



Planning Commission

AGENDA

REGULAR MEETING OF THE PLANNING COMMISSION

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Wednesday, November 3, 2021
7:00 PM

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE. Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the Planning Commission will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us06web.zoom.us/j/85938976960>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

To join by phone: Dial **1 669 900 6833** and enter Meeting ID: **859 3897 6960**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.

Please be mindful that the video conference and teleconference will be recorded. All rules of procedure and decorum that apply for in-person Planning Commission meetings apply for Planning Commission meetings conducted by teleconference or videoconference.

See **"MEETING PROCEDURES"** below.

All written materials identified on this agenda are available on the Planning Commission webpage: https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Planning_Commission_Homepage.aspx

PRELIMINARY MATTERS

- 1. Roll Call:** **Wiblin, Brad**, appointed by Councilmember Kesarwani, District 1
Vincent, Jeff, appointed by Councilmember Taplin, District 2
Moore III, John E. "Chip", appointed by Councilmember Bartlett, District 3
Oatfield, Christina, appointed by Councilmember Harrison, District 4
Mikiten, Elisa, appointed by Councilmember Hahn, District 5

Kapla, Robb, Chair, appointed by Councilmember Wengraf, District 6
Twu, Alfred, appointed by Councilmember Robinson, District 7
Hauser, Savlan, Vice Chair, appointed by Councilmember Droste, District 8
Ghosh, Barnali, appointed by Mayor Arreguin

2. **Order of Agenda:** The Commission may rearrange the agenda or place items on the Consent Calendar.
3. **Public Comment:** Comments on subjects not included on the agenda. Speakers may comment on agenda items when the Commission hears those items. (See “*Public Testimony Guidelines*” below):
4. **Planning Staff Report including Future Agenda Items:** In addition to the items below, additional matters may be reported at the meeting.
5. **Chairperson’s Report:** Report by Planning Commission Chair.
6. **Committee Reports:** Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.
7. **Approval of Minutes:** Approval of Draft Minutes from the meeting on **October 20, 2021**.
8. **Other Planning-Related Events:**

AGENDA ITEMS: All agenda items are for discussion and possible action. Public Hearing items require hearing prior to Commission action.

9. **Action:** **Public Hearing: Ashby and North Berkeley BART Station Areas: Zoning and General Plan Amendments, Joint Vision and Priorities, and Draft EIR)**
Recommendation: Conduct a public hearing to receive public testimony on the (1) Adoption of Zoning Ordinance and Map Amendments, General Plan and General Plan Land Use Diagram Amendments, (2) Adoption of the City and BART Joint Vision and Priorities document, and (3) Certification of the Draft Environmental Impact Report for the Ashby and North Berkeley BART Station Areas and make a recommendation to City Council.
Written Materials: Attached
Presentation: N/A
10. **Action:** **2022 Planning Commission Calendar**
Recommendation: Discuss and adopt 2022 Planning Commission meeting schedule.
Written Materials: Attached
Presentation: N/A

ADDITIONAL AGENDA ITEMS: In compliance with Brown Act regulations, no action may be taken on these items. However, discussion may occur at this meeting upon Commissioner request.

Information Items:

- None.

Communications:

- BART Communications

Late Communications: (Received after the packet deadline):

- Supplemental Packet One – received by noon two days before the meeting
- Supplemental Packet Two
- Supplemental Packet Three

ADJOURNMENT

****** MEETING PROCEDURES ******

Public Testimony Guidelines:

All persons are welcome to attend the virtual meeting and will be given an opportunity to address the Commission. Speakers are customarily allotted up to three minutes each. The Commission Chair may limit the number of speakers and the length of time allowed to each speaker to ensure adequate time for all items on the Agenda. Customarily, speakers are asked to address agenda items when the items are before the Commission rather than during the general public comment period. Speakers are encouraged to submit comments in writing. See “Procedures for Correspondence to the Commissioners” below.

Procedures for Correspondence to the Commissioners:

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Commission. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Commission may limit the time granted to each speaker.

Written comments must be directed to the Planning Commission Secretary at the Land Use Planning Division (Attn: Planning Commission Secretary), 1947 Center Street, Second Floor, Berkeley CA 94704, or via e-mail to: apearson@cityofberkeley.info. All materials will be made available via the Planning Commission agenda page online at this address:

<https://www.cityofberkeley.info/PC/>.

Correspondence received by **12 noon, nine days** before this public meeting, will be included as a Communication in the agenda packet. Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:

- Correspondence received by **12 noon two days** before this public meeting, will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication and emailed to Commissioners one day before the public meeting.
- Correspondence received after the above deadline and before the meeting will be included in a second and/or third Supplemental Packet, as needed, which will be posted to the online agenda as a Late Communication and emailed to the Commissioners by 5pm on the day of the public meeting.

Note: It will not be possible to submit written comments at the meeting.

Communications are Public Records: Communications to Berkeley boards, commissions, or committees are public records 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 a City board, commission, or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service, or in person, to the Secretary of the relevant board, commission, or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the Secretary to the relevant board, commission, or committee for further information.

Communication Access: To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice), or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability.

Meeting Access: 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 (3) business days before the meeting date.

I hereby certify that the agenda for this regular meeting of the Planning Commission was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on **October 27, 2021**.

Alene Pearson
Planning Commission Secretary



Planning Commission

1 **DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**
2 **October 20, 2021**

3 The meeting was called to order at 7:02 p.m.

4 **Location:** Virtual meeting via Zoom

5 **1. ROLL CALL:**

6 **Commissioners Present:** Barnali Ghosh, Savlan Hauser, Robb Kapla, Elisa Mikiten, Chip
7 Moore, Christina Oatfield, Alfred Twu, Jeff Vincent, and Brad Wiblin.

8 **Commissioners Absent:** None.

9 **Staff Present:** Secretary Alene Pearson, Katrina Lapira, Jordan Klein, and Steve Buckley.

10 **2. ORDER OF AGENDA:** No changes.

11 **3. PUBLIC COMMENT PERIOD:** 0

12 **4. PLANNING STAFF REPORT:** None.
13

14 **Information Items:**

- 15 • September 28 – City Council: Item 32 Baseline Zoning Ordinance (BZO) Zoning
16 Ordinance Revision Project – BZO Document (Link)
- 17 •

18 **Communications:**

- 19 • BART Communications
- 20 • Bayer Communications
- 21 • Bird Safety – Weeden
- 22 • R&D – Jackson

23 **Late Communications:** *See agenda for links.*

- 24 • Supplemental Packet One
- 25 • Supplemental Packet Two
- 26 • Supplemental Packet Three

27 **5. CHAIR REPORT:**

- 28 • Commissioner introduction- welcome!
- 29

30 **6. COMMITTEE REPORT:** Reports by Commission committees or liaisons. In addition to the
31 items below, additional matters may be reported at the meeting.

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- 33 • None.

