 Depth: 1 ft
 Installation Stage: Stage 1

Coordinates



X [ft]	Y [ft]
-17.627	0.749
37.373	0.749
37.373	25.749
-17.627	25.749

Soil Layers

Layer #	Type	Thickness [ft]	Depth [ft]
1	Lean Clay (non-expansive fill)	5	0
2	Lean Clay (soft, alluvium)	4	5



Soil Properties

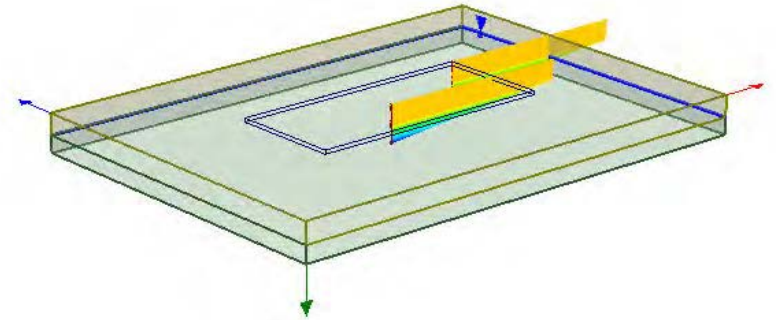
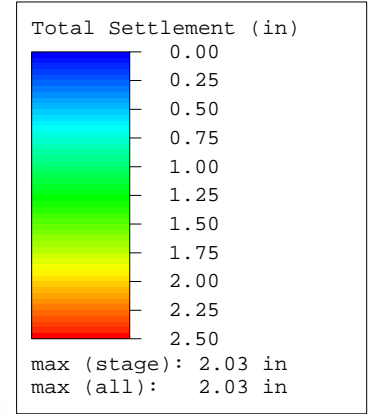
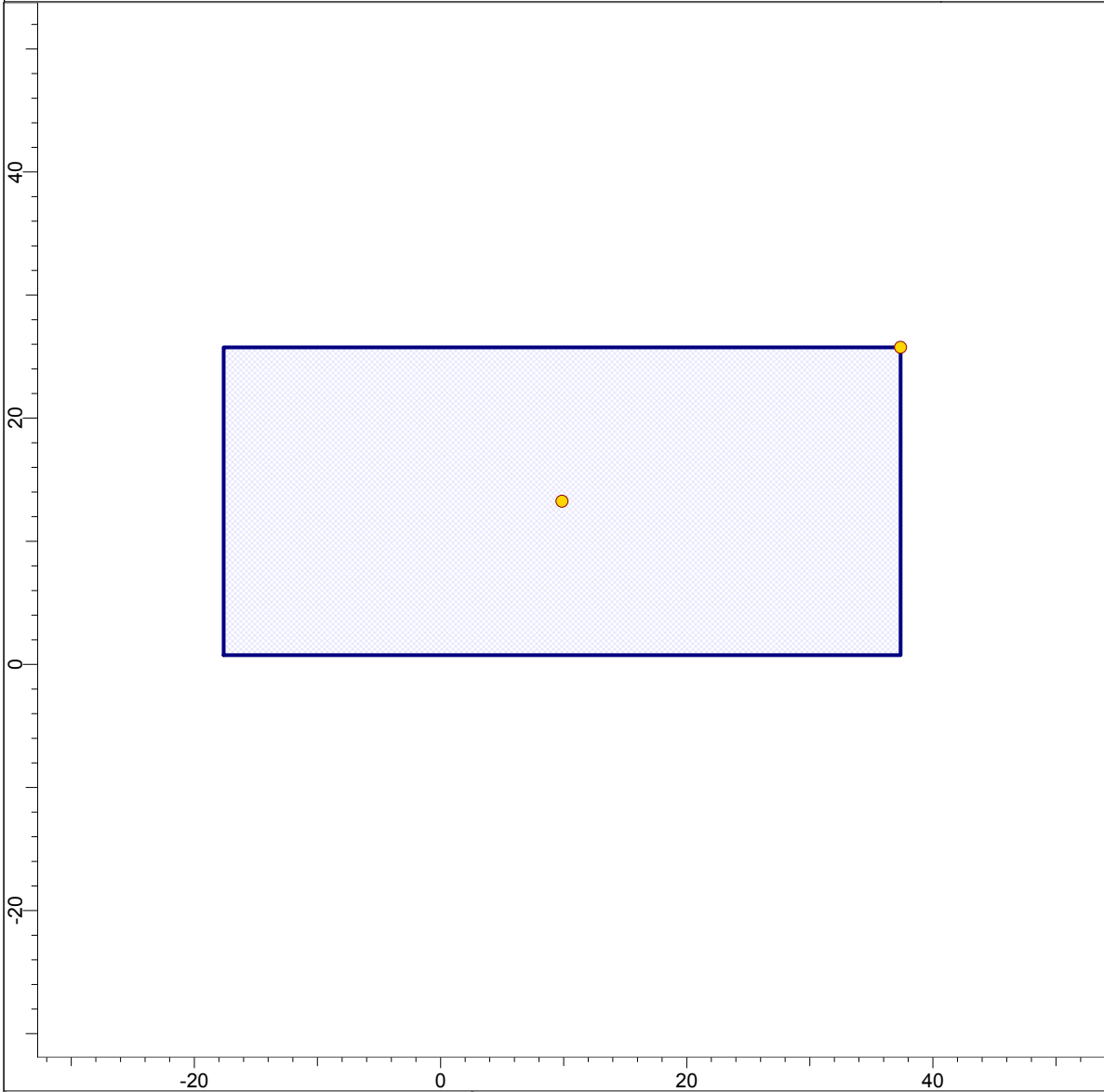
Property	Lean Clay (non-expansive fill)	Lean Clay (soft, alluvium)
Color		
Unit Weight [kips/ft ³]	0.125	0.115
Saturated Unit Weight [kips/ft ³]	0.115	0.115
Primary Consolidation	Enabled	Enabled
Material Type	Non-Linear	Non-Linear
Cc	0.03	0.7
Cr	0.003	0.07
e0	1.1	1.1
OCR	3	1


Query Points

Point #	(X,Y) Location	Number of Divisions
1	9.873, 13.249	Auto: 47
2	37.373, 25.749	Auto: 47

Stage 1

Data Type: Total Settlement



 SETTLE3D 2.008	Project Hearst Gardens	
	Analysis Description B-1, Settlement of Soft Clay Layer	
	Drawn By MJV	Company Alan Kropp and Associates
	Date 4/9/2019, 3:16:24 PM	File Name 2744-2A Hearst Settlement Estimate.s3z



COTTON, SHIRES AND ASSOCIATES, INC.
CONSULTING ENGINEERS AND GEOLOGISTS

March 14, 2019
Z5059

TO: Leslie Mendez
Senior Planner
CITY OF BERKELEY
1947 Center Street, 2nd Floor
Berkeley, California 94704

SUBJECT: **Geotechnical Peer Review**
RE: Rhoades Planning Group, Six Home Development, Renovations,
Remodels and Additions on Two Lots
ZP2016-0028; APN 57-2086-14 and 57-2086-13
1155, 1157, 1159, 1161, 1163 and 1173 Hearst Avenue

At your request, we have completed a geotechnical peer review of the proposed land use permit application at the subject property using:

- Geotechnical Investigation (report), prepared by Alan Kropp & Associates, Inc., dated March 1, 2019;
- Topographic Survey (1 sheet), prepared by Moran Engineering, Inc., dated June 8, 2015; and
- Architectural Plans (43 sheets), prepared by Devi Dutta Architecture, Inc., dated June 8, 2018.

In addition, we have reviewed pertinent technical maps and reports from our office files, and have reviewed documents compiled on the project website.

DISCUSSION

The applicant proposes to construct three additional duplex buildings resulting in a total of six new dwelling units on the two subject parcels (APN -14 and -13). The project will also consist of renovations and remodeling of four existing buildings (consisting of seven existing dwelling units) located on the subject parcels. Remodeling will consist of second story additions within the existing footprint of two one-story buildings and a two-story addition increasing the footprint of one existing building. New site flatwork, paving, and drainage improvements associated with the proposed site construction are also anticipated.

EVALUATIONS BY THE PROJECT GEOTECHNICAL CONSULTANT

The Project Geotechnical Consultant has advanced three site exploratory borings to depths of 10 to 25 feet. Groundwater was encountered at a depth of 10 feet below the ground surface during site exploration. The California Geological Survey has mapped the historic high groundwater at approximately 5 feet below the ground surface, and groundwater may be locally perched and variable as noted by the Project Geotechnical Consultant. Earth materials encountered in site borings include undocumented sandy fill, as well as shallow soft native clays, and alluvial deposits reported to be consistent with the Temescal Formation. The soft clay (CL, blow count of [4]) encountered in Boring B-1 is reported to underly approximately 5 feet of site undocumented fill and is approximately 4 feet thick. Undocumented fill is described as medium dense sand (SC) in provided boring logs but no standard penetration test (SPT) values are provided for our review. Regional geologic mapping (CGS - SHZR081) indicates that the project site is located on Pleistocene-aged alluvial fan deposits (Qpf). The proposed project is not located within a liquefaction hazard zone as mapped by the California Geological Survey. The Consultant concludes that liquefaction of site earth materials during a probable earthquake is low.

CONCLUSIONS AND RECOMMENDED ACTION

The subject property is potentially constrained by shallow groundwater, soft surficial earth materials prone to settlement and consolidation, and strong seismic ground shaking. The Project Geotechnical Consultant recommends a mat-slab foundation style designed to span 10 feet laterally, intended to mitigate the potential for differential settlement of surficial soft clay earth materials and potentially fill. The anticipated magnitude of potential differential settlement remains unclear, and the geotechnical engineering properties of site undocumented fill has not been provided. It appears that the Consultant recommends surficial subgrade preparation for new site foundations that would remove and replace the upper 18 inches of encountered site earth materials. We recommend that the Project Geotechnical Consultant address the following prior to approval of land use permit applications:

1. **Geotechnical Clarifications** - The applicant's geotechnical consultant should discuss the potential for consolidation and settlement compression of the soft clay layer encountered in Boring 1. We recommend the Project Geotechnical Consultant provide anticipated values of total and differential settlement for new structures. The Consultant should also provide blow counts for encountered undocumented fill and/or topsoil, if applicable. If SPT, or similar, were not performed on surficial earth materials, the Consultant should consider the undocumented fill as loose and provide recommendations to mitigate this material, as necessary. We recommend the applicant's consultant perform

consolidation testing of the encountered soft clays to better characterize the potential for future differential settlement.

We also recommend that the Consultant discuss whether and how the proposed mat-slab style foundations may behave differently than existing structure foundations during seismic shaking. The applicant's geotechnical consultant should also evaluate the condition of the existing one-story structures and provide supplemental geotechnical recommendations, as necessary, to support the proposed second story additions.


The results of the geotechnical clarifications and supplemental geotechnical recommendations or evaluations should be organized in a letter-report by the geotechnical consultant and submitted to the City for review by the City Geotechnical Consultant.

LIMITATIONS

This geotechnical peer review has been performed to provide technical advice to assist the City with its discretionary permit decisions. Our services have been limited to review of the documents previously identified. Our opinions and conclusions are made in accordance with generally accepted principles and practices of the geotechnical profession. This warranty is in lieu of all other warranties, either expressed or implied.

Respectfully submitted,

COTTON, SHIRES AND ASSOCIATES, INC.
CITY GEOTECHNICAL CONSULTANT



Ted Sayre
Engineering Geologist
CEG 1795



David T. Schrier
Principal Geotechnical Engineer
GE 2334

DTS:CS:TS

GEOTECHNICAL INVESTIGATION
HEARST GARDENS
BERKELEY, CALIFORNIA



ALAN KROPP
& ASSOCIATES, INC.

GEOTECHNICAL
CONSULTANTS



ALAN KROPP, CE, GE
JAMES R. LOTT, CE, GE
JEROEN VAN DEN BERG, CE
THOMAS M. BRENCIC, CE

March 1, 2019
2744-2, L-31477

Mr. Nathan George
NDG Real Estate
c/o Hearst Avenue Cottages LLC
46 Shattuck Square, Suite 11
Berkeley, CA 94704

RE: Geotechnical Investigation
Hearst Gardens
1155-1173 Hearst Avenue
Berkeley, California

Dear Mr. George:

In accordance with your authorization, we have performed a geotechnical investigation for the proposed residential project to be located at 1155-1173 Hearst Avenue in Berkeley, California. This location is shown on the attached Vicinity Map, Figure 1 (Latitude: 37.8711 degrees; Longitude: -122.2904 degrees). The project site spans two adjacent parcels; APN: 57-2086-14 and APN: 57-2086-13.

1.00 PROPOSED CONSTRUCTION

The two parcels are currently developed with four residential structures; three buildings are located on the western parcel and one building on the eastern parcel. Based on our review of provided planning documents and on conversations with you, it is our understanding that three new buildings are planned for the two lots. One new duplex is planned for the western parcel and two new duplexes are planned for the eastern parcel. The existing units will all be renovated as part of this project.

2.00 PURPOSE

The purpose of our investigation was to evaluate the geotechnical characteristics of the site for the proposed residential buildings and to provide geotechnical engineering recommendations for the proposed work.

