Condensed Review of the Supreme Court Briefs for Housing Project #2 at People's Park (links to the numbered briefs follow below).

Of the five points that were appealed to the Court of Appeals NOISE and ALTERNATIVE SITES were reversed in our favor and on April 3, 2024 the Supreme Court will be reviewing those two points as requested by UC.

Documents 1-6 are the different requests to the Supreme Court for review of the Court of Appeals (COA) Opinion.

In UC Opening Merits brief (Document 7) they claim that noise generated by occupants of a residential project should not be considered in CEQA as an environmental impact. UC asserts that such noise would open the flood gates for discriminating against residents. UC further claims that noise complaints have existing city laws governing such complaints. On the alternative sites claim UC states that the Long Range Development Plan (LRDP) provides adequate analysis of alternative sites for Housing Project #2 and no more specific site specific analysis is required. As stated UC asserts their right to prioritize People's Park as their choice on which to build student and supportive housing.

Make UC a Good Neighbor and People's Park Historic Advocacy Group's (OUR) answer to UC Merits brief (Document 8) argues that it is an abuse of discretion by UC to not consider sites that are potentially feasible locations for Housing Project #2; that UC's feasibility criteria have been changed during the appeals process for their legal convenience; and that UC administration had considered alternatives and rejected them without treating them in the Environmental Impact Report (EIR). OUR argument to the noise issue is that noise is already recognized as an environmental impact in CEQA; and that both UCB and the City of Berkeley have been dealing with serious undergraduate noise problems for years.

Next in UC's reply to OUR answer (Document 9) UC cites case law (Goleta) in which alternative sites for a project that are analyzed in a programmatic document, such as an LRDP, need not be re-analyzed in site specific project analysis. In the current case that would mean no EIR was necessary for the People's Park project regarding alternative sites.

Then on September 7, 2023 Governor Newsom signed AB 1307 (Document 10) thereby creating the new CEQA statutes 21085 and 21085.2. 21085 struck noise made by human beings as occupants of a residential project from consideration as a significant environmental impact. 21085.2 changed CEQA so that a housing, or mixed use, project of an institution of higher education need not consider alternative sites in a project EIR if alternative sites were treated in a higher level programmatic EIR.

As stated by UC attorney Jeremy Rosen (Document 11) "The Legislature passed this urgency legislation to overrule the Court of Appeals opinion in this matter with respect to People's Park.

In Documents 12 OUR attorney objects to UC's request that the Supreme Court examine the legislative history of AB 1307 to determine aspects of its intention.

In Document 13 OUR attorney requests that supplemental briefs, requested by the Court for argument regarding the effect of AB 1307 on the COA's Opinion are not submitted simultaneously.

In UC's Opening Supplemental brief (Document 14) UC asserts that AB 1307 confirms the merits (correctness) of their briefs. Without much argument or referral to case law they state that CEQA should not be expanded to allow noise of residential projects occupants to be considered an environmental impact (21085), and that Housing Project #2's EIR need not consider alternative locations for that residential project since is student housing for an institution of higher education, and since alternative locations were discussed in the LRDP (21085.2).

Document 15 is another request for the Court to examine the legislative history of AB 1307.

In what may turn out to be the most critical filing for the preservation of People's Park, Document 16 is OUR answer to UC's supplemental brief. In that answer brief we concede that, being a residential project, both the noise (21085) and the alternative site (21085.2) changes in CEQA legally apply to Housing Project #2 at People's Park. With those two new CEQA statutes in effect both claims on which we had prevailed in the COA are moot, i.e. no law exists under which the Supreme Court can rule for relief on OUR claims.

In that same answer brief (Document 16) OUR attorney builds a detailed case supporting OUR noise claim as an environmental impact in CEQA law. OUR assertions stem from the fact that 21085, as written, applies to residential projects. OUR noise claim arises from an LRDP project of increased enrollment for UCB. As explained, it is the increased number of students partying on the streets, and other locations in the Southside (not in student residences), that creates a negative environmental impact.

Should the Supreme Court concur with OUR argument on the noise issue the EIR could be returned to the Superior Court for modification.

The Justices of the Supreme Court may question the attorneys on issues dealing with background and structure of AB 1307 or how the new statutes effect previous court rulings.

Documents 18 thru 24 are amicus briefs from various government institutions and one other request for consideration of legislative history which I will not cover.