34 **7. APPROVAL OF MINUTES:**

35 Motion/Second/Carried (Mikiten/Moore) to approve the Planning Commission Meeting
36 Minutes from October 6, 2021.

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38 Ayes: Ghosh, Kapla, Mikiten, Moore, Oatfield, Twu, Vincent, and Wiblin. Noes: None. Abstain:
39 Hauser. Absent: None. (8-0-1-0)

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41 **8. FUTURE AGENDA ITEMS AND OTHER PLANNING:**

- 42 • City Council

43 ○ October 26

44 ▪ JSISHL

45 ▪ ADU Ordinance

- 46 • [October 27, 6pm - Housing Element Public Workshop](#)

- 47 • Planning Commission

48 ○ November 3

49 ▪ Public Hearing: BART Zoning

50 ▪ Public Hearing: Tentative Tract Map

51 ▪ Planning Commission Meeting Calendar 2022

52 **AGENDA ITEMS**

53 **9. Public Hearing: Bayer Development Agreement (DA)**

54 After the staff and applicant presentations, the Planning Commission held a public hearing,
55 received comments, discussed the proposed Bayer DA, and made a recommendation for the
56 consideration of City Council.

57 Motion/Second/Carried (Vincent/Mikiten) close public hearing on the Bayer Development
58 Agreement at 8:42pm.

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60 Ayes: Ghosh, Hauser, Kapla, Mikiten, Moore, Oatfield, Twu, Vincent, and Wiblin. Noes: None.
61 Abstain: None. Absent: None. (9-0-0-0)

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Motion/Second/Carried (Vincent/Moore) to recommend that the City Council adopt the Final Subsequent EIR for the Development Agreement between the City of Berkeley and Bayer Healthcare LLC, Draft CEQA Findings, Draft Mitigation Monitoring and Reporting Program (MMRP), and the proposed Development Agreement Amendment, including the development parameters, permit thresholds, and community benefits.
Ayes: Ghosh, Hauser, Kapla, Mikiten, Moore, Twu, Vincent, and Wiblin. Noes: Oatfield.
Abstain: None. Absent: None. (8-1-0-0)

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Public Comments: 8

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Motion/Second/Carried (Mikiten/Twu) to adjourn the Planning Commission meeting at 8:45pm.
Ayes: Ghosh, Hauser, Kapla, Mikiten, Moore, Oatfield, Twu, Vincent, and Wiblin. Noes: None.
Abstain: None. Absent: None. (9-0-0-0)

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Members in the public in attendance: 32

82

Public Speakers: 8

83

Length of the meeting: 1hr 43minutes



Planning and Development Department
Land Use Planning Division

DATE: November 3, 2021

TO: Members of the Planning Commission

FROM: Alisa Shen, Principal Planner
Justin Horner, Associate Planner

SUBJECT: Ashby and North Berkeley BART Station Areas: Zoning and General Plan Amendments, Joint Vision and Priorities, and Draft EIR

RECOMMENDATION

Conduct a public hearing and make a recommendation to City Council regarding (1) Adoption of Zoning Ordinance and Map Amendments, General Plan and General Plan Land Use Diagram Amendments, (2) Adoption of the City and BART Joint Vision and Priorities document, and (3) the Draft Environmental Impact Report for the Ashby and North Berkeley BART Station Areas.

SUMMARY

At this public hearing, staff is requesting that the Planning Commission:

1. Provide any additional comments on and recommend to the Council adoption of:
 - a. Proposed zoning Amendments (R-BART Mixed Use Zoning District, Allowed Uses text and map amendments, incorporating limited modifications outlined on pages 4-5 of this staff report; and associated text amendments needed throughout the Berkeley Municipal Code to incorporate the R-BMU district (**Attachment 1**);
 - b. Proposed General Plan amendments (the Ashby and North Berkeley BART Mixed Use Transit Oriented Development General Plan Land Use Classification text and map amendments, **Attachment 2, Exhibits A and B**);
 - c. City and BART Joint Vision and Priorities (JVP) for Transit Oriented Development the Ashby and North Berkeley, incorporating limited modifications outlined on page 5-6 of this staff report (**Attachment 2, Exhibit D**);
2. Take public testimony on the Draft Environmental Impact Report (EIR) and provide comments to staff on the Draft EIR for these documents (collectively known as “the proposed project” of the EIR);

3. Close the public hearing with respect to receipt of oral comments. Written comments will be accepted until 5:00pm on **Wednesday, December 1, 2021**.

The proposed project would create a new Residential-BART Mixed Use (R-BMU) zoning district that is consistent with Assembly Bill 2923, and amend the Zoning Map to apply the new R-BMU zoning district to the Ashby and North Berkeley BART sites. General Plan amendments are needed to ensure consistency between the Zoning Ordinance and the General Plan. The General Plan changes will add a new land use classification (the Ashby/North Berkeley BART Transit Oriented Development) and the General Plan Land Use Diagram will be updated to apply the new land use classification to the Ashby and North Berkeley BART sites. As stipulated in the City and BART Memorandum of Understanding, the JVP document is intended to provide a concise statement of the *City and BART's shared, high-level expectations for future development* of both the Ashby and North Berkeley BART properties. The JVP builds on the framework provided by the City and BART's adopted plans, policies and regulations, and the additional land use, site planning and financial feasibility studies undertaken as part of this planning process. These documents were presented at the September 1, 2021 Planning Commission meeting.¹

The City of Berkeley Planning and Development Department has prepared a Draft EIR for the proposed project that evaluates the impacts of adoption and implementation of the proposed zoning and General Plan amendments and potential development. The City is the Lead Agency for the project, represented by the Planning and Development Department. Under the California Environmental Quality Act (CEQA), a Lead Agency may proceed directly with EIR preparation, without an Initial Study, if it is clear that an EIR will be required. As the City has made such a determination for this project, no Initial Study has been prepared. A Notice of Availability (NOA) of a DEIR was published on **October 15, 2021** and the DEIR was posted to the City's website on that date. The public comment period for the Draft EIR ends on **December 1, 2021**.

The DEIR identified one significant and unavoidable environmental impact related to Noise (temporary construction noise) and one significant and unavoidable cumulative impact related to cultural resources. All other environmental effects of the proposed project can be reduced to less than significant levels through implementation of Standard Condition(s) of Approval and/or recommended mitigation measures.

In early 2022, the City Council will consider comments from the Planning Commission and the public on these documents, and consider taking action to:

- Adopt the zoning and General Plan amendments, and the City and BART JVP.
- Certify a Final EIR (which will include responses to CEQA-related comments on the Draft EIR submitted during the public comment period).

¹ Agenda-related materials for the September 1, 2021 Planning Commission meeting can be found:

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-09-01_PC_Item_9_with%20attachments.pdf. The draft zoning and General Plan Amendments and draft City and BART Joint Vision and Priorities document are Attachments 1 and 2 to the 9/1/21 Planning Commission meeting staff report for Agenda Item 9 regarding the Ashby and North Berkeley BART Station Areas.

- Approve an addendum to the Memorandum of Understanding between the City and BART that addresses the next steps in the overall planning process for the two BART sites.