3.00 SCOPE OF SERVICES

As outlined in our proposal dated July 24, 2018, the scope of our work to accomplish the stated purpose included:

- A reconnaissance of the lots, existing structures, and accessible portions of the immediate surrounding properties to observe the general surficial conditions regarding vegetation, uneven ground, or possible obvious geotechnical concerns;

- A review of published topographic and geotechnical/geologic materials to obtain geotechnical/geologic data relevant to the investigation;
- A field subsurface exploration program consisting of drilling three exploratory test borings to evaluate the subsurface materials. The borings were to be extended to depths on the order of 10-25 feet below ground surface and one boring was to be drilled in the general area of each new duplex. We were also to obtain the legally required City of Berkeley drilling permit and backfill the borings with lean grout upon completion of drilling in accordance with permit requirements. Spoils (soil cuttings and water) from the boring were to be left on site;
- Laboratory testing for classification, index, moisture-density, and strength testing, as required, to evaluate various soil properties of the materials recovered;
- Geotechnical engineering analyses of the collected data; and
- Preparation of our geotechnical investigation report for the project presenting the results of our studies along with pertinent geotechnical design and construction requirements for the project earthwork, foundations, and other relevant aspects of the proposed work.

The scope of our services did not include an environmental assessment or investigation for the presence of hazardous or toxic materials in the soil, groundwater, or air on, below, or around this site. An evaluation of the potential presence of sulfates in the soil, or other possibly corrosive, naturally occurring elements was beyond our scope.

4.00 SITE INVESTIGATION

4.01 Existing Geotechnical Data Review

A variety of published sources was reviewed to evaluate geotechnical data relevant to the subject parcels. These sources included geotechnical literature, reports, and maps published by various public agencies. Maps which were reviewed included topographic and geologic maps prepared by the United States Geological Survey, as well as geologic and seismic hazard maps prepared by the California Geological Survey (formerly the California Division of Mines and Geology). A list of the published sources used in our investigation is presented at the end of this report.

The topographic map for this area (the Oakland West Quadrangle) prepared by the United States Geological Survey, indicates the site is located at an elevation of approximately 55 to 60 feet on the flatlands between the San Francisco Bay and Berkeley/Oakland hills.

A widely used geologic map of the area (Radbruch, 1957) indicates the surficial soils at the site are underlain by Temescal Formation material. The text accompanying this map describes the Temescal Formation as an alluvial fan deposit comprising interfingering lenses of clayey gravel, sandy silty clay, and sand-clay-silt mixtures. The permeability is considered generally moderate, with some gravel layers containing significant water. A more recent geologic map by Helley and Graymer (1997) indicates the site is underlain by Holocene alluvial fan and fluvial deposits. The map indicates the material consists of medium dense to dense, gravelly sand or sandy gravel that generally grades upward to sandy or silty clay. A site geology map based on the Radbruch map is presented in Figure 2.

The site is approximately 1.8 miles southwest of the nearest active trace of the Hayward fault (Lienkaemper, 1992). The site is also located about 17.0 miles northeast and 15.5 miles southwest of the active San Andreas and Concord faults, respectively (Jennings, 1994). The site is not located within any Alquist-Priolo Earthquake Fault Zone designated by the State of California (CDMG, 1982).

The California Geological Survey (CGS) is in the process of producing statewide Seismic Hazard reports and maps that delineate zones where data suggests amplified ground shaking, liquefaction, or earthquake-induced landsliding may occur ("Seismic Hazard Zones-SHZ"). If a project is located within a SHZ, CGS recommends performing additional site-specific studies. According to these widely accepted maps, the project site is not located within a potential seismic landsliding or liquefaction hazard zone.

Studies by the United States Geological Survey's Working Group on California Earthquake Probabilities (Aagaard et al., 2016) have estimated a 72 percent probability that at least one magnitude 6.7 or greater earthquake will occur in the San Francisco Bay Region before the year 2043. As part of their prediction, they estimated the probability to be 33 percent for a magnitude 6.7 or greater earthquake to occur on the Hayward-Rodgers Creek fault, 22 percent for a magnitude 6.7 or greater earthquake to occur on the Northern San Andreas fault, and 16 percent for a magnitude 6.7 or greater earthquake to occur on the Concord fault during that same period.

4.02 Subsurface Exploration

Our subsurface exploration program was performed on August 4, 2018, to investigate and sample the subsurface materials. Three borings were drilled at the site to depths of 11½ (B-2 and B-3) and 26½ feet (B-1) at the locations shown on the Site Plan, Figure 4. Each of the three borings was located within the footprint of proposed structures.

Portable hydraulic, continuous flight auger drilling equipment was employed to advance the three borings. During drilling, our field representative monitored the advancement of the drilling and made notes of obvious changes in the drilling conditions or comments made by the driller. Samples of the materials encountered were obtained using a 140-pound hammer and conventional sampling equipment. Samples were obtained using a 2-inch O.D. Standard Penetration Test (SPT) and a 3-inch O.D. Modified California Sampler. The hammer blows required to drive the sampler the final 12 inches of each 18-inch driven length are presented on the boring logs.

Detailed descriptions of the materials encountered in the borings are found on the boring logs presented at the end of this report in Appendix A. A Key to Exploratory Boring Logs is also presented in Appendix A. The attached logs and related information depict subsurface conditions only at the specific locations shown on the Site Plan and on the particular date designated on the logs. These logs may have been modified from the original logs recorded during drilling as a result of further study of the collected samples, laboratory tests, or other efforts. Also, the passage of time may result in changes in the subsurface conditions due to environmental changes. The locations of the borings were approximately determined by pacing, and the ground surface elevations at each boring location were approximately determined by interpolation of topographic map contours. The locations and elevations should be considered accurate only to the degree implied by the method used.

Groundwater was encountered at a depth of 15.5 feet in Boring 1 during drilling, and was observed to rise to a depth of 10 feet shortly after completion of drilling. Groundwater was not encountered in Borings 2 or 3. All three borings were backfilled with lean concrete after drilling in accordance with drilling

requirements for the City of Berkeley. It should be noted that groundwater measurements in the borings may have been made prior to allowing a sufficient period of time for the equilibrium groundwater conditions to become established. In addition, fluctuations in the groundwater level may occur due to variations in rainfall, temperature, and other factors not evident at the time the measurements were made.

4.03 Laboratory Testing

Our geotechnical laboratory testing program was directed toward a quantitative and qualitative evaluation of the physical and mechanical properties of the soils underlying the site. The following geotechnical laboratory tests were performed on selected soil samples in general accordance with the listed ASTM standard:

- Water content per ASTM Test Designation D-2216;
- Dry density per ASTM Test Designation D-2937;
- Atterberg Limits per ASTM Test Designation D-4318; and
- Percent passing No. 200 sieve per ASTM Test Designation D-1140.

The results of these tests are presented on the boring logs at the appropriate sample depths.

5.00 SITE CONDITIONS

5.01 Surface

The two relatively level lots are rectangular in shape and are bounded by other developed residential lots on the west, north, and east and by Hearst Avenue to the south. The proposed building locations are currently occupied by asphalt paving and by overgrown vegetation.

5.02 Subsurface

The surficial materials encountered in our exploratory borings generally consisted of loose to medium dense clayey sand fill and/or topsoil, which extended to depths of about 2 to 5 feet below the existing site grades. Below the fill/topsoil soil, we encountered soft to very stiff clayey alluvial soils. The alluvial clayey layers were observed to be interbedded with occasional medium dense clayey sand and clayey gravel layers. The alluvial soils underlying the surficial fill and topsoil appeared to be consistent with the Temescal Formation materials as mapped by Radbruch (1957).

Detailed descriptions of the materials encountered in the borings can be found on the boring logs presented in Appendix A along with a Key to Exploratory Boring Logs.

The logs and related information contained in our data report depict subsurface conditions only at the specific locations shown on the Site Plan (Figure 4) and on the particular date designated on the logs. These logs may have been modified from the original logs recorded during drilling as a result of further study of the collected samples, laboratory tests, or other efforts. Also, the passage of time may result in changes in the subsurface conditions due to environmental changes. The locations of the borings were approximately determined by hand-tape measurements from existing site improvements, and the ground surface elevations at each boring location were approximately determined by interpolation of topographic map contours. The locations and elevations should be considered accurate only to the degree implied by the method used.

5.03 Groundwater

Groundwater was encountered at a depth of 10 feet in Boring 1 shortly after drilling. Groundwater was not encountered in the Borings 2 or 3. In accordance with drilling requirements for the City of Berkeley, the exploratory borings were grouted with lean concrete upon the completion of the drilling. It should be noted that groundwater measurements in the borings may have been made prior to allowing a sufficient period of time for the equilibrium groundwater conditions to become established. In addition, fluctuations in the groundwater level may occur due to variations in rainfall, temperature, and other factors not evident at the time the measurements were made. Our experience in this geographical area has shown that perched groundwater may be encountered at various elevations in porous soil layers (sand and gravel) and may not indicate actual equilibrium groundwater.

6.00 EVALUATIONS AND CONCLUSIONS

6.01 General Site Suitability

Based on our investigation, it is our opinion the site is suitable for the construction of the proposed project from a geotechnical standpoint. However, all of the conclusions and recommendations presented in this report should be incorporated in the design and construction of the project to minimize possible geotechnical problems.

The primary considerations for geotechnical design at the site are:

- The presence of variable surficial soils at the site;
- Foundation selection; and
- Earthquake hazards.

Each of these conditions is discussed individually below.

6.02 Variable Surficial Soils

Based on the data obtained during our subsurface exploration, a portion of the site is underlain by up to 8 feet of soft, clayey soil. We observed this soft clay in Boring 1; however, based on our experience with similar alluvial depositional and former tributary environments, areas of soft clays may exist elsewhere at the site. The soft clays may cause significant differential building settlements if loads were applied directly to them from independent shallow foundations. We do not believe that over-excavating these soft materials or deepening the foundations through the soft clay are cost-effective alternatives due to shoring and groundwater issues associated with deep excavations. We recommend the use of mat slab foundation systems for the new structures. The mat slabs should be designed to span localized soft soil areas up about 10 feet laterally. Geotechnical design recommendations for mat slab foundations are presented in Section 7.02, "Mat Slab Foundations."

6.03 Groundwater Considerations

Groundwater was observed at depths between 10 and 15 feet below the existing site grades in our exploratory borings during drilling and the borings were grouted immediately after the completion of drilling. Although groundwater was encountered in one of the borings at a depth of 10 feet, the subsurface data we reviewed from the projects we have completed in the immediate site vicinity indicate that

groundwater in the surrounding area can vary by as much as 5 feet and is often at a depth of roughly 10 feet. Based upon the information obtained from these sources, we judge that a design groundwater level of 10 feet below existing grade would be appropriate.

As the preliminary plans for the buildings indicate minimal below-grade construction, we do not anticipate that excavations will extend below the design groundwater table (10 feet). If excavations for the mat slab and utility trenching are completed during the summer/fall, temporary construction dewatering most likely will not be required. However, the contractor should be prepared for the possibility of encountering localized pockets of perched groundwater trapped in intermittent gravelly layers. If construction is not completed in the summer/fall, and especially if construction is attempted during the winter months, it is possible that temporary construction dewatering may be required.

6.04 Building Foundations

Preliminary project plans indicate that most of the building will be constructed at-grade and will require minimal excavations to establish design foundation elevations. In order to account for the variable near surface fill soils on the site and to provide foundation support in similar materials, it is recommended that the building be supported on mat slab foundations that extend at least 12 inches below the lowest adjacent grade.

6.05 Seismic Considerations

The subject site is located in the highly seismic San Francisco Bay Area, and there is a strong probability that a moderate to severe earthquake will occur during the life of the structure. Based on our review of the fault maps listed below, no active or inactive faults are known to pass through the site. The site is located about 1.8 miles southwest of the nearest active trace of the Hayward fault (Lienkaemper, 1992). Based on the proximity to the mapped splay of the Hayward fault, we judge that the likelihood of a surface fault rupture encroaching into the project site is unlikely.

During strong earthquakes, various forms of ground failure can occur, such as liquefaction and earthquake-induced landsliding. Liquefaction primarily occurs in relatively loose granular (sandy) soils below the groundwater table. However, some soft, low plasticity silts and clays can also be subject to liquefaction type behavior. The site is underlain by generally stiff, relatively plastic clay and medium dense, clayey gravel soils, and in our opinion, liquefaction is not a significant site hazard. Due to the relatively level topography on the site and in the site vicinity, earthquake-induced landsliding is also not considered a significant site hazard.

The proposed buildings will very likely experience strong ground shaking during a major earthquake in the life of the structure. The California Building Code has adopted provisions for incorporation of strong ground shaking into the design of all structures. Our recommendations for geotechnical parameters to be used in the structural seismic design of the building are presented in Section 7.03, "California Building Code Seismic Design Parameters."

7.00 RECOMMENDATIONS

It is the responsibility of you or your representative to confirm that the recommendations presented in this report are called to the attention of the contractor, subcontractors, and any governmental body which may have jurisdiction and that these recommendations are carried out in the field.