As this summary of 1/3 (Supreme Court only) of our attorney's efforts indicates this has been a costly law suit. We are indebted to them for excellent representation of People's Park, but also simply indebt to them for a large sum of money. Please donate whatever you can using this QR link below to our Venmo account or go to peoplesparkhxdist.org for our GoFundMe donation link. THANK YOU from PEOPLE'S PARK HISTORIC DISTRICT ADVOCACY GROUP

Viewing the Oral Arguments at April 3, 2024 Supreme Court session opens at 8:30 am here:

https://supreme.courts.ca.gov/case-information/oral-arguments/webcast-library

S279242 - MAKE UC A GOOD NEIGHBOR v. REGENTS OF THE UNIVERSITY OF CALIFORNIA (RESOURCES FOR COMMUNITY DEVELOPMENT)

(Links to the numbered briefs follow below)

1. Respondents' Petition for Review Filed on March 28, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/1-40-s279242-resps-pet-rev-032823.pdf

2. Appellants' Petition for Review Filed on April 4, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/2-90-s279242-apps-pet-rev-040423.pdf

3. Appellants' Answer to Petition for Review Filed on April 12, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/3-100-s279242-apps-answer-pet-rev-041223.pdf

4. Respondents' Answer to Petition for Review Filed on April 24, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/4-115-s279242-resps-answer-pet-rev-042423.pdf

5. Respondents' Reply to Answer to Petition for Review Filed on April 24, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/5-120-s279242-resps-reply-answer-pet-rev-042423.pdf

6. Appellants' Reply to Answer to Petition for Review Filed on May 3, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/6-160-s279242-apps-reply-answer-pet-rev-050323.pdf

7. Respondents' Opening Brief on the Merits Filed on June 16, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/7-400-s279242-resps-opening-brief-merits-061623.pdf

8. Appellants' Answer Brief on the Merits Filed on August 4, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/8-530-s279242-apps-answer-brief-merits-080423.pdf

9. Respondent, The Regents of the University of California, Reply Brief on the Merits Filed on August 24, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/9-570-s279242-resp-regents-univ-ca-reply-brief-merits-082423.pdf

10. Respondent, The Regents of the University of California, Request for Judicial Notice Filed on August 24, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/10-580-s279242-resp-regents-univ-ca-req-jud-notice-082423.pdf

11. Respondent, The Regents of the University of California, September 8, 2023, Letter Filed on September 8, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/11-590-s279242-resp-regents-univ-ca-090823-ltr-090823.pdf

12. Appellants' Opposition Filed on September 8, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/12-600-s279242-apps-opp-090823.pdf

13. Appellants' September 8, 2023, Letter Filed on September 8, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/13-610-s279242-apps-090823-ltr-090823.pdf

14. Respondent, The Regents of the University of California, Supplemental Brief Filed on September 20, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/14-665-s279242-resp-regents-univ-ca-supp-brief-092023.pdf

15. Respondent, The Regents of the University of California, Request for Judicial Notice Filed on September 20, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/15-670-s279242-resp-regents-univ-ca-req-jud-notice-092023.pdf

16. Appellants' Reply to Supplemental Brief Filed on October 4, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/16-695-s279242-apps-reply-supp-brief-100423.pdf

17. Appellants' Opposition Filed on October 4, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/17-710-s279242-apps-opp-100423.pdf

18. Appellants' Request for Judicial Notice Filed on October 4, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/18-720-s279242-apps-req-jud-notice-100423.pdf

19. Amicus Curiae Brief of City of Berkeley Filed on October 4, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/19-760-s279242-ac-city-berkeley-100423.pdf

20. Respondent, The Regents of the University of California, Reply to Supplemental Brief Filed on October 9, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/20-780-s279242-resp-reply-supp-brief-100923.pdf

21. Amicus Curiae Brief of The Two Hundred for Homeownership Filed on October 16, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/21-810-s279242-ac-the-two-hundred-for-homeownership-101623.pdf

22. Amicus Curiae Brief of League of California and California State Association of Counties Filed on October 16, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/22-850-s279242-ac-league-ca-cities-et-al-101623.pdf

23. Amicus Curiae, The Two Hundred for Homeownership, Notice of Errata Filed on October 20, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/23-870-s279242-ac-two-hundred-homeownership-notice-errata-102023.pdf

24. Appellants' Response to Amicus Curiae Brief Filed on October 25, 2023
https://supreme.courts.ca.gov/sites/default/files/supremecourt/default/documents/24-880-s279242-apps-resp-ac-brief-102523.pdf