I. BACKGROUND

At its meeting on September 1, 2021, the Planning Commission received an informational report on the City-BART JVP document, the R-BMU zoning district, and the General Plan amendments, and how they fit into the multi-year planning process to develop the Ashby and North Berkeley BART station areas. Staff also presented information about the relevant regulatory framework, especially how AB 2923 and the State Density Bonus constrain what the City can adopt regarding zoning development standards and the development approval process.

AB2923 expressly states that “eligible TOD projects” that meet the streamlining criteria outlined in AB2923 are still allowed the streamlined process after the addition of a density bonus.² The BART sites will likely achieve high levels of affordability, so therefore it is likely that the BART sites will be eligible for this streamlined approval process.

In light of this, City and BART staff are working together to put in place a process that embeds meaningful City participation throughout, including the development of objective design standards that could be adopted by the City Council before developers submit their applications to the City. The process to develop and approve the objective design standards would be formalized through an addendum to the existing Memorandum of Understanding (MOU) between the City and BART. The intent of the objective design standards is to allow the City and the community to have a strong voice in the design quality of the development at both stations and is not to change the meaning and intent of any part of the Zoning or Joint Vision and Priorities document, including but not limited to the items covered in AB2923: building heights, density, floor area ratio and parking controls.

Objective design standards for each station site would be based on the Draft JVP and zoning standards and address the following topics:

- Station Functionality: Site circulation, location of passenger drop-off/pick-up, bus stops, bicycle parking, BART facility/infrastructure requirements, and replacement parking to serve BART riders.
- Public Realm Standards: Public streetscape such as sidewalks, street trees and street furniture, and public open space.
- Building Form/Massing: Additional detail about location of building setbacks, upper floor step backs, upper floor mass reduction, maximum facade length, and massing breaks.
- Building Facade Design: Human-scaled architecture, building and unit entries, and loading/mechanical/utility screening.
- Open Space: Private usable open space, public open space and landscaping.

² Pub. Util. Code, § 29010.7(c).

It is anticipated that preparation of the objective design standards would include participation from potential developers in order to allow for a more accurate analysis of possible design options.

II. ZONING AND GENERAL PLAN AMENDMENTS

The zoning and General Plan amendments (**Attachments 1 and 2**) are unchanged from the draft versions presented on September 1 except for the following:

- The documents are presented in the format in which they would be considered for adoption by the City Council (e.g. as part of an “ordinance” for zoning changes or a “resolution” for General Plan amendments) with “~~strikeout~~/underline” formatting to indicate any changes from the adopted Berkeley Zoning Ordinance or General Plan.³
- In order to comprehensively incorporate the new R-BMU zoning district into the Berkeley Zoning Ordinance, additional conforming amendments are required. See **Table 1** below for a full list of proposed revisions to the Berkeley Zoning Ordinance.

Table 1. Proposed Amendments to the Berkeley Zoning Ordinance
1. Section 23.202.150 Residential – BART Mixed Use District
2. Table 23.202.020-1: ALLOWED LAND USES IN RESIDENTIAL DISTRICTS
3. Section 23.106.050 Measurements
4. Section 23.108.020 Zoning Districts and Maps
5. Section 23.302.070.G.2 Supplemental Use Regulations
6. Section 23.308.020.C Emergency Shelters
7. Section 23.310.030.A Alcoholic Beverage Sales and Service
8. Section 23.310.030.B.1 Alcoholic Beverage Sales and Service
9. Section 23.312.030.B Live/Work
10. Section 32.322.030.A.1 Parking and Loading
11. Section 23.502.020.L.14-20 Glossary – [Definition of] Lot Area for R-BMU

- In response to the Planning Commission’s discussion on September 1, the draft zoning has been modified to:
 - a. Revise Section 23.202.150 F.5 (Front Upper-Story Stepbacks) as follows:
 - 5. Front Upper-Story Stepbacks. Any street-facing building frontage above four stories in height that is not within 100 linear feet of Sacramento Street, Adeline

³ On October 12, 2021, the City Council adopted (second reading) of an Ordinance rescinding the current Berkeley Municipal Code (BMC) Title 23 and adopting the new Baseline Zoning Ordinance (BZO) as BMC Title 23 with an effective date of December 1, 2021. For more information go to: https://www.cityofberkeley.info/Clerk/City_Council/2021/10_Oct/Documents/2021-10-12_Item_05_Adoption_of_the_Baseline_Zoning_Ordinance.aspx

Street, Ashby Avenue or Martin Luther King Jr. Way, shall step back ~~15 feet~~ from the front property line for portions of the building above four stories.

- **Rationale:** Upper-story stepbacks are an important design strategy to shape a building. However, the 15-foot length of the required upper story stepback could be too prescriptive. The effort to develop objective design standards for each BART site will include more detailed analysis and will likely yield more nuanced upper-story stepback and other building form and massing standards.
- b. Move and revise Section 23.202.150 F.14 Objective Design Standards out of the zoning chapter and into the ordinance as new Section 14 as follows:

- Delete from R-BMU Zoning chapter and move text (see next item below):

~~14. Objective Design Standards: Objective design standards, including, but not limited to, BART station functionality, public realm, building form and massing (e.g. vertical and horizontal articulation) building facade design, and open space shall be developed prior to the acceptance of any Preliminary Development Plan or Final Development Plan.~~

- Insert text from Section 23.202.150 F.14 Objective Design Standards into the ordinance as follows:

Section 14. Objective design standards, including, but not limited to, BART station functionality, public realm, building form and massing (e.g. vertical and horizontal articulation) building facade design, and open space shall be presented to the Council for adoption within one-year from the adoption of this code section.

Section 1415. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

- **Rationale:** The language regarding objective design standards for each BART site was moved from the zoning district chapter to the adopting ordinance, which focuses on required timeframes for approval. The process to prepare and approve these standards would be formalized through an addendum to the existing Memorandum of Understanding (MOU) between the City and BART. Section 23.202.150G.3b of the proposed R-BMU zoning already requires that any project application includes information demonstrating that “the plan meets the development standards set forth in Section 202.23.150C and the other requirements of this Chapter, including compliance with any Objective Development Standards.”