7.01 Site Preparation and Earthwork

7.01.1 Site Clearing and Preparation

The site should initially be cleared of landscaping vegetation, foundation elements, slabs, and other elements from previous structures. These materials should be removed from the site. Any fill material exposed that will be beneath proposed at-grade portions of the building and/or exterior pavements should be over-excavated and re-compacted with engineering control. A representative from our office should make the determination between fill and native soils during grading. Any localized excavations required for the removal of trees and/or old foundations that are below the planned finished site elevations should be backfilled with engineered fill or with a flowable, low-strength slurry fill that is placed and compacted in accordance with the recommendations contained in Section 7.01.4, "Compaction."

7.01.2 Subgrade Preparation

The subgrade surface in those areas to receive structural fill (including excavations created from the removal of existing structures and/or removal of the existing site fill), mat slabs, slabs-on-grade, or pavements should be confirmed by the project engineer to be firm, non-yielding materials. Areas that are to receive non-expansive, select fill should be over-excavated as necessary to accommodate the recommended select fill layer. The exposed soils in those areas receiving non-expansive, select fill or structural fill should be scarified to a depth of 6 inches or the full depth of any existing shrinkage cracks, whichever is deeper. The scarified soils should then be moisture conditioned to 2 to 5 percent above optimum water content and compacted to the specified relative compaction indicated in Section 7.01.4, "Compaction." In areas to receive select fill, the moisture-conditioned subgrade should be covered as soon as possible to prevent drying of the subgrade soils.

7.01.3 Material for Fill

All onsite soils below the stripped layer having an organic content of less than 3 percent by volume are suitable for use as fill. However, all fill placed at the site, including onsite soil, should not contain rocks or lumps greater than 6 inches in greatest dimension with not more than 15 percent larger than 2.5 inches. Non-expansive select fill, where specified, should meet the requirements for general fill and should be predominantly granular with a plasticity index of 12% or less. All import material should be evaluated by our firm prior to importation to the site.

7.01.4 Compaction

All fill should be placed on a firm, unyielding base surface in lifts not exceeding 8 inches in uncompacted thickness. The fill should be compacted to at least 90 percent relative compaction by mechanical means only as determined by ASTM Test Designation D1557-latest revision.

It is possible that exposed soils may be excessively wet or dry depending on the moisture content at the time of construction. If the soils are too wet, then they may be dried by aeration or by mixing with drier materials. If the soils are too dry, then they may be wetted by the addition of water or by mixing with wetter materials.

7.01.5 Trench Backfill

Pipeline trenches should be backfilled with fill placed in lifts not exceeding 8 inches in uncompacted thickness. Native backfill materials should be compacted to at least 90 percent relative compaction (ASTM D1557; latest edition) and granular import material should be compacted to at least 95 percent relative compaction (ASTM D1557; latest edition). These compaction recommendations assume a reasonable “cushion” layer around the pipe.

If imported granular soil is used, sufficient water should be added during the trench backfilling operations to prevent the soil from “bulking” during compaction. All compaction operations should be performed by mechanical means only. We recommend against jetting. If granular backfill is used for utility trenches, we recommend that an impermeable plug or mastic sealant be used where utilities enter the building to minimize the potential for free water or moisture to enter below the building.

7.02 Mat Slab Foundations

We recommend that the new structures be supported on reinforced concrete mat slab foundation systems, with minimum mat slab thicknesses of 18 inches. The area for the mats should be cleared of landscaping vegetation, foundation elements, slabs, and other elements from previous structures, and these materials should be removed from the site. The subgrade should be prepared by over-excavating the top 18 inches of existing fill and topsoil materials and placing suitable (see Section 7.01.2) on-site or import soil compacted per the recommendations provided in Section 7.01.4, “Compaction.”

The mats can be designed assuming an allowable bearing pressure of 1,000 pounds per square foot for dead plus live loads, with a one-third increase for all loads including wind or seismic. This allowable bearing pressure is a net value; therefore, the weight of the mats can be neglected for design purposes. The mats should be integrally connected to all portions of the structure so the entire foundation system (for each new structure) moves as a unit. The mat should be reinforced with top and bottom steel in both directions to allow the foundation to span local irregularities. As a minimum, we recommend that the mat be reinforced with sufficient top and bottom steel to support a random interior clear span of at least 10 feet. The mat can be designed using a modulus of subgrade reaction of 100 kips per cubic foot. This modulus value has been factored for the mat size and can be increased by one-third for total loads including seismic forces.

Lateral loads on the structure may be resisted by passive pressures acting against the sides of the mat and/or on shear keys extended under the mat where there is at least 10 feet of level ground in front of the shear key and/or mat slab edge. We recommend an allowable passive pressure equal to an equivalent fluid weighing 350 pounds per square foot per foot of depth (This passive pressure value can be increased by 20% in areas that are cut down to 10 feet or more below the currently existing grade). Alternatively, an allowable friction coefficient of 0.30 can be used between the bottom of the mat and the subgrade soils. If the perimeter of the mat is poured neat against the soils, the passive pressure and friction coefficient may be used in combination. Passive pressure should not be used within the upper one foot unless the ground surface is confined by a slab or pavement.

In order to minimize vapor transmission, a vapor retardant membrane (Class A vapor retarder [ASTM E 1745, latest revision]) should be placed beneath the mat. The membrane should be covered with 2 inches of sand to protect it during construction. The sand should be lightly moistened just prior to placing the concrete. In order to reduce potential infiltration into the sand layer, the sand should be terminated

approximately 12 inches from the perimeter edge of the mat and the mat should be thickened by 2 inches to compensate for the elimination of the sand layer. Any tears in the retarder and all plumbing penetrations should be sealed with an appropriate taping material. If the vapor retarder is upgraded to a more substantial material (such as Stego Wrap 15-mil or approved equivalent), consideration could be given to elimination of the 2-inch sand layer. Again, any tears in the retarder and all plumbing penetrations should be sealed with an appropriate taping material.

Where the mat slab will be surfaced with flooring material, we recommend that the specifications for slab on grade floors require that moisture emission tests be performed on the slab prior to the installation of the flooring. No flooring should be installed until safe moisture emission levels are recorded for the type of flooring to be used.

7.03 California Building Code Seismic Design Parameters

Based on our review of the site location, geology, and the 2016 California Building Code (CBC), we recommend the following parameters be used for seismic design of the building:

- Site Class = D
- Mapped Spectral Acceleration for Short Period (S_s , Site Class B) = 2.084g
- Mapped Spectral Acceleration for 1-Second Period (S_1 , Site Class B) = 0.854g
- Maximum Considered Earthquake Spectral Response Acceleration for Short Period (S_{MS} , Site Class D) = 2.084g
- Maximum Considered Earthquake Spectral Response Acceleration for 1-Second Period (S_{M1} , Site Class D) = 1.282g
- Design Spectral Response Acceleration for Short Period (S_{DS} , Site Class D) = 1.389g
- Design Spectral Response Acceleration for 1-Second Period (S_{D1} , Site Class D) = 0.854g

7.04 Exterior Slabs

We recommend any exterior slabs-on-grade be supported on a minimum of 12 inches of imported, compacted, non-expansive fill. In areas of existing fill where new slabs are proposed, we recommend any old, existing fill underlying any proposed slabs be removed and recompact to the requirements of structural fill. If all of the old fill under proposed slabs cannot be removed, then some settlement, tilting, and cracking of the slab should be expected. In addition, a gap should be created between the building foundations and any slabs located adjacent to the building.

In order to minimize volume change of the subgrade soils, these materials should be scarified to a depth of 6 inches, moisture conditioned to slightly above optimum water content, and compacted to the requirements for structural fill. Prior to the construction of the slabs, the subgrade surface should be proof-rolled to provide a smooth, firm surface for slab support.

The slabs should be structurally independent from the perimeter foundation of the building, and should be free-floating. Score cuts or construction joints should be provided at a maximum spacing of 10 feet in both directions. The slabs should be appropriately reinforced according to structural requirements; concentrated loads may require additional reinforcing. Minor movement of the concrete slab with resulting cracking should be expected. Steps to the building from the slab area should be created with a void (expansion joint) between the steps and the building foundation. The recommendations presented above, if properly implemented, should help minimize the magnitude of this cracking.

It has been our experience that the installation of wire mesh for slab reinforcement has often not been performed properly during construction of the slab. As a result, we recommend that steel bar reinforcement be used to reinforce any proposed slabs.

7.05 Surface Drainage

We recommend that rainwater collected on the roof of the building be transmitted through gutters and downspouts to closed pipes that discharge into an appropriate discharge facility. Flexible drain pipe (flexline), 2000 pound crush pipe, leachfield, and ASTM F810 pipe are not recommended for use in these drainage systems because of the likelihood of damage to the pipe during installation due to the weak strength of these pipes. In addition, these drainpipes are sometimes difficult to clean with mechanical equipment without damaging the pipe. We recommend the use of Schedule 40 PVC, SDR 35 PVC or ABS, Contech A-2000 PVC drainpipe, or equivalent for the drain system.

Positive surface gradients of at least 2 percent should be provided adjacent to the building to direct water away from foundations and slabs toward suitable discharge facilities. Ponding of surface water should not be allowed adjacent to the structure or on pavements. Planter areas located next to the building should be avoided. If necessary, each planter should contain an area drain and allow for the collection of water.

7.06 Plan Review

We recommend that our firm be provided the opportunity of a general review of the geotechnical aspects of the design and specifications for the subject work at this site in order that the geotechnical recommendations may be properly interpreted and implemented in the design and specifications. If our firm is not accorded the privilege of making the recommended review, we can assume no responsibility for misinterpretation of our recommendations.

7.07 Construction Observation

The analyses and recommendations submitted in this report are based in part upon the data obtained from the soil borings and other data presented in our data report. The nature and extent of variations across the site may not become evident until construction. If variations then become apparent, it will be necessary to re-examine the recommendations of this report.

We recommend our firm be retained to provide geotechnical engineering services during the earthwork, foundation construction, and drainage phases of the work. This is to observe compliance with the design concepts, specifications, and recommendations, and to allow design changes in the event that subsurface conditions differ from those anticipated prior to the start of construction.

In order to effectively accomplish our observations during the project construction, we recommend that a pre-construction meeting be held to develop a mechanism for proper communications throughout the project. We also request that the client or the client's representative (the contractor) contact our firm at least two working days prior to the commencement of any of the items listed above. If our representative makes a site visit in response to a request from the client or the client's representative and it turns out that the visit was not necessary, our charges for the visit will still be forwarded to the client.

7.08 Wet Weather Construction

Although it is possible for construction to proceed during or immediately following the wet winter months, a number of geotechnical problems may occur which may increase costs and cause project delays. The water content of onsite soils may increase during the winter and rise significantly above optimum moisture content for compaction of subgrade or backfill materials. If this occurs, the contractor may be unable to achieve the recommended levels of compaction without using special measures and would likely have to:

- Wait until the materials are dry enough to become workable;
- Dispose of the wet soils and import dry soils; and
- Use lime or cement on the native materials to absorb water and achieve workability.

If utility trenches or excavations are open during winter rains, then caving of the trenches or excavations may occur. Also, if the trenches fill with water during construction, or if saturated materials are encountered at the anticipated bottom of the excavations, excavations may need to be extended to greater depths to reach adequate support capacity than would be necessary if dry weather construction took place.

We should also note that it has been our experience that increased clean-up costs will occur, and greater safety hazards will exist, if the work proceeds during the wet winter months.

8.00 REPORT LIMITATIONS AND CLOSURE

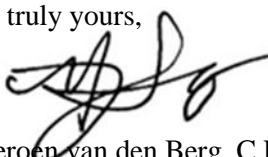
This report has been prepared for the exclusive use of you and your consultants for specific application to the proposed project in accordance with generally accepted geotechnical engineering practices. No other warranty, either expressed or implied, is made. In the event the nature, design, or location of the proposed project differs significantly from what has been noted above, the conclusions and recommendations contained in this report should not be considered valid unless the changes are reviewed and the conclusions of this report modified or verified in writing.

The findings of this report are valid as of the present date. However, the passing of time will likely change the conditions of the existing property due to natural processes or the works of man. In addition, due to new legislation or the broadening of knowledge, changes in applicable or appropriate standards may occur. Accordingly, the findings of this report may be invalidated, wholly or partly, by changes beyond our control. Therefore, this report should not be relied upon after three years without being reviewed by this office.

We are pleased to have been of service to you on this project and look forward to working with you during any supplemental investigation, plan review, and construction phases of the work.

If you have any questions concerning this letter, please call us.