III. CITY AND BART JOINT VISION AND PRIORITIES DOCUMENT

The JVP (**Attachment 2, Exhibit D**) is unchanged from the draft version presented on September 1 except for the following (changes shown in ~~strikeout~~/underline):

1. **Affordable Housing, Shared Priority: D. Income Targets:** At least 35% of new housing at each site must be affordable to households earning ~~less than~~ an average of up to 60% of Area Median Income (AMI). Of that, at least 20% (or 7% of total units at each site) must be affordable to Extremely Low-income households, those earning up to 30% of AMI. Additional affordable units should prioritize Very Low Income (up to 50% of AMI) households and Low Income (up to 80%) households but may include some housing restricted with households with incomes up to 120% of AMI.
 - **Rationale:** This change will bring the JVP in line with the 2018 rules for the Low Income Housing Tax Credit (LIHTC) funding program which will likely be used to finance affordable housing at the BART sites, and it also helps to make Extremely Low Income housing possible (<30% Area Median Income). This change also better aligns the JVP with requirements of the City of Berkeley’s Housing Trust Fund and BART’s Affordable Housing policy.⁴

2. **Public and Civic Space, North Berkeley Priority: C. Street Design:** The design of surrounding streets should be considered as a strategy to accommodate public space needs, and improve safety for pedestrians and bicycles. Explore the feasibility of reducing the width and number of traffic lanes in adjacent streets to their original (pre-BART) condition, aligning curbs with adjacent blocks in a manner that builds upon and is consistent with the City and BART’s recent Complete Streets and roadway improvement projects in the area. Streets may retain their current width where there is some functional use for the extra space, such as bike lanes and cycle tracks that previously did not exist, and there may be bulb-outs at intersections.
 - **Rationale:** The additional text clarifies what should be further studied (for the North Berkeley BART site) in order to increase safety and opportunities for public space, and is consistent with the Ashby BART site priority to study redesigning the right-of-way of Adeline Street to increase safety for all modes and create space for other uses such as public space and space for the Flea Market (see Public and Civic Space, Ashby Priority D. “Adeline Street”).

IV. ENVIRONMENTAL REVIEW

The Draft EIR analyzes the potential environmental effects of development guided by the development standards and policies of the proposed zoning and General Plan amendments and the City and BART JVP.

In accordance with CEQA Guidelines, a Notice of Preparation (NOP) of a Draft EIR was circulated to potentially interested parties and agencies on November 20, 2020. The City received written responses to the NOP regarding the scope and content of the EIR. The City also held an EIR scoping meeting as part of the regularly scheduled Planning Commission meeting on December 2, 2020. Approximately 20 people attended the hearing and most provided verbal or written comments on the scope and content of the EIR.

⁴ The City’s Housing Trust Fund Guidelines require that 40% of any City subsidized units be affordable to households earning up to 60% of AMI. BART’s TOD policy also provides a priority for affordable units that serve very low income (<50% AMI), low income (51-80% AMI) and/or transit-dependent populations.

The following environmental topics are addressed in detail in the Draft EIR:

- 4.1 Air Quality
- 4.2 Cultural Resources
- 4.3 Energy
- 4.4 Greenhouse Gases
- 4.5 Hazards and Hazardous Materials
- 4.6 Hydrology and Water Quality
- 4.7 Land Use and Planning
- 4.8 Noise
- 4.9 Population and Housing
- 4.10 Public Services and Recreation
- 4.11 Transportation
- 4.12 Utilities and Service Systems

The Draft EIR also briefly discusses any possible significant effects that were determined not to be significant or less than significant with mitigation related to the following environmental topics: aesthetics, agricultural resources, biological resources, geology and soils, mineral resources and wildfire.

A. Project Objectives

Section 15124 of the CEQA Guidelines requires an EIR to include a statement of the objectives sought by the proposed project. These Project Objectives will help the City develop a reasonable range of alternatives to evaluate in the EIR and prepare any necessary findings or statements of overriding consideration. The Project Objectives of the proposed project are to:

- Comply with Assembly Bill 2923.
- Promote healthy, fossil-fuel free, energy- and water-efficient transit-oriented development that includes location efficiency and sustainable low carbon transportation modes.

B. Project Description

The proposed project for the purposes of review under the California Environmental Quality Act (CEQA) would result in:

- A new Residential - BART Mixed-Use District (R-BMU) zoning district, a new Ashby and North Berkeley BART Transit Oriented Development General Plan Land Use Classification, and would apply these new designations to the Ashby and North Berkeley BART station sites.
- A City and BART Joint Vision and Priorities (JVP) document to guide transit-oriented development for the Ashby and North Berkeley BART Station Areas. The JVP is intended to articulate City and BART shared, high-level expectations for future developers on key topics and will be incorporated into future Request(s) for Qualifications for development of both station sites. The JVP document includes visions and priorities related to affordable housing, public and civic space, land use, building form, and station access.

C. Buildout Projections

For the purposes of environmental review, the Draft EIR includes development projections to provide a physical project that can be analyzed for its environmental effects.

The proposed project does not identify or define specific development projects, but rather consists of land use and policy changes that would guide future development at the sites. The buildout projection for the Ashby and North Berkeley station areas represents a reasonable maximum development envelope based on the proposed R-BMU zoning standards. The R-BMU zoning includes basic development standards, as well as standards related to open space, setbacks, upper story step-backs, ground-floor residential and non-residential frontage, on-site pedestrian access, building entrances, and parking design and access.

To ensure a conservative approach in analyzing environmental effects under CEQA, EIRs typically analyze what could be considered a maximum reasonable impact scenario in order to capture as many significant environmental impacts as could be reasonably expected as a result of the project. For the purposes of environmental review, the total reasonable maximum development at both stations is projected to be up to 2,400 dwelling units and 125,000 sf of non-residential square feet of space.

At the North Berkeley BART station site, the buildout assumptions include development of up to 1,200 dwelling units and 25,000 square feet of non-residential space located on the main 8.1-acre station site, including the area considered BART's "Zone of Influence". The three auxiliary lots located northwest of the station along the Ohlone Greenway are not anticipated to include new residential or non-residential development but may include transportation infrastructure improvements. At the Ashby BART station site, the buildout assumptions include development of up to 1,200 dwelling units and 100,000 square feet of non-residential space distributed between the 4.4-acre station site and the 1.9-acre surface parking lot east of the Ed Roberts campus. The maximum reasonable development for both station sites is based on the following assumptions: buildings with a maximum height of seven stories and an average unit size of 700 square feet, and exclusion of non-buildable areas for circulation and BART station infrastructure.

For the purposes of CEQA, the DEIR assumes no BART rider replacement parking spaces on either BART station site for the proposed project (which analyzes effects of the proposed zoning and associated General Plan amendments and City-BART JVP document). However, it is assumed that 79 spaces in the auxiliary parking lots at the North Berkeley BART station site would remain exclusively for the use of BART riders. The ultimate decision on BART rider replacement parking is under BART purview and the number of replacement parking spaces will be determined by BART's ongoing access plan efforts.⁵

⁵ BART is currently conducting the Berkeley-El Cerrito Corridor Access Plan that will determine a BART rider replacement parking range. The future Developers will fund a station-specific access plan that will determine parking replacement numbers. More information about the corridor planning efforts can be found here: www.bart.gov/beccap.

D. Potentially Significant Impacts Identified in the Draft EIR

All environmental impacts, relevant City Standard Conditions of Approval and mitigation measures are summarized in the Executive Summary (Table ES-1) in the Draft EIR. Table ES-1 also identifies the level of significance of the impact after application of the Standard Condition of Approval and/or mitigation. Other than the impacts discussed below, all of the environmental effects of the proposed project can be reduced to less than significant levels through implementation of Standard Condition(s) of Approval and/or recommended mitigation measures.