Very truly yours,



M. Jeroen van den Berg, C.E.
Senior Engineer



MJV/jc

Copies: Addressee (PDF) – Nathan George: nathan@ndgre.com
Mark Rhoades: mark@rhoadesplanninggroup.com
Mia Perkins: mia@rhoadesplanninggroup.com

Attachments: Figure 1 – Vicinity Map
Figure 2 – Geology Map
Figure 3 – Seismic Hazards Map
Figure 4 – Site Plan

2744-2 Hearst Gardens - GI report rr

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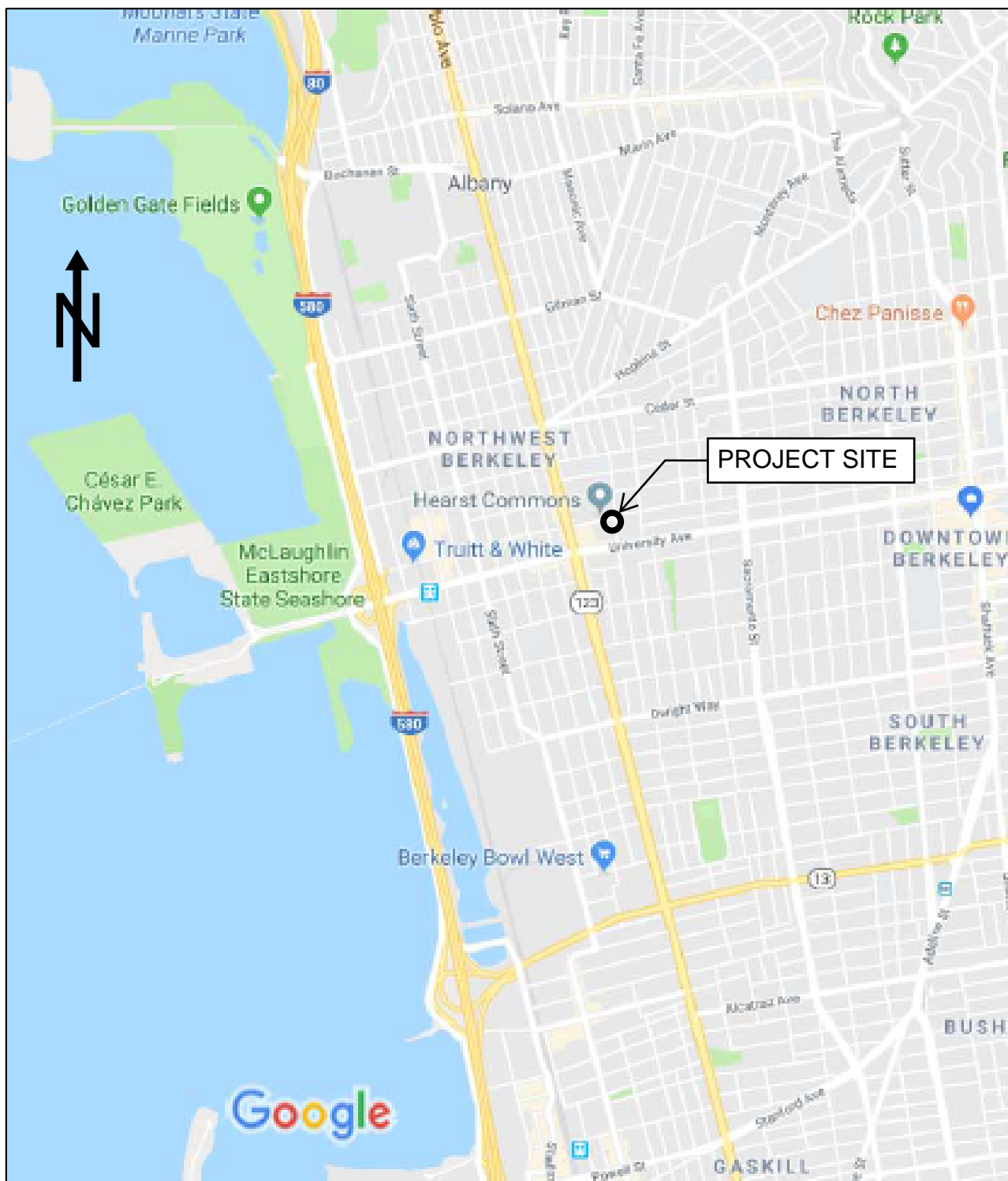
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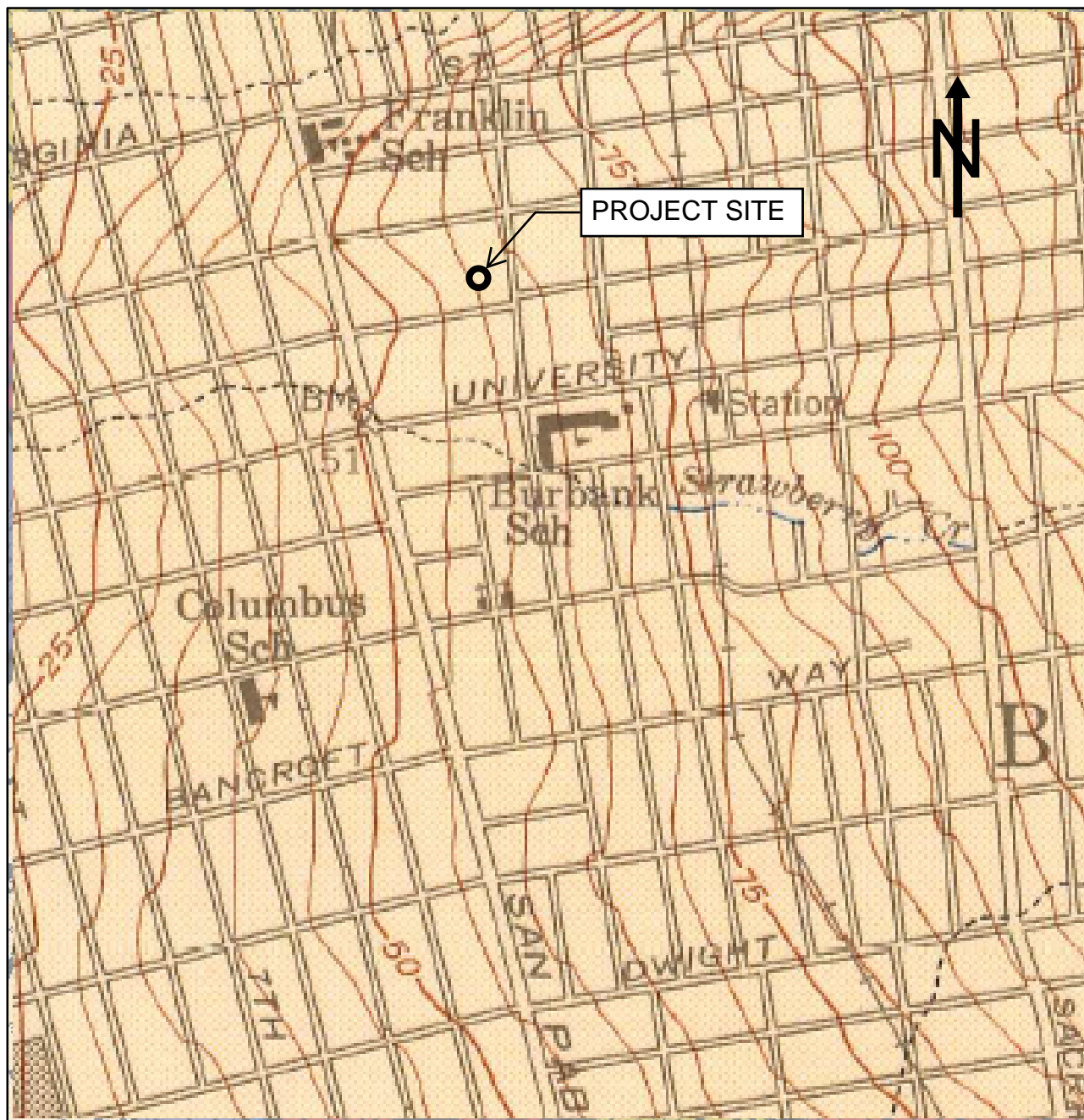
VICINITY MAP

HEARST GARDENS
Berkeley, California

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FIGURE **1**

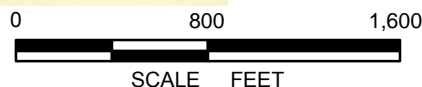


LEGEND

Source "Aerial and Engineering Geology of the Oakland West Quadrangle, California", Radbruch, 1957.

Qtc
Temescal formation
 Alluvial-fan deposit comprising interfingering lenses of clayey gravel, sandy silty clay, and sand-clay-silt mixtures.

Approximate boundaries of former shores, ponds, tidal flats, and streams now filled or concealed
 After unpublished U. S. Coast and Geodetic Survey planetable sheets nos. XXIV and XXV, U. S. Coast Survey, San Francisco Bay, Calif., 1856.



Original figure produced in color.



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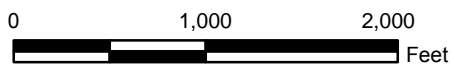
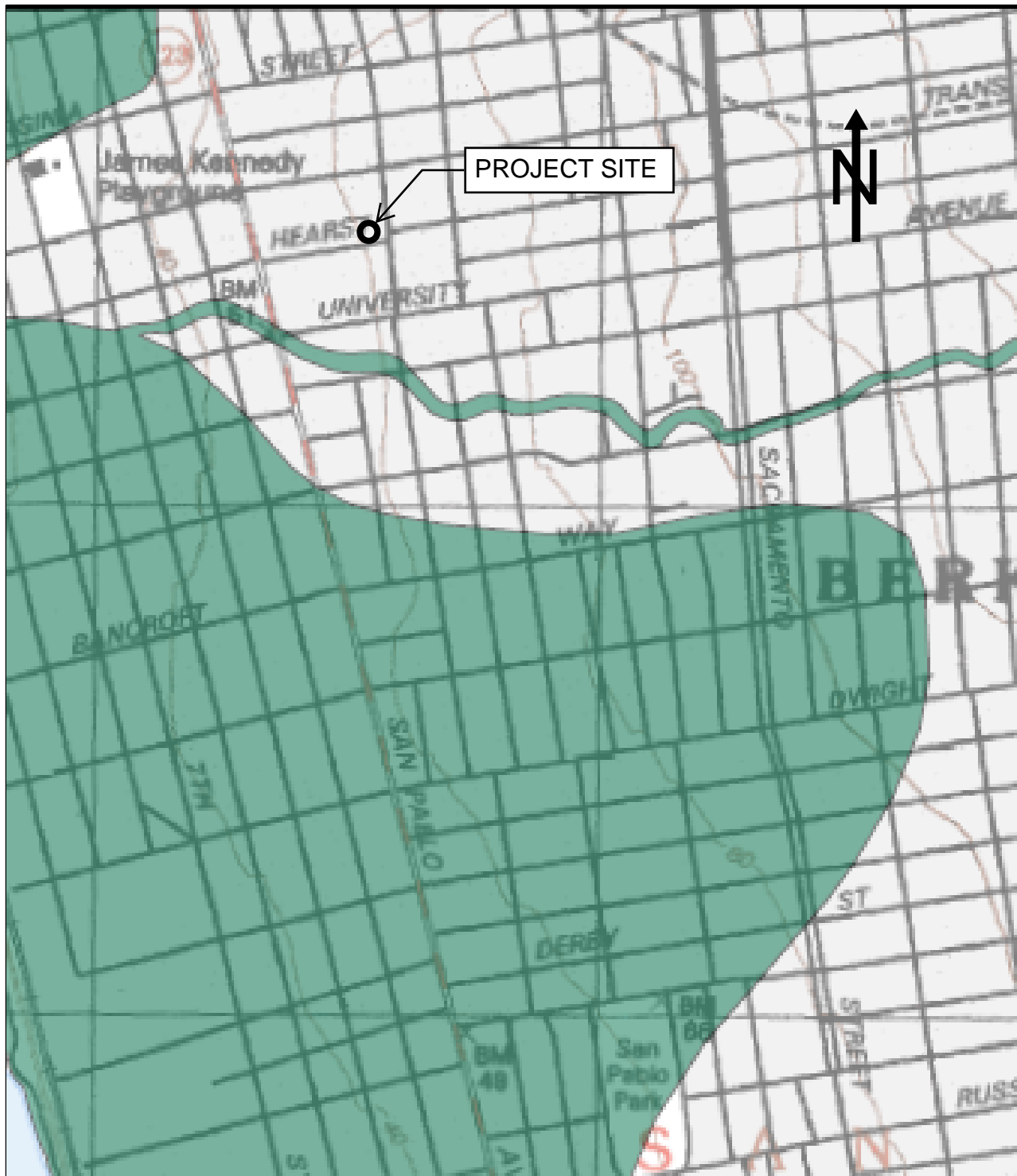
GEOLOGY MAP

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FIGURE **2**



Source: California Geological Survey,
<http://gmw.consrv.ca.gov/shmp/MapProcessor.asp?Action=Download&Location=NoCal>

LEGEND



Liquefaction Zones
Areas where historical occurrence of liquefaction, or local geological, geotechnical and ground water conditions indicate a potential for permanent ground displacements such that mitigation as defined in Public Resources Code Section 2693(c) would be required.