The Draft EIR (DEIR) identifies the following significant and unavoidable environmental impacts:

- **Impact N-1 (Construction Noise).** Construction activities associated with implementation of the proposed project would intermittently generate high noise levels within and adjacent to the Project Area. Mitigation to restrict the hours of construction activity and minimize noise from equipment would reduce construction noise to the extent feasible. However, construction noise could still exceed the City's standards at sensitive receptors. Therefore, the impact from construction noise would be significant and unavoidable.
- **Cumulative Impact – CR (Cultural Resources).** While the proposed project's potential significant impact can be mitigated to less than significant (see DEIR Mitigation Measure CR-1 Ashby BART Station Interpretive Display), cumulative development in the project area could disturb areas that may contain cultural resources.⁶ It is not possible to predict what development could occur in the future on property within or in close proximity to any of the three known historic districts adjacent to the Ashby BART Station (which is based on decisions of individual property owners). While policies and regulations could reduce or avoid impacts to built environment historical resources, such as changes to the setting of known historic districts, it would be speculative to predict the specific level of cumulative impact of future development. Nevertheless, the DEIR conservatively projects that development could result in the alteration or loss of some historical built environment resources, with potentially significant cumulative impacts.

E. Alternatives

As required by Section 15126.6 of the CEQA Guidelines, an EIR must examine a range of reasonable alternatives to the proposed project that would feasibly obtain most of the CEQA Project Objectives, and avoid or substantially lessen many of the Project's significant environmental impacts. Because of the constraints of Assembly Bill 2923 (AB 2923), the range of alternatives is limited. The following alternatives are evaluated in the DEIR:

- **Alternative 1: No Project Alternative/Implement AB 2923 Zoning Standards.** The No Project Alternative (Alternative 1) assumes that the City takes no action to rezone the station sites. Under the provisions of AB2923 both station sites then would be effectively rezoned with the development standards included in that bill. This alternative

⁶ Draft EIR, Executive Summary, p. ES-6 and Section 4.2 Cultural Resources, pp.4.2-25- 4.2-28.

assumes the following development standards in AB 2923 would apply to the station sites:

- Minimum Density of 75 units per acre
- Height of 7 stories (or higher)
- Floor Area Ratio (FAR) of 4.2 (or higher)

Alternative 1 would involve the same density, height, and FAR standards as the proposed project, but would not include the same standards with respect to setbacks and stepbacks; therefore, this project would allow for 2,500 units between both sites (1,250 units at each site). In contrast to the proposed project, the No Project Alternative would follow AB 2923, which does not include standards for ground floor mixed use development or street-level pedestrian activity, nor the additional guidance in the City and BART Joint Vision and Priorities. For the purposes of analysis, the No Project Alternative is assumed to have a similar non-residential buildout to the proposed project (combined total of 125,000 square feet on both sites).

This alternative would meet the CEQA Project Objectives to comply with AB 2923 and promote green development as well as location efficiency and sustainable transportation modes.

- **Alternative 2: BART Rider Parking Alternative.** The proposed project assumes there would be no replacement BART rider parking, in accordance with BART's Station Access Policy (2016) and current Transit Oriented Development (TOD) Policy (2020). The existing BART rider parking spaces in the auxiliary lots northwest of the North Berkeley BART station would remain with the proposed project and all the alternatives because they are not considered developable for other uses.

The ultimate decision on BART rider replacement parking is under BART purview and the number of replacement parking spaces would be determined by BART's ongoing access planning efforts. However, an alternative that does assume some dedicated BART rider parking, Alternative 2, is included in this analysis. The parking totals assumed in the alternative do not reflect actual project proposals being considered by BART nor do they reflect any adopted or proposed BART targets, goals, policies or programs.

Alternative 2 assumes that 15 to 30 percent of current BART rider parking would be replaced at the Ashby BART site and 25 to 40 percent of current BART rider parking would be replaced at the North Berkeley BART site. For purposes of analysis, the higher number of the estimated range was used, which would result in 160 vehicle parking spaces at Ashby BART station and 300 vehicle parking spaces at North Berkeley BART station under this alternative, all located in above-ground parking garages. Alternative 2 would involve an estimated 400 fewer residential units compared to the proposed project.

- **Alternative 3: Increased Height.** The Increased Height Alternative would allow for the development of 12-story buildings on the station sites, whereas the proposed project would allow for buildings up to seven stories tall. Increasing the maximum building

height by 5 stories would allow for an increase in FAR, assumed to be up to 5.5. Buildout under this alternative could include up to 3,600 residential units combined for both sites, or 1,200 more than under the proposed project. It is assumed that the change in allowable building height would not affect the size of commercial use, which would still be an estimated 125,000 square feet. All other proposed development standards as shown in Table 2-1 in Section 2, Project Description, including vehicle and bicycle parking requirements, minimum open space, and minimum public space, would remain the same.

This alternative would meet the project objective to comply with AB 2923, by allowing new development consistent with the law's development standards at the station sites. By further increasing residential density in a Transit Priority Area, it would also meet the project objective to promote green development as well as location efficiency and sustainable transportation modes, to a greater extent than would the proposed project. Alternative 3 would meet the CEQA Project Objective to comply with AB 2923, by allowing new development consistent with the law's development standards at the station sites. By further increasing residential density in a Transit Priority Area, it would also meet the CEQA Project Objective to promote green development as well as location efficiency and sustainable transportation modes, to a greater extent than would the proposed project.

- **Environmentally Superior Alternative.** CEQA requires the identification of the environmentally superior alternative among the options studied, which is the alternative among those studied that has the fewest significant environmental impacts. Table 6-4 on page 6-28 of the Draft EIR indicates whether each alternative's environmental impact is greater, lesser, or similar to the proposed project.

As shown in the DEIR, the No Project Alternative would not reduce impacts and would therefore not be environmentally superior to the proposed project. Of the development alternatives, neither Alternative 2 nor Alternative 3 would eliminate the significant unavoidable impact related to construction noise. Further, neither alternative would eliminate the need for mitigation measures identified in this EIR; mitigation related to air quality, cultural resources, GHG emissions, noise, hazardous materials, and noise would still be required.

Overall, Alternative 2 would result in two slightly greater impacts than the proposed project (GHG Emissions and Land Use and Planning) and two slightly reduced impacts compared to the proposed project because it involves fewer units (Public Services and Recreation and Utilities and Service Systems). Alternative 3 would also involve two slightly reduced impacts compared to the proposed project related to GHG Emissions and Land Use and Planning. When taking into account the project objectives, the provision of on-site vehicular parking for BART riders under Alternative 2 would not meet project objectives related to residential density and use of sustainable modes as well as the proposed project because increased supply of vehicle parking would reduce the amount of residential space that could be provided and encourage vehicle use by making it more convenient to drive. Alternative 3 is the environmentally superior alternative.

V. PUBLICATION AND DISTRIBUTION OF THE DRAFT EIR

The Draft EIR (DEIR) was made available for public review on **October 15, 2021**. The Notice of Availability (NOA) for the DEIR was distributed to State and local planning agencies. The NOA was posted in the office of the County Clerk and notices of the public hearing were published in the Berkeley Voice. Copies of the Draft EIR are available for review and distribution at 1947 Center Street, 2nd Floor, Berkeley CA, 94704. Additional copies are available for review at the additional locations listed below and on the project website: <https://www.cityofberkeley.info/bartplanning>.