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SEISMIC HAZARDS MAP

HEARST GARDENS
Berkeley, California

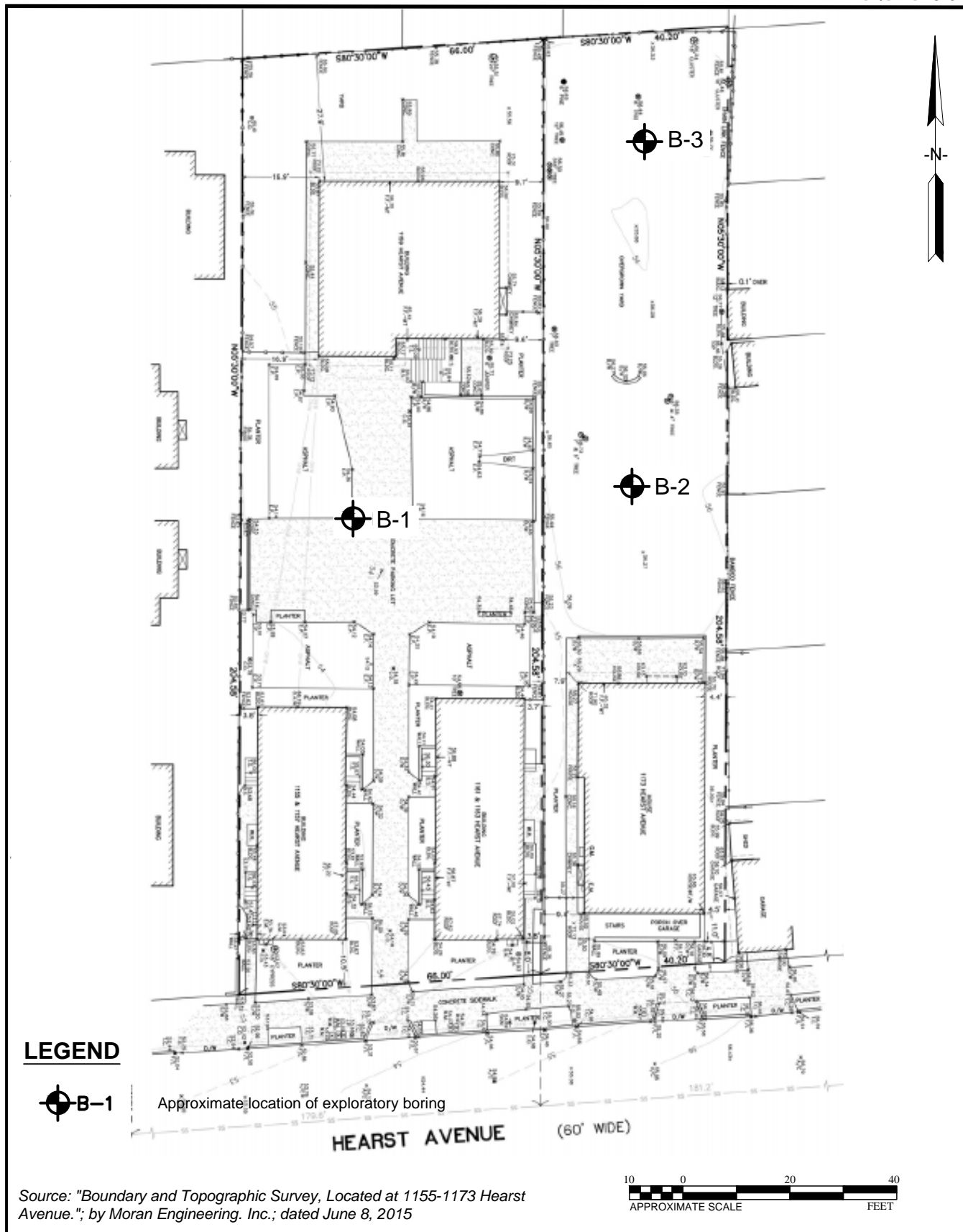
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FIGURE **3**



Source: "Boundary and Topographic Survey, Located at 1155-1173 Hearst Avenue."; by Moran Engineering, Inc.; dated June 8, 2015

 <p>ALAN KROPP & ASSOCIATES</p> <p><i>Geotechnical Consultants</i></p>	SITE PLAN		FIGURE 4
	HEARST GARDENS Berkeley, California		
	PROJECT NO. 2744-2	DATE March 2019	

APPENDIX A
LOG OF BORINGS








SOIL CLASSIFICATION CHART					
PRIMARY DIVISIONS			SECONDARY DIVISIONS		
			CRITERIA *	GROUP SYMBOL	GROUP NAME
COARSE-GRAINED SOILS MORE THAN 50% RETAINED ON NO.200 SIEVE	GRAVELS MORE THAN 50% OF COARSE FRACTION RETAINED ON NO.4 SIEVE	CLEAN GRAVELS LESS THAN 5% FINES	$C_u \geq 4$ AND $1 \leq C_c \leq 3^A$	GW	Well-graded gravel
			$C_u < 4$ AND/OR $1 > C_c > 3$	GP	Poorly-graded gravel
		GRAVELS WITH FINES - MORE THAN 12% FINES	FINES CLASSIFY AS ML OR MH	GM	Silty gravel
			FINES CLASSIFY AS CL OR CH	GC	Clayey gravel
	SANDS 50% OR MORE OF COARSE FRACTION PASSES NO. 4 SIEVE	CLEAN SANDS LESS THAN 5% FINES	$C_u \geq 6$ AND $1 \leq C_c \leq 3$	SW	Well-graded sand
			$C_u < 6$ AND/OR $1 > C_c > 3$	SP	Poorly-graded sand
		SANDS WITH FINES - MORE THAN 12% FINES	FINES CLASSIFY AS ML OR MH	SM	Silty sand
			FINES CLASSIFY AS CL OR CH	SC	Clayey sand
FINE-GRAINED SOILS 50% OR MORE PASSES THE NO.200 SIEVE	SILTS AND CLAYS LIQUID LIMIT LESS THAN 50%	INORGANIC	PI > 7 AND PLOTS ON OR ABOVE "A" LINE	CL	Lean clay
			PI < 4 OR PLOTS BELOW "A" LINE	ML	Silt
		ORGANIC	$\frac{\text{LIQUID LIMIT - OVEN DRIED}}{\text{LIQUID LIMIT - NOT DRIED}} < 0.75$	OL	Organic Clay & Organic Silt
			PI PLOTS ON OR ABOVE "A" LINE	CH	Fat clay
	SILTS AND CLAYS LIQUID LIMIT 50% OR MORE	INORGANIC	PI PLOTS BELOW "A" LINE	MH	Elastic silt
			$\frac{\text{LIQUID LIMIT - OVEN DRIED}}{\text{LIQUID LIMIT - NOT DRIED}} < 0.75$	OH	Organic Clay & Organic Silt
		ORGANIC	PI PLOTS ON OR ABOVE "A" LINE	PT	Peat
			PI PLOTS BELOW "A" LINE		
HIGHLY ORGANIC SOILS					

REFERENCE: Unified Soil Classification System (ASTM D2487-11)

* Criteria may be done on visual basis, not necessarily based on lab testing

$$A - C_u = D_{60}/D_{100} \quad \& \quad C_c = (D_{30})^2 / (D_{10} \times D_{60})$$

GRAIN SIZES													
U. S. STANDARD SERIES SIEVE				CLEAR SQUARE SIEVE OPENINGS									
200		40		10		4		3/4"		3"		12"	
SILTS AND CLAYS		SAND				GRAVEL				COBBLES	BOULDERS		
		FINE	MEDIUM	COARSE	FINE	COARSE							

ABBREVIATIONS	SYMBOLS
<p>INDEX TESTS</p> <p>LL - Liquid Limit (%) (ASTM D4318-17)</p> <p>PI - Plasticity Index (%) (ASTM D4318-17)</p> <p>-200 - Passing No. 200 Sieve (%) (ASTM D1140-17)</p> <p>STRENGTH TESTS</p> <p>PP - Field Pocket Penetrometer test of unconfined compressive strength (tsf)</p> <p>TV - Field Torvane test of shear strength (psf)</p> <p>UC - Laboratory unconfined compressive strength (psf) (ASTM D2166/2166M-16)</p> <p>TXUU - Laboratory unconsolidated, undrained triaxial test of undrained shear strength (psf) (ASTM D2850-15)</p> <p>MISCELLANEOUS</p> <p>ATOD - At time of drilling</p> <p>psf/tsf - pounds per square foot / tons per square foot</p> <p>psi - pounds per square inch (indicates relative force required to advance Shelby tube sampler)</p>	 Standard Penetration Test Split Spoon (2-inch O.D.)  Modified California Sampler (3-inch O.D.)  Thin-walled Sampler Tube (either Pitcher or Shelby) (3-inch O.D.)  Rock Core  Bag Sample  Groundwater Level during drilling  Groundwater Level after drilling



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KEY TO EXPLORATORY BORING LOGS

HEARST GARDENS
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FIGURE **A-1**

DRILL RIG: Hydraulic Portable	SURFACE ELEVATION: 54' +/- MSL	LOGGED BY: MJV
DEPTH TO GROUNDWATER: 10.0 feet (see notes)	BORING DIAMETER: 3.5 inches	DATE DRILLED: 8/4/18

DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (ft)	SAMPLER TYPE	SAMPLER BLOW COUNTS	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
3" AC / 6" AB - clayey			AC/AB						
SAND, Silty - with gravel, damp	Medium Brown	Medium Dense	SC	1 2 3 4					
[Fill] CLAY, Lean - with sand and gravel, moist to wet	Dark Brown	Soft	CL	5 6 7 8 9	X	[4]	23	99	-200 = 60.9 LL = 26 PI = 10
GRAVEL, Silty - moist	Brown	Medium Dense	GM	10 11	X				▼
SAND, Silty - moist	Gray Mottled with Orange	Medium Dense	SM	12 13		[27]			
GRAVEL, Silty - with sand, moist to wet	Gray Medium Brown	Medium Dense	GM	14 15 16 17 18 19	X	[41]			▼

(Continued on Next Page)

AKA BORING LOG 2744-2 HEARST GARDENS BORING LOGS.GPJ AKA_TEMPLATE.GDT 2/28/19

 <p>ALAN KROPP & ASSOCIATES <i>Geotechnical Consultants</i></p>	EXPLORATORY BORING LOG			
	HEARST GARDENS Berkeley, California			
	PROJECT NO. 2744-2	DATE March 2019	SHEET 1 of 2	BORING NO. 1

DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (ft)	SAMPLER TYPE	SAMPLER BLOW COUNTS	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
<i>(Continued from Previous Page)</i>									
GRAVEL, Silty - with sand, moist to wet	Gray	Medium Dense	GM	21	X	[32]			LL = 37 PI = 21 -200 = 73.1
CLAY, Lean - with gravel, moist	Brown	Very Stiff	CL	22					
				23					
				24					
				25					
GRAVEL, Clayey - wet	Brown	Medium Dense	GC	25		20			
SAND, Clayey - wet	Brown	Medium Dense	SM	26		17			

Bottom of boring at 26.5 feet.

NOTES:

1. Groundwater was encountered at approximately 15.5 feet at the time of drilling and the boring was backfilled immediately after drilling. (See report for discussion.)
2. Stratification lines represent the approximate boundaries between material types and the transitions may be gradual.
3. Penetration resistance values (blow counts) marked with an asterisk (*) are not standard penetration resistance values.
4. Elevations were estimated from plans drawn by Moran Engineering Inc. dated June 2015.

AKA BORING LOG 2744-2 HEARST GARDENS BORING LOGS.GPJ AKA_TEMPLATE.GDT 2/28/19



**ALAN KROPP
& ASSOCIATES**
*Geotechnical
Consultants*

EXPLORATORY BORING LOG
HEARST GARDENS
Berkeley, California

PROJECT NO.	DATE	SHEET	BORING NO.
2744-2	March 2019	2 of 2	1

DRILL RIG: Hydraulic Portable	SURFACE ELEVATION: 56' +/- MSL	LOGGED BY: MJV
DEPTH TO GROUNDWATER: (see notes)	BORING DIAMETER: 3.5 inches	DATE DRILLED: 8/4/18


DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (ft)	SAMPLER TYPE	SAMPLER BLOW COUNTS	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
SAND, Clayey - damp [Topsoil]	Medium Brown	Medium Dense	SC	1					
CLAY, Lean - with sand and gravel, moist	Dark Brown	Stiff	CL	2					
				3					
				4					
				5					
				6		[23]	13	87	LL = 34 PI = 18 -200 = 70
				7					
SAND, Clayey, Lean - moist	Light Brown	Medium Dense	SC	8					
				9					
GRAVEL, Clayey, Lean - with some sand, moist to wet	Medium Brown	Medium Dense	GC	10					
				11		[37]			

Bottom of boring at 11.5 feet.

NOTES:

1. No groundwater was encountered at the time of drilling and the boring was backfilled immediately after drilling. (See report for discussion.)
2. Stratification lines represent the approximate boundaries between material types and the transitions may be gradual.
3. Penetration resistance values (blow counts) marked with an asterisk (*) are not standard penetration resistance values.
4. Elevations were estimated from plans drawn by Moran Engineering Inc. dated June 2015.

AKA BORING LOG 2744-2 HEARST GARDENS BORING LOGS.GPJ AKA_TEMPLATE.GDT 2/28/19

 <p>ALAN KROPP & ASSOCIATES <i>Geotechnical Consultants</i></p>	EXPLORATORY BORING LOG			
	HEARST GARDENS Berkeley, California			
	PROJECT NO. 2744-2	DATE March 2019	SHEET 1 of 1	BORING NO. 2

DRILL RIG: Hydraulic Portable	SURFACE ELEVATION: 56' +/- MSL	LOGGED BY: MJV
DEPTH TO GROUNDWATER: (see notes)	BORING DIAMETER: 3.5 inches	DATE DRILLED: 8/4/18


DESCRIPTION AND REMARKS	COLOR	CONSISTENCY	SOIL TYPE	DEPTH (ft)	SAMPLER TYPE	SAMPLER BLOW COUNTS	MOISTURE CONTENT (%)	DRY DENSITY (pcf)	OTHER TESTS
SAND, Silty, Clayey - with some gravel, moist	Brown	Medium Dense	SC	1					
[Topsoil]				2					
CLAY, Lean, Sandy - moist	Black	Firm	CL	3					
				4					
				5					
				6		[11]	22	95	LL = 34 PI = 19 -200 = 68.5
				7					
				8					
				9					
GRAVEL, Clayey, Lean - angular, moist	Medium to Dark Brown	Medium Dense	GC	10					
				11					

Bottom of boring at 11.5 feet.

NOTES:

1. No groundwater was encountered at the time of drilling and the boring was backfilled immediately after drilling. (See report for discussion.)
2. Stratification lines represent the approximate boundaries between material types and the transitions may be gradual.
3. Penetration resistance values (blow counts) marked with an asterisk (*) are not standard penetration resistance values.
4. Elevations were estimated from plans drawn by Moran Engineering Inc. dated June 2015.

AKA BORING LOG 2744-2 HEARST GARDENS BORING LOGS.GPJ AKA_TEMPLATE.GDT 2/28/19

 <p>ALAN KROPP & ASSOCIATES <i>Geotechnical Consultants</i></p>	EXPLORATORY BORING LOG			
	HEARST GARDENS Berkeley, California			
	PROJECT NO. 2744-2	DATE March 2019	SHEET 1 of 1	BORING NO. 3



CLEARWATER HYDROLOGY

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and Flooding

2974 Adeline St.
Berkeley, CA 94703
Tel: 510 841 1836
Fax: 510 841 1610

Feb. 22, 2019

Attn: Mark Rhoades/Mia Perkins
Hearst Avenue Cottages, LLC
Oakland, CA

RE: Engineering hydrologic review of A. Kropp & Assoc. geotechnical investigation report, dated Aug. 15, 2018, submitted via email

Dear Mark, Mia,

At your request, I have reviewed both the Clearwater Hydrology (CH) revised drainage and flooding investigation design report for the proposed Hearst Cottages project (July 12, 2017) and the referenced geotechnical investigation report by Alan Kropp & Associates (AKA). The aim of the review was to note any soils information that may differ from the conditions assumed for the project site by CH relative to its stormwater drainage design for the site.

The AKA investigation included the drilling of three boreholes, logging of the drill cuttings and assessment of textural characteristics, as well as the citing of groundwater depths where groundwater was present. The borings were drilled in August 2018 when groundwater would have been toward the lower position of its seasonal range, i.e. would be higher during the winter wet season. Only one of the three borings (the westernmost one) intercepted groundwater, which equilibrated in the borehole at a depth of approximately 10 ft. below the ground surface. AKA noted that based on their experience in the area, groundwater levels would typically occur within 5 ft. of the measured 10 ft. depth. The investigator also noted that intercepted groundwater could reflect perched conditions and thus could locally be higher than the regional groundwater level.

The soils logged at the three borehole sites typically included a surface fill 2-5 ft. deep composed of silty sand with gravel (SC) underlain with about five feet of stiff/firm clay soil (CL). These conditions indicate a prevalence of finer-grained soil which is typically slowly permeable and are consistent with the assumed "D" Hydrologic Soil Group that CH used in its peak flow computations per the Alameda County Rational Method. This is the lowest permeability soil type in the NRCS classification scheme for Hydrologic Soil Groups, and thus yields the highest rates of surface runoff.

The measured summer depth to groundwater by AKA indicates that winter groundwater may be somewhat deeper than we presumed. Thus, the conservatism of CH's design assumptions remains as previously indicated.

In summary, the results of the AKA geotechnical investigation do not run counter to the assumptions made in the CH stormwater drainage design regarding both site subsoils and seasonal groundwater levels, nor do they require any further revisions to the design as presented in the July 2017 final report.

Yours truly,

A handwritten signature in black ink, appearing to read "William Vandivere", with a long horizontal flourish extending to the right.

William Vandivere, M.S., P.E.
Principal



**CLEARWATER
HYDROLOGY**

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and Water Resources

Watershed Management

Stream and Wetland
Restoration

Wetland Delineation
and Permit Acquisition

Stormwater Drainage
and Flooding

**STORMWATER AND FLOODING ASSESSMENT
AND MITIGATION DESIGN
FOR THE
HEARST AVENUE PROJECT
1161-1173 HEARST AVE.
BERKELEY, CA**

Prepared by:
William Vandivere, M.S., P.E., Principal
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Clearwater Hydrology
Berkeley, CA

Prepared for:
Hearst Avenue Cottages, LLC
Oakland, CA

July 12, 2017
(Revised)

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EXECUTIVE SUMMARY

Clearwater Hydrology (CH) conducted the initial hydrologic and hydraulic assessment in January 2016. As part of the review process the City of Berkeley had Balance Hydrologics perform a peer review of the technical aspects of the document. As a result, CH prepared a comparative assessment of the peak flow calculations using the USGS regional version of the Rational Method (Rantz 1971) and a more recent version of the same method published by the Alameda County Flood Control and Water Conservation District(2016). For the ACFCWCD computations, the roadway areas of each of the subwatersheds were segregated from the parcels and a composite C values were used, rather than the bulk “C” value related to residential density prescribed in Rantz. The Alameda County approach resulted in higher estimated peak flow rates due primarily to the higher storm rainfall intensities in the method’s depth-duration-frequency tables (Attachment 7). The difference in peak flow rates for the two versions of the Rational Method was greater for smaller storm events, and less pronounced for larger events.

Clearwater Hydrology (CH) conducted hydrologic and hydraulic assessments of existing stormwater drainage and flooding conditions through the lower, northside Hearst Avenue corridor. The objective of the assessments was the development of a storm drainage system design for the proposed Hearst Avenue Project at 1155-1173 Hearst Avenue in west Berkeley. The hydrologic/hydraulic assessments confirmed anecdotal evidence gleaned from the developer and one local resident (along Curtis Street) that stormwater runoff backs-up along Curtis, north of the Hearst Ave. intersection, and discharges over residential driveways into a topographic depression west of Curtis St. This depression and its uneven bottom topography create ponding of stormwaters of up to 1.0 ft in the back yards of the west side Curtis St. properties prior to discharging west-southwest through the Project area to Hearst Avenue. Minor nuisance ponding of accumulated stormwater occurs on the Project site while it is discharged through driveways and side yard corridors to the Hearst Ave. gutter between 1153-1155 Hearst and a north-south driveway through an apartment complex at 1139 Hearst.

Based on the findings of the technical assessment, including development of a HEC-RAS hydraulic model for the lower northside Hearst Ave. corridor, piped and open channel drainage scenarios for the Project were tested for their ability to provide proper drainage without on-site flooding during the 10-yr. design rainstorm. A secondary requirement of the drainage design was the imperative to improve, even marginally, the flooding conditions that occur along the neighboring Curtis St. properties for rainstorms exceeding roughly the 2-yr. recurrence interval. The selected drainage design is depicted in plan, profile and cross-section in Figures 8-10, respectively, and includes the following components:

- A 2.5 ft. wide, 0.4 ft. deep rectangular channel with a slope of 0.8% inset within the Project main driveway, extending north to the northern edge of the new parking lot; and
- A trapezoidal grassed swale with side slopes 3:1, channel slope of 1.0% and a minimum depth of 0.3 ft. extending eastward from the parking lot to the eastern Project boundary.

To protect the rectangular channel from degradation by vehicular traffic, the channel would be covered by a metal grate with solid metal sidewalls. At its mild slope of 0.8%, its capacity would be 5.5 cfs, which is exceed the combined 25-yr. peak discharge (4.51 cfs) from the lands

normally draining to the depression (Sub-Watershed A in Figure 2) and the entire diverted peak discharge for the west side Curtis St. sub-watershed (Sub-Watershed B in Figure 2). Since some discharge from the depression will also occur through driveways and side yards west of 1155 Hearst, the capacity of the system would likely exceed the capacity of the main drain outlet channel. The proposed design would also reduce the severity of flooding on the neighboring properties to the east along Curtis Street.

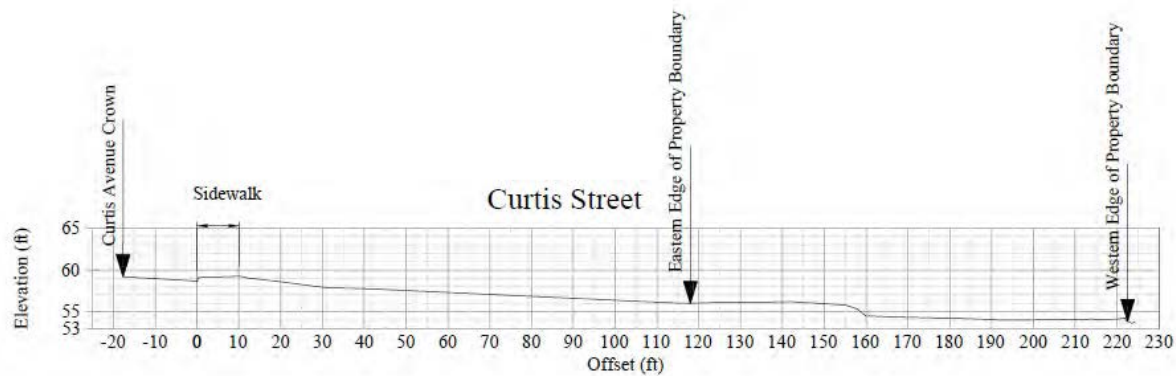
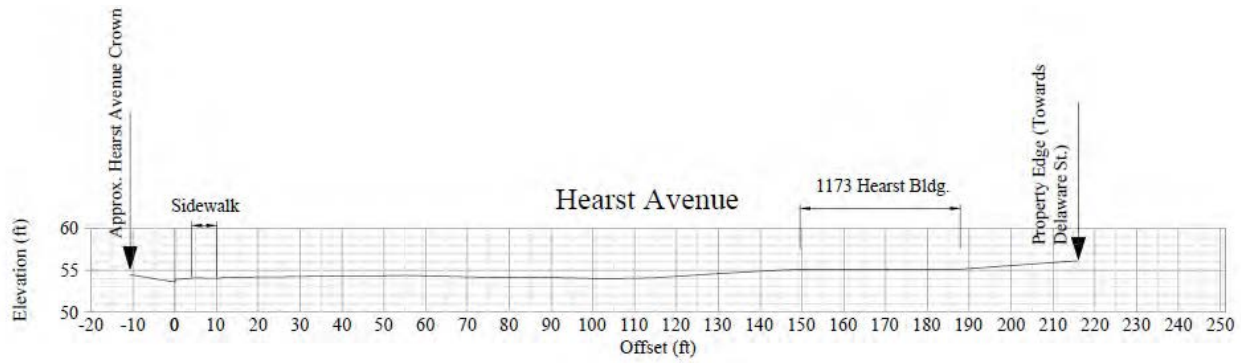
1.0 INTRODUCTION

The 0.5-acre Hearst Avenue project (Project) will replace four existing residential buildings (one single family residence at 1173 Hearst and three apartment buildings at 1155, 1157, 1159, 1161, and 1163 Hearst) situated on two adjoining parcels with seven residential buildings on a combined single parcel. The new building array will also include both single family and apartment structures. Plan views of the existing and project building configurations (Devi-Dutta Architects 2015) are attached in the Technical Appendix. In both the existing and project configurations, all but one of the buildings (single family residence at 1173 Hearst) are serviced by a driveway and interior parking lot, set back from Hearst Avenue. As noted on the architectural plans, the project impervious surface area of 10,892 sq. ft. (sf) would increase the existing impervious surface area at the site (10,495 sf) by 1.8 percent. Also, all of the proposed project hardscape features (driveway, parking lot and walkway areas) would consist of either pervious paving or pervious brick pavers. Therefore, the project impervious surface total excludes those areas of the site.

Rhoades Planning Group (RPG) retained Clearwater Hydrology (CH) to assess stormwater drainage and flooding issues affecting the existing properties, and peripherally the adjoining properties along the west sides of Curtis Street, between Hearst Avenue and Delaware Street, and to develop solutions to alleviate the inefficient drainage conditions at the project site.

2.0 EXISTING CONDITIONS- HYDROLOGIC SETTING

The project site is located in a topographic depression roughly bounded to the south by Hearst Avenue, to the north by Delaware Street, to the east by Curtis Ave. and to the west by a residential driveway that traverses a cluster of apartment buildings 100-200 ft. west of the site. As shown in Figure 1, the site lies within the Strawberry Creek Watershed and appears to occupy a portion of a former surface tributary of the historical Strawberry Creek channel. It is possible that the depression is a remnant feature of that drainage, since subsidence could not have lowered the land surface relative to the streetside topography to such an extent. Based on integrated topographic mapping prepared for the site and the west side of Curtis Ave. by Moran Engineering and CH (Curtis St. portion), CH prepared the East-West and South-North cross-sections below that help visualize the depression's extents. All surveyed elevations reference the City of Berkeley Datum, which correspond that used for the referenced street monuments.