- City of Berkeley at 1947 Center Street, 2nd Floor;
- Central (Downtown) Library, 2090 Kittredge Street;
- Tarea Hall Pittman South Branch Library, 1901 Russell Street and;
- West Branch Library, 1125 University Avenue.

The Planning Commission is also being asked to take public testimony on the Draft EIR and provide comments to staff on the Draft EIR. Comments on the Draft EIR (DEIR) should focus on whether the DEIR is sufficient in discussing possible impacts to the physical environment, ways in which the potential adverse effects may be avoided or minimized through mitigation measures, and alternatives to the proposed project in light of the DEIR's purpose to provide useful and accurate information about such factors.

ATTACHMENTS

1. Draft Ordinance (For City Council adoption)
Exhibit A: Zoning Map Amendment
2. Draft Resolution (For City Council adoption)
Exhibit A: General Plan Amendment
Exhibit B: General Plan Map Amendment
Exhibit C: General Plan and Zoning Amendment Findings
Exhibit D: City and BART Joint Vision and Priorities for Transit-Oriented Development at the Ashby and North Berkeley BART Station Areas
Exhibit E: CEQA Findings: Certification of EIR, Rejection of Alternatives and Statement of Overriding Considerations (Note: This exhibit will be prepared after Final EIR is completed and included as part of materials for review by City Council)
3. Public Hearing Notice

REFERENCED LINKS

1. Notice of Availability of Draft EIR and Draft Environmental Impact Report (DEIR) for the Ashby and North Berkeley BART Zoning and General Plan Amendments and Technical Appendices and Notice of Availability of Draft EIR: www.cityofberkeley.info/bartplanning

ORDINANCE NO. -N.S.

AMENDING TITLE 23 OF THE BERKELEY MUNICIPAL CODE TO ESTABLISH THE RESIDENTIAL—BART MIXED USE (R-BMU) ZONING DISTRICT

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 23.106.050 is amended to read as follows:

23.106.050 Floor Area Ratio.

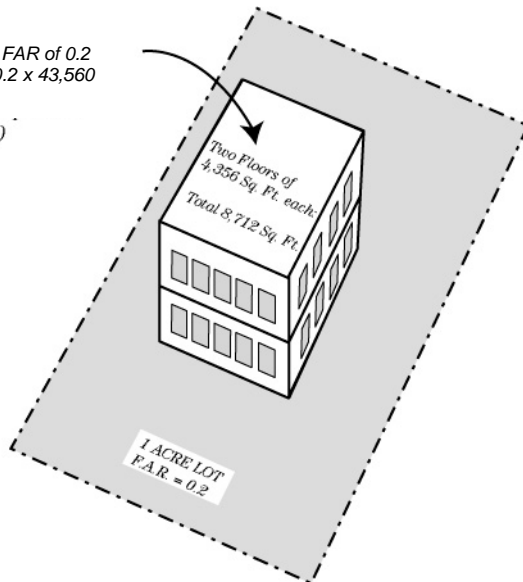
A. Floor Area Ratio Defined. Floor area ratio (FAR) means the quotient resulting from division of the gross floor area of all buildings on a lot by the area of the lot. See Figure 23.106-1: Floor Area Ratio.

1. Floor Area Ratio Defined in R-BMU: In the R-BMU district, FAR means the quotient resulting from division of the Gross Floor Area of all buildings on a lot by the Lot Area. In a single integrated development on contiguous lots, the permitted Floor Area Ratio shall be computed upon the basis of the total area of all such lots.

FIGURE 23.106-1: FLOOR AREA RATIO

Maximum Floor Area for a FAR of 0.2
on a 43,560 Sq. Ft. Lot = $0.2 \times 43,560$
Sq. Ft. = 8,712 Sq. Ft.

(1 Acre)



A.B. Development on Contiguous Lots. In a single integrated development on contiguous lots, the permitted floor area ratio is calculated using the total combined area of all such lots.

Attachment 1: Draft Ordinance

Section 2. That Berkeley Municipal Code Section 23.108.020 is amended to read as follows:

23.108.020 Zoning Districts

A. Districts. Berkeley is divided into districts as shown in Table 23.108-1: Zoning Districts. Unique regulations apply within each district as established in Chapters 23.202 – 23.208 (Zoning Districts).

TABLE 23.108-1: ZONING DISTRICTS

DISTRICT SYMBOL	NAME OF DISTRICT
Residential Districts	
R-1	Single-Family Residential
R-1A	Limited Two-family Residential
ES-R	Environmental Safety Residential
R-2	Restricted Two-family Residential
R-2A	Restricted Multiple-family Residential
R-3	Multiple-family Residential
R-4	Multi-family Residential
R-5	High Density Residential
R-S	Residential Southside
R-SMU	Residential Southside Mixed Use
<u>R-BMU</u>	<u>Residential BART Mixed Use</u>
Commercial Districts	
C-C	Corridor Commercial
C-U	University Avenue Commercial
C-N	Neighborhood Commercial
C-E	Elmwood Commercial
C-NS	North Shattuck Commercial
C-SA	South Area Commercial
C-T	Telegraph Avenue Commercial
C-SO	Solano Avenue Commercial
C-DMU	Downtown Mixed-Use
C-W	West Berkeley Commercial

Attachment 1: Draft Ordinance

DISTRICT SYMBOL	NAME OF DISTRICT
C-AC	Adeline Corridor Commercial
Manufacturing Districts	
M	Manufacturing
MM	Mixed Manufacturing
MU-LI	Mixed Use-Light Industrial
MU-R	Mixed Use-Residential
Special Districts	
S	Specific Plan
U	Unclassified

Section 3. That Berkeley Municipal Code Chapter 23.202.020 is amended to read as follows:

23.202.020 Allowed Land Uses

A. Allowed Land Uses. Table 23.202-1: Allowed Land Uses in Residential Districts identifies allowed land uses and required permits in the Residential Districts. All land uses are defined in Chapter 23.502—Glossary. Permit requirements are described in Chapter 23.406—Specific Permit Requirements.