2.1 Hearst Avenue Watershed

CH obtained all available information on the storm drain system tributary to the site drainage outlet at Hearst from the City of Berkeley Department of Public Works (DPW). We also conducted a walking survey of Hearst Avenue east of the Project site to confirm drainage directions, storm drain inlet locations and characteristics, and to assist us in delineating sub-watershed boundaries for areas tributary to the local Hearst St. drainage network.

Based on our review of the City-supplied documentation and on discussions with City staff, we determined that there are no storm drains underlying Hearst Avenue between the west side of Sacramento Avenue and San Pablo Avenue. Following our walking inspection, which was conducted during an early December rainstorm, and our supplemental topographic survey of Curtis Street between Delaware St. and Hearst, we delineated sub-watersheds tributary to the north side of Hearst Ave. These north side Hearst Ave. sub-watersheds are shown in Figure 2.

The north side of Hearst Ave. extending west from southbound Sacramento Avenue and portions of the east and west side properties along the intervening cross-streets (e.g. Short, Acton, Franklin, West, Chestnut and Curtis) drain to the intersection of Hearst and Curtis. Here gutter flow is directed across Curtis in a shallow concrete swale to the lower end of the Curtis Street gutter, then turns south at 90 degrees for a distance of approximately 40 ft. where the gutter again turns 90 degrees to the north side of Hearst.

The supplemental CH topographic survey included Curtis Street between Delaware and Hearst and some of the west side properties whose rear yards adjoin the project site. The objective of that survey was to enable hydraulic modeling of flows converging at the corner of Hearst and Curtis and west to the project site. Anecdotal evidence and an informal discussion with one of the Curtis St. residents indicated that intense rainstorms trigger roadway backwater conditions and the diversion of ponded floodwater into the Curtis St. rear yards via their steeply sloping driveways. These diverted flows join with runoff from within the boundaries of the topographic depression to create nuisance flooding of both the Curtis St. properties and portions of the Project site.

2.2 Project Site Drainage

Surface drainage on the site is generally toward the west-southwest. Local differential settlement of the parking lot appears to have created some local lowering of the grade. However, only minor ponding may occur before accumulating stormwater breaches the parking lot at its southwestern corner (elev. 53.91 ft.) and flows along the side yard to the Hearst Ave. sidewalk. This side yard discharge occurs prior to runoff overtopping the intervening high point along the driveway edge. Once flow reaches the Hearst Ave. gutter, it joins upgradient Hearst Ave. gutter flow and proceeds west to San Pablo Avenue.

As shown in the east-west (Curtis) cross-section above, there is an abrupt 1.0- 2.0 drop in elevation at the fenceline between the back yard at 1173 Hearst and the eastern edge of the adjoining Project parcel (1155-1163 Hearst) and its parking lot. Based on the limited survey data taken at the western edge of the Curtis St. properties, at the corners of two shed buildings, the lowest elevation just east of that fenceline is about 55.28 feet. Land elevations along the bulk of the back yard area at 1173 Hearst average around 56.5 ft., with the lowest breakover point at 56.3 feet. Thus, for the existing site conditions, ponding of up to 1.0 foot may occur during intense storms when Curtis Street stormwater breaches the west side driveways.

2.3 Site Soils and Local Groundwater Levels

A geotechnical assessment has not yet been performed for the property, so the exact nature of the soils underlying the Project site has not been determined. However, the surface soils likely consist of loamy fill imported for residential building pad construction. Given the site's position within the topographic depression and possibly a relic Strawberry Creek tributary alignment, it is possible that the seasonal groundwater table underlying the site could affect local infiltration rates, at least in wet years.

2.4 Flooding Characteristics along Northside Hearst Avenue

2.4.1 Overview of HEC-RAS Hydraulic Model Development

No modeling of floodflow behavior was previously done for the local north side Hearst Avenue surface drainage system. In order to determine the constraints on site stormwater design, CH developed a hydraulic model of that system using the US Army Corps of Engineers' (USACE) HEC-RAS (River Analysis System, Vers. 4.1) computer program. The HEC-RAS model is

capable of computing flood water surface profiles for open channel, culverts, bridge crossings and other hydraulic structures. The program requires input data on design peak flows, channel reach and junction configurations, hydraulic roughness values and channel geometries. A schematic representation of the Hearst Ave. hydraulic model is shown in Figure 3. It consists of two Hearst Ave. gutter reaches (Hearst Reach 1 and Reach 2) and one west side Curtis St. gutter reach (Curtis Reach 1) with a hydraulic junction at the western end of the concrete valley gutter that delivers Hearst gutter flow to the west Curtis St. gutter.

Roughness values for gutter flow were set at 0.013 (Chow 1959) and modeled flow obstructions were limited to assumed tire blockage within the gutter and road edges. Channel cross-sections delineated along the Curtis St. and Hearst Ave. gutter/roadway reaches were extracted from the integrated DTM developed in AutoCAD Civil 3D 2014, which was based on the Moran and CH topographic surveys conducted in 2015. Along the modeled Curtis St. reach, three mid-reach channel cross-sections were incorporated to simulate the potential driveway diversion of stormwater westward to the topographic depression in the Project area. The reach length between these channel cross-sections was set at 60 feet, which was the cumulative width of all driveways determined to drain downgradient to the depression. The middle cross-section (Station 1+85) was configured to incorporate a driveway sloping downward (westward) from the sidewalk to the rear yard level. The entire driveway extents were not surveyed, so the extent of fall is only suggested by the downward sloping portion of the cross-section in the right overbank. The “ineffective flow option” in HEC-RAS was used to negate any floodwater conveyance in the portions of these cross-sections that were at lower elevations than the street level until breakover points along the sidewalk (per the survey data) were reached.

2.4.2 Peak Flow Rates for Model Input

CH initially used the USGS version of the Rational Method (Rantz 1971) developed for SF Bay Region to compute the peak discharges for the project area sub-watersheds A-J that influence the efficacy of site drainage. We then conducted the same computations using the more recent version of the Rational Method published by the Alameda County Flood Control and Water Conservation District (ACFCWCD), and compared the results of the two versions.

In accordance with the HEC-RAS model configuration shown in Figure 3, upstream sub-watersheds (B-J in Figure 2) drain to the intersection of Hearst Ave. and Curtis Street. Sub-Watersheds F-J were combined into a single sub-watershed to compute the discharge at the head of Hearst Ave. Reach 1 (at the Chestnut/Hearst intersection). The peak discharges computed for Sub-Watersheds D and E were then added to obtain the combined peak discharge at the eastern edge of the Curtis/Hearst intersection. These discharges were maintained across the concrete valley gutter on Curtis St. and then augmented by the Sub-Watershed B discharges at the western end of the swale. These discharges were maintained until the lower end of the modeled Hearst Ave. Reach 2, where the discharge generated along lower Hearst Ave. (Sub-Watershed C) was added.

Similarly, peak discharges were computed for Sub-Watershed A, which comprises the rear yard areas fronting on Delaware St., the Curtis St. rear-yards, the interior of the existing Project site and some additional rear yard area to the west of the Project site. Sub-watershed A drainage

likely departs via several side yards strips along Hearst Avenue. However, a full topographic model for the entire block was not within the scope of this assessment. So the peak discharges computed for this sub-watershed were viewed in conjunction with Curtis St. flow diversions as potential flows to evacuate from the Project area without surface flooding, at least for the 10-yr. design storm. This assumption is a conservative one, since the HEC-RAS modeling showed that less than half of the west-side Curtis Ave. peak discharge and volume would be diverted to Sub-watershed A during the 10-yr. and higher magnitude storm events.

The peak flow computations for all of these sub-watersheds for the 2, 10, 25 and 100-yr. recurrence interval rainstorms are attached in the Technical Appendix, and are summarized in Table 1 below. Estimates computed using both the USGS (Rantz 1971) and the ACFCWCD (2016) versions of the Rational Method are cited in Table 1. One other set of peak discharges was generated using the USGS version, with segregated roadway sub-areas and composite runoff coefficient 'C' values in response to the City's peer review. However, the corresponding composite C values and peak flows computed using the ACFCWCD's Rational Method were substantially higher than the amended USGS values. Thus, the amended USGS values are omitted from Table 1 and the more conservative ACFCWCD values were used for both the HEC-RAS analysis and the site drainage design.

For the initial USGS Rational Method computations, land use within the project area sub-watersheds for purposes of runoff coefficient 'C' value determination was defined as the upper end of the medium density residential classification (7-10 units per acre), which matches the actual residential density of the contributing areas. The associated impervious surface area cited in Rantz (1971) is 25 percent, which is somewhat low for the tributary sub-watersheds. The C values used in deriving the peak flows for this method were in the mid-range for medium density residential use, except for Sub-watershed A which had a C value of 0.45, which is at the low end of the high density use designation (w/ 40% impervious cover).

For the ACFCWCD peak flow computations, the land use classification applied was that of Residential (3600-5000 sf lots) on Hydrologic Soil Group (HSG) 'D' soils, which refer to low permeability soils as per NRCS soil survey classifications. Table 2 of the Hydrology and Hydraulics Manual lists the base runoff coefficient value, which was then adjusted to reflect local ground slopes and a rainfall intensity factor. The composite C value results from the addition of the base C value and the adjustment factor values. Roadway right-of-way sub-areas were treated independently in the same manner and an overall composite C value was determined for each sub-watershed, i.e. for lots and segregated roadways apportioned to each one. Design rainfall intensities at the computed runoff concentration times were initially determined through use of precipitation depth-duration-frequency data in Table 4 of Rantz for the mean annual rainfall of 22 inches (ACFCWCD 2003, in Clean Water Program 2015). Rainfall intensities for the ACFCWCD method for the respective times of concentration and storm recurrence intervals were obtained from Attachment 7 of the Hydrology and Hydraulics Manual. It should be noted that the isohyetal map included in the 2016 Hydrology and Hydraulics Manual is substantially different from the isohyetal map referenced in the Alameda County's C3 stormwater guidelines in the Berkeley flatlands. The mean annual rainfall value for the project area watersheds determined using the Manual's map is more than an inch higher than That indicated by the C3 map.

Design peak discharges computed for the two versions of the Rational Method for the 2-yr, 10-yr, 25-yr and 100-yr rainstorms are summarized below in Table 1:

Table 1: Peak Discharge Rates for Modeled Hearst Ave. Storm Flows

Sub-Watershed	Area, ac.	Peak Discharges (Rantz/Alameda County), cfs			
		2-yr	10-yr	25-yr	100-yr
A	2.35	0.99/1.36	1.88/2.52	2.97/3.11	3.41/4.06
B	0.60	0.26/0.65	0.49/1.13	1.07/1.40	1.53/1.76
C	0.25	0.07/0.33	0.22/0.57	0.35/0.69	0.50/0.86
D	1.16	0.50/1.11	0.94/2.00	1.50/2.49	2.10/3.17
E	1.10	0.50/1.07	0.94/1.91	1.50/2.38	2.13/3.02
F-J	12.70	4.47/9.08	8.65/16.10	13.50/19.79	19.04/25.17

2.4.3 HEC-RAS Flood Modeling: Results

HEC-RAS model output for the 2-yr. to 100-yr. recurrence interval storm flows is detailed in the Technical Appendix and summarized in Figures 4- 7. The salient points drawn from the modeling were:

- Hydraulic backwater conditions occur in the vicinity of the junction of the west side Curtis St. gutter and the concrete swale that crosses Curtis St., where the two channels meet at 90 degrees, which is an ineffective junction angle resulting in locally high energy losses. In addition, the on-contour Curtis St. gutter maintains a gentler slope than the Hearst Ave. gutter segments, which outside of the intersection, roughly follow the general terrain slope.
- The severity of the backwater influence on flow depths along the Curtis St. west side gutter increases with increasing storm recurrence interval. At roughly mid-block (Station 1+85), ponded stormwater for storms greater than approximately the 5-yr. storm, breach the sidewalk elevation and divert down driveways of those residences to the topographic depression and the Project site (see Figure 7). Even at the 2-yr. peak discharge, the floodwater depth increases from 0.24 ft. at Station 1+85 to 1.54 ft. at Station 0+12 (12 ft. upstream/north of the concrete swale and the junction with the Hearst Ave. gutter flow). This suggests that even at the 2-yr. peak discharge, the flood water surface will exceed the sidewalk level along the lower (southern) segment of Curtis and divert stormwater toward the depression. The volume of diverted flow reaching the topographic depression continues to increase for higher recurrence interval storm events. Note that the HEC-RAS model extends the ends of the channel cross-sections vertically where their extent is not sufficient to contain those flows. Thus, the depths of weir-type flow over the sidewalk may be less than indicated in the model. However, the overflow simulated in the model would occur regardless of the lateral cross-section extents.
- While stormwater storage levels and volumes were not computed for the Curtis St. back yards and the rest of the topographic depression extending through the Project site, the local topography surveyed along the Project’s eastern boundary indicates that portions of

the west side Curtis Street properties flood to depths of up to 1.0 foot during most intense rainstorms. Above this depth, surface drainage occurs westward onto the Project site and then toward Hearst Avenue.