B. Unlisted Land Uses. Any land use not listed in Table 23.202-1: Allowed Land Uses in Residential Districts is not permitted in the Residential District

Attachment 1: Draft Ordinance

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply ** - Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											R-BMU* *	USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU				
Residential Uses														
Accessory Dwelling Unit	See 23.306— Accessory Dwelling Units		NP	See 23.306—Accessory Dwelling Units										
Dwellings														
Single-Family	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Two-Family	NP	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Multi-Family	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Group Living Accommodation	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Senior Congregate Housing	NP	NP	NP	NP	See 23.302.070.H– Use-Specific Regulations									
Mixed-Use Residential	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Public and Quasi-Public Uses														
Child Care Center	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Club/Lodge	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Columbaria	AUP*	AUP*	NP	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	NP	23.302.070.C– Use-Specific Regulations
Community Care Facility	See 23.202.040.A– Use-Specific Regulations													
Community Center	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Emergency Shelter	NP	NP	NP	NP	NP	NP	See 23.308							
Family Day Care Home, Large	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Family Day Care Home, Small	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Hospital	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	NP	
Library	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Nursing Home	NP	NP	NP	–	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Park/Playground	ZC	ZC	UP	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	

Attachment 1: Draft Ordinance

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply ** - Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											R-BMU* * -	USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU			
Public Utility Substation/Tank	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Religious Assembly	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
School	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Commercial Uses													
Alcoholic Beverage Service	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH) * -	23.310—Alcoholic Beverage Sales and Service
Food Products Store	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH) * -	23.202.140.B.3– R-SMU Residential Southside District
Food Service Establishment	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH) * -	23.302.070.E– Use-Specific Regulations
Hotel, Tourist	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Laundromat and Cleaner	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	
Office	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	
Parking Lot/Structure	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH)*	UP(PH) * -	23.302.070.G– Unenclosed Accessory Structures in Residential Districts 23.322.100– On-site Loading Spaces
Personal and Household Service, General	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC*	ZC*	23.202.140.B.2– R-SMU Residential Southside District
Retail, General	NP	NP	NP	NP	NP	NP	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH)*	UP(PH)*	UP(PH) * -	23.202.040.B– Use-Specific Regulations
Veterinary Clinic	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	
Theater	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	
Video Tape/Disk Rental	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	
Industrial and Heavy Commercial Uses													
Commercial Excavation	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Other Uses													

Attachment 1: Draft Ordinance

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply ** - Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU* *		
Accessory Uses	See 23.302.020.A– General Use Regulations												
Art/Craft Studio	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC	
ATM: Exterior and Attached to Bank or Interior or Exterior and Not With Bank	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Home Occupations	See 23.302.040– Home Occupations												
Live/Work	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH) *	23.312-Live/Work
Public Market, Open Air	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Public Market, Enclosed	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Short-Term Rental	ZC*	ZC*	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.314—Short-Term Rentals
Temporary Uses	See 23.302.030– Temporary Uses and Structures												
Urban Agriculture, Low-Impact	ZC*	ZC*	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.318—Urban Agriculture
Urban Agriculture, High-Impact	AUP*	AUP*	NP	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	23.318—Urban Agriculture
Wireless Telecommunication Facility	See 23.332—Wireless Communication Facilities												

Attachment 1: Draft Ordinance

Section 4. That Berkeley Municipal Code Chapter 23.202.150 is hereby added to read as follows:

23.202.150: R-BMU Residential BART Mixed Use District

A. District Purpose. The purpose of the BART Mixed-Use (R-BMU) district is to address City of Berkeley priorities such as affordable housing, civic and public space, multi-modal transportation and site access, high-quality building design and architecture, and a mix of land uses that contributes positively to the community, and to establish zoning standards in compliance with AB 2923.a

B. Definitions. For the purpose of this Chapter, the following definitions apply:

1. Lot Area. The total horizontal area within a lot's boundary lines, minus the square footage of any buildings, facilities or equipment that are, or shall be, under the control of the San Francisco Bay Area Rapid Transit District (BART).

2. Floor Area Ratio (FAR). The quotient resulting from division of the Gross Floor Area of all buildings on a lot by the Lot Area. In a single integrated development on contiguous lots, the permitted Floor Area Ratio shall be computed upon the basis of the total area of all such lots.

3. Dwelling Units per Acre. The quotient resulting from the total number of dwelling units on a site by the Lot Area.

C. Allowed Land Uses. General. See Section 23.202.020 (Allowed Land Uses), which indicates identifies allowed land uses and which are prohibited.

1. The initial establishment of a land use in a new building will follow the R-BMU Master Development Plan process outlined in Section 23.202.150D. below.

2. The change of use of an existing building or portion of a building will require the permits indicated in Section 23.202.020 and Table 23.202-1 for the R-BMU District.

3. Any use not listed in Table 23.202-1 for the R-BMU District can be approved through the Master Development Plan process outlined in Section 23.202.150D below for the initial establishment of a land use in a new building.

4. Uses subject to supplemental regulations are shown in in Table 23.202-1 with an asterisk (*) following the permit requirement (e.g., ZC*). The Use-Specific Regulations column in Table 23.204-1 identifies the location of these regulations in the Zoning Ordinance.

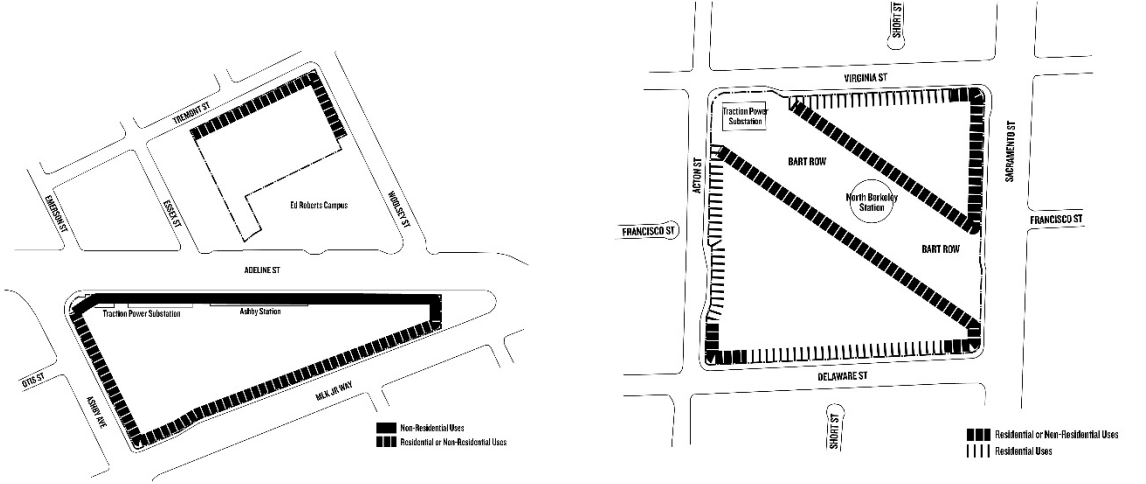
Attachment 1: Draft Ordinance

D. Ground-floor Uses. See Table 23.202.150-1.

TABLE 23.202.150-1: PERMITTED STREET-FACING GROUND FLOOR USES

<u>Frontage Locations</u>	<u>Permitted Street-Facing Ground Floor Uses</u>
<u>Along Ashby and MLK</u>	<u>Non-Residential Uses or non-residential accessory spaces to residential buildings, such as community rooms. At least 50% of the combined frontage of MLK and Ashby must include active ground -floor uses. Active uses at corner locations are encouraged.</u>
<u>Along Adeline</u>	<u>Non-Residential Uses or non-residential accessory spaces to residential buildings, such as community rooms</u>
<u>Along Woolsey, Tremont[1], or fronting interior public spaces</u>	<u>Residential or Non-Residential Uses</u>
<u>Along Sacramento, along the Ohlone Greenway, or within 50 feet of any street corner</u>	<u>Residential or Non-Residential Uses</u>
<u>Along Delaware, Acton, or Virginia</u>	<u>Residential Uses</u>
<u>[1] Public entrances for non-residential uses fronting Tremont Street must be located on Woolsey Street.</u>	

FIGURE 23.202.150-1 PERMITTED STREET-FACING GROUND FLOOR USES



1. Ashby BART Station Site

b. North Berkeley BART Station Site

E. Additional Permit Requirements. See Section 23.202.030
 (Additional Permit Requirements).

F. Development Standards.

1. **Basic Standards.** See Table 23.202.150-2.

2. **Supplemental Standards.** Supplemental standards that apply in the R-BMU district are noted in Table 23.202.150-2.

TABLE 23.202.150-2: R-BMU DEVELOPMENT STANDARDS

		<u>Supplemental Standards</u>
<u>Lot Area, Minimum</u>	<u>No minimum</u>	<u>23.304.020</u>
<u>Private Usable Open Space, Minimum [1][2]</u>		<u>23.302.090</u>
<u>Per Dwelling Unit</u>	<u>40 sf/DU</u>	<u>23.302.090</u>
<u>Per Group Living Accommodation Resident</u>	<u>15 sf/resident</u>	<u>23.302.090</u>
<u>Public Open Space, Minimum</u>		
<u>Per Dwelling Unit</u>	<u>35 sf/unit</u>	
<u>Per Group Living Accommodation Resident</u>	<u>18 sf/resident</u>	
<u>Floor Area Ratio (FAR), Maximum</u>	<u>4.2</u>	
<u>Main Building Height, Maximum [3]</u>	<u>80 ft. and 7 stories</u>	<u>23.304.050</u>
<u>Residential Density, Minimum</u>	<u>75 dwelling units per acre</u>	
<p>[1] Private Usable Open Space may be provided as any combination of personal and common private space. [2] Additional public space may substitute for up to 50% of required Private Usable Open Space. [3] Building Height Measurement: In the case of a roof with a parapet wall, building height shall be measured to the top of the roof and parapets may exceed the height limits by up to five feet by right.</p>		

3. **Additional Open Space Requirements.**

a. Definitions

i. **Private Usable Open Space:** Outdoor space, including natural and landscaped ground areas, pools, patios, decks and balconies designed for active or passive recreational use and which is accessible to the

occupants of a building on the same lot. See also 23.304.090 (Usable Open Space) for standards.

ii. Public Open Space: Outdoor space, including natural and landscaped ground areas, pools, patios, decks designed for active or passive recreational use and which is accessible to the general public. Minimum dimensions for Public Open Spaces shall be 20' in any direction and 400 square feet minimum.

b. Public Space Design.

i. Land area made available for public access to and through the station, and on-site public amenities, may be offered as dedication to the City or may be owned and maintained by another party with dedication of a public access easement. Public Open Space must be accessible to the public during daylight hours and include signage indicating public access.

ii. Public spaces shall include site furnishings and design elements to encourage active or passive use.

iii. Public spaces shall have a direct, accessible connection to the public circulation network.

iv. Adjacent publicly owned space may contribute to the minimum public space requirement for the project, if it is designed, integrated and maintained as part of the project and complies with all other requirements for public space design identified in this section (23.202.150(D)3(b)).

c. Rooftop Open Space. Rooftops may be utilized as Private Usable Open Space or Public Open Space meeting the requirements of 23.202.150.A.3 (Additional Open Space Requirements – Definitions). Rooftop space designated Public Open Space must also meet the requirements of 23.202.150.A.3.B (Public Space Design). No more than 25% of Public Open Space requirements can be met with Rooftop Open Space.

4. Front Setbacks.

a. Setbacks are not required at Martin Luther King Jr. Way, Adeline Street, Sacramento Street.

b. Setbacks along all other frontages along public rights-of-way and internal publicly accessible pathways shall range from 5 feet (minimum) to 15 feet

(maximum) for at least 50 percent of any building's linear street frontage, including all frontages within 50 lineal feet of an intersecting corner.

5. **Ground-floor Residential Frontage.** For ground-floor residential uses, outward facing building entrances may include any of the following: stoops, front doors, courtyard and forecourt entrances, ramped or at-grade universally accessible entries, outward-facing and visually permeable lobby entrances, or other outward-facing residential entrance, with transition spaces from private frontages to public spaces.
6. **Ground-floor Non-Residential Frontage.** For ground-floor non-residential uses, outward-facing building entrances and activation strategies may include outdoor seating, dining, display spaces, performance spaces, public art, architectural detailing, and extensions of the public sidewalk.
7. **Frontage Improvements.** Any area between a building and the front property line, or any area between a building and on-site public space or the public circulation network, shall be improved as part of a wider sidewalk, outdoor seating area, outdoor dining area, yard area, landscaping, or other usable open space.
8. **On-site Pedestrian Access.** Pedestrian accessways shall be provided for all new construction and for additions of 10,000 square feet or more of gross floor area in accordance with the following standards:
 - a. **Internal Connections.** A system of publicly accessible pedestrian walkways shall connect all buildings on a site to each other, to on-site bicycle and automobile parking areas, to any on-site open space areas or pedestrian amenities, and to the publicly accessible pedestrian circulation network.
 - b. **To the Public Circulation Network.** A publicly accessible on-site walkway shall connect the building lobby entry or entries on each street or on-site pathway frontage to the public pedestrian circulation network. Connections to publicly accessible on-site walkways provided at least every 300 feet along portions of the development site perimeter that are adjacent to public rights-of-way.
 - c. **To Neighbors.** Publicly accessible pedestrian access shall be provided from residential and commercial building entrances and public space to adjoining residential and commercial areas.
 - d. **To Transit.** Publicly accessible pedestrian connections from the public circulation network shall be provided to all transit stops and entrances including elevators outside the station.

- e. **Illumination.** All publicly accessible pedestrian connections shall include nighttime illumination pursuant to Ordinance N.S.-7424.

9. Transparency.

- a. **Required Openings.** Ground-level exterior walls facing and within 20 feet of a front lot line or publicly accessible pathway or Public Open Space shall run in a continuous plane for no more than 30 feet without a window, door, or other similar building opening.
- b. **Non-Residential Transparency.** For non-residential ground-floor uses facing a front lot line, publicly accessible pathway or Public Open Space, a minimum of 50% of the building wall area located between three and seven feet above ground level shall be transparent with a visible light transmittance of not less than 80%.

10. Building Entrances.

- a. **Minimum Number of Entrances Required.** There shall be a minimum of at least one building entrance at an average distance of 50 linear feet of ground-floor non-residential building frontage, and at least one building lobby entrance for every 200 feet of ground-floor residential building frontage.
- b. **Ground Floor Residential Entries.** All ground floor residential units shall provide entries to the street in the form of stoops or other exterior entries, or balcony or patio without entrance to the street, with a minimum area of 20 square feet.
- c. **Separate Entrances