- Downstream of the Curtis St. intersection, flows are contained within the roadway gutter and portions of the driveway outlets (below the sidewalk level) even during the 100-yr. storm. For the 10-yr. storm, the depth of flow in the vicinity of the main Project driveway outlet (Sta. 0+48.26) was computed at roughly 0.46 ft., which is slightly above the top of curb. This is largely due to the substantial gutter slope along this lower portion of the modeled reach, which generates critical to supercritical flow conditions and lower flow depths.

3.0 PROJECT DRAINAGE AND FLOODING MITIGATION

As outlined above, for even moderately severe rainstorms, the Project site drains via overland flow by both the westerly side yard area and eventually via the main driveway. The absence of a gravity storm drain under Hearst Ave. to accept piped flow from the Project area complicates the stormwater design for the proposed Project. In addition, raising the site grade could potentially exacerbate flooding along the west side Curtis Street properties that form the eastern portion of the topographic depression.

CH investigated two options for mitigating the undesirable storm drainage and flooding conditions within the Project site and its area of influence. Accordingly, the main objective was to devise passive measures that would drain the site efficiently during the 10-yr. design storm, while also improving the flooding conditions on the west side Curtis St. properties, or at a minimum, not worsen the existing conditions. The two options analyzed were:

- 1) Install small diameter sub-drains that would drain the Project site and discharge evacuated stormwater to the Hearst Ave. north gutter;
- 2) Install a surface channel, embedded in the driveway, or possibly the westernmost side yard, that would discharge evacuated stormwater to the Hearst gutter.

A third possible option, installation of subgrade detention facilities (e.g. pipe array) was not investigated in depth due to its active management requirement. Any such facility would require pumping to evacuate accumulated stormwater. Furthermore, due to the tendency of electrical service to be disrupted during severe storm events, a backup emergency generator would also be required. Thus, this option would represent a fall-back scenario if neither of the first two options were determined to be feasible.

As cited in Table 1 above, the combined 10-yr. peak flow for Sub-Watersheds A (topographic depression) and B (west side Curtis St.) is 3.65 cfs. This assumes that the bulk of the flow from the west-side Curtis St. sub-watershed (B) is diverted from Curtis St. to the depression during backwater flood conditions. Similarly, the combined 25-yr. peak flow for Sub-Watersheds A and B totals 4.51 cfs.

CH computed the pipe discharge capacity for a set of two 4-inch and 6-inch diameter sub-drains, given the available subgrade slopes between the eastern Project boundary and the Hearst Ave. gutter, given the 10-yr. hydraulic grade line (HGL) modeled by HEC-RAS.

Two issues were apparent for either of the pipe scenarios:

- a) at best, twin 6-inch, smooth walled pipes would discharge 1.18 cfs at the available gradient of 0.8%, and,
- b) there would be insufficient clearance for these pipes between the 10-yr. HGL and the sidewalk elevations along Hearst.

The 4-inch pipes could physically fit under the sidewalk, but they only delivered 0.4 cfs, so they were insufficient to mitigate the site flooding conditions.

The channel option was analyzed for various configurations, including that of a swale in gravel or brick pavers. Any swale configuration was deemed problematic due to the spatial requirements forced by transition side slopes at 2:1 or milder. If such a channel were embedded in the entrance driveway, errant tires would eventually breakdown its structure and that of the driveway pavement treads. So the configuration that provided sufficient stormwater conveyance capacity and was technically feasible to construct was a 2.5 ft.-wide rectangular channel with a concrete bottom and an inverted, U-shaped steel channel 0.4 ft. in height fit over the channel bottom. The sides of the steel channel could be solid, while the top would be integrated with a steel grate. The steel would be sufficiently thick to withstand the required vehicular loading for the Project. The rectangular channel at a minimum slope of 0.8 percent would convey the 10-yr. post-project design discharge at a flow depth of 0.31 foot. This would be sufficient to evacuate in excess of the 10-yr. to 25-yr. storm peak discharge entering the depression. As previously noted, the actual contribution of diverted Sub-watershed B discharge entering the Sub-watershed A depression would be less than assumed. Most of that Curtis Ave. west-side discharge would proceed toward the intersection at Hearst.

A plan view of the proposed rectangular channel alignment is shown in Figure 8. Also noted on that figure is a connecting grassed swale that would extend eastward from the northern edge of the new parking lot to the eastern property line. This swale would have a minimum depth of 0.3 ft., which at that point along the property line would give it an invert elevation of approximately 55.8 feet. According to the Moran project topo data, the lowest surveyed rear yard elevation at the property line was 55.28 feet. As noted previously, the lowest breakover point in the back yard of 1173 Hearst is about 56.3 feet. Thus, the proposed grass swale depicted on Figure 8 would allow some drainage of floodwater to occur 0.5 ft. lower than it does under the current conditions. This should reduce the severity of flooding along the west side Curtis St. properties, although it will not alleviate the condition entirely. Figures 9 and 10 depict the longitudinal profile and typical cross-sections for the design solution shown in Figure 8.

An alternative alignment would likely be feasible for the passive drainage system depicted in Figures 8-10. The east-west gravel swale could be extended to a point just inside the western Project site boundary. The rectangular channel could then be constructed along the western

property line, where the available clearance is about 3.5 feet. Choice of this alternative alignment would negate the need for the grated channel to traverse the driveway and parking lot. It could also improve the outlet conditions, since the north Hearst Ave. gutter elevation decreases quickly relative to the adjoining property elevations with distance downstream of the driveway.

For either the investigated option in Figure 8 or the alternative alignment, the channel outlet under the Hearst Ave. sidewalk would require some additional engineering to ensure the design is compatible with the sidewalk crossing. The sidewalk grade at the driveway crossing (elev.=54.0 ft.) may need to be raised by 0.3-0.4 ft. to facilitate rectangular outlet channel discharge that also clear the 10-yr. HGL in the gutter (elev.=54.15 ft.). Use of the alternative side-yard alignment could eliminate the complexity of the outlet relative to clearing the 10-yr. HGL in the gutter.

4.0 PROJECT PEAK FLOW RATES

Aside from the stormwater evacuation measures, most if not all development projects in the City of Berkeley are required to mitigate for any increases in peak flow rates due to increases in impervious surface coverage. For the current design, the increase in impervious surface coverage would be 1.8%. CH used the ACFCWCD Rational Method to compute pre- and post-project peak flow rates for the Project site watershed (i.e. the site area only) generated during the 10-yr. and 100-yr. design rainstorms. While the nature of the residential development would remain unchanged (high density residential) and thus the runoff coefficient, 'C' value, would remain essentially the same, CH did compute pre- and post-project peak discharges for the two storm events. The 100-yr. peak discharges remained unchanged at 1.25 cfs, while the 10-yr. peak discharge increased from 0.81 to 0.82 cfs for the 10-yr. storm event.

Applying these peak discharges to a triangular synthetic hydrograph geometry formulated by the Soil Conservation Service (now NRCS), the volumetric storage computed to mitigate for the slight increase in peak flow rates for the 10-yr. event was 5.6 cubic feet, or 116 gallons. This amount of storage can easily be provided using a single rain cistern attached to the apartment building roof gutter. Another alternative would be to reduce the Project's impervious area to match that of the existing site condition. According to the Alameda County C3 guidelines for stormwater treatment (2015), mitigation for hydromodification at development sites is only required if the overall project area totals one acre or more. However, the CEQA assessment is currently underway and the City could decide to attach a peak flow mitigation to the project conditions. Regardless, either the cistern or a minor reduction in the project impervious surface area would satisfy any detention storage requirement.

5.0 PROJECT CLEAN WATER C3 PROGRAM REQUIREMENTS

According to the Alameda County C3 Guidelines, all development projects that create and/or replace 10,000 square ft. or more of impervious surface must comply with Provision C.3 of the Municipal Regional Stormwater Permit (MRP) adopted by the RWQCB in 2009 (Clean Water Program 2015). In conjunction with that provision, the guidelines require that development projects provide some combination of stormwater controls including:

- Site design measures
- Source control measures, and
- Low impact development (LID) treatment measures, e.g. evapotranspiration, infiltration and/or rainwater harvesting and reuse.

For the Project site, it is unclear whether the seasonal groundwater table is low enough to support infiltration measures such as rain gardens, or “self-retaining” (i.e. ponding) areas. So, biotreatment systems are likely the best fit to the site conditions. Flow-through bioretention planters (see Technical Appendix for typical planter schematic) can be located adjacent to buildings such that they capture and filter roof runoff before being discharged to the site drainageways. As a conservative estimate, the surface area of these planter facilities can be set at 4 percent of the total impervious footprint, or 436 sf. For a final design, the surface area can be reduced somewhat when the volumetric storage within each bioretention planter is considered. For the preliminary 436 sf requirement, 218 lineal ft. of 2 ft.-wide planters would be required. The requisite analysis and design of these facilities was not within the scope of work for this drainage and flooding assessment.

6.0 REFERENCES

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January 22, 2009

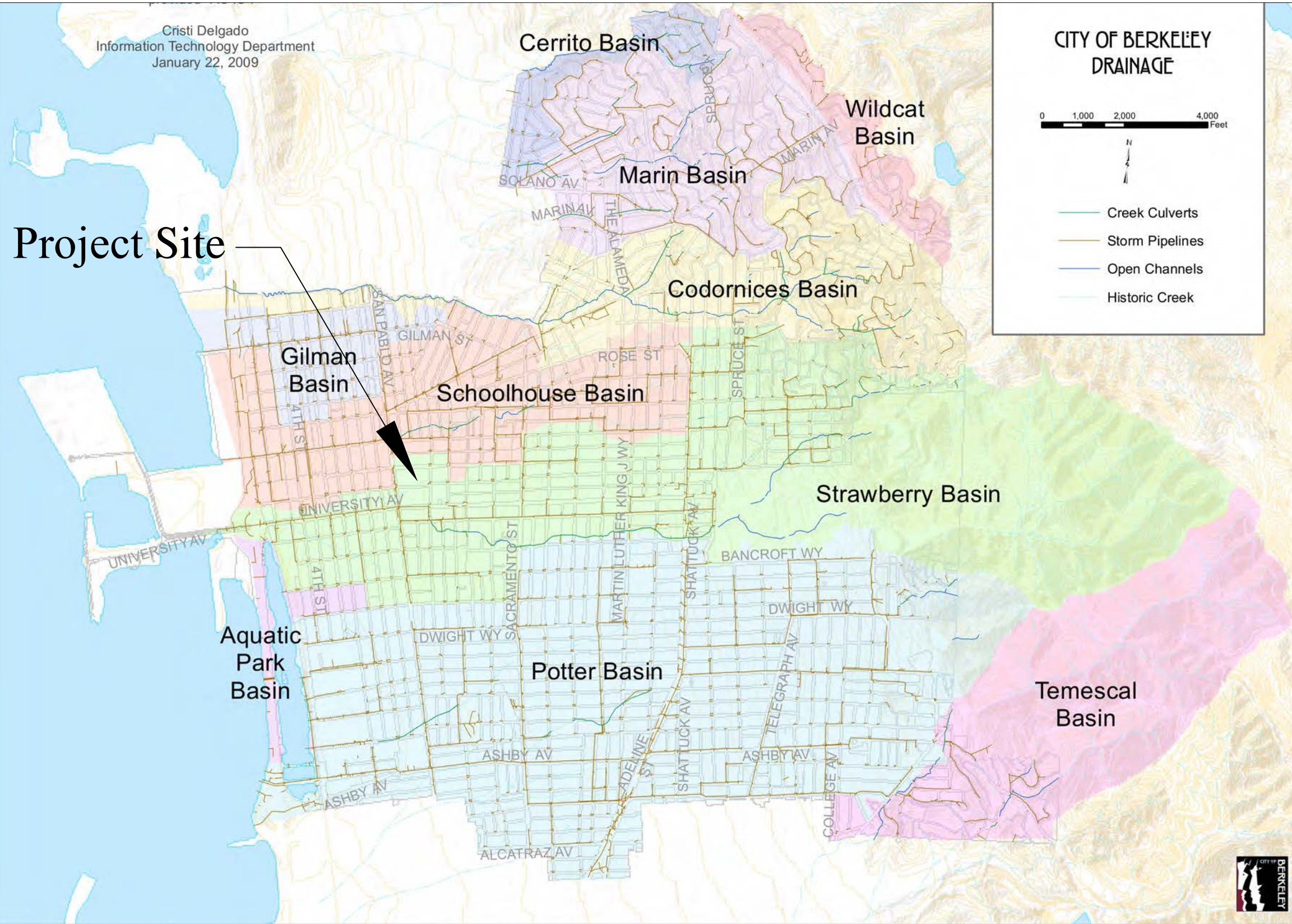


Figure 1 : Strawberry Creek Watershed

Project: 1155-1173 Hearst Avenue Project
Date: 12/30/2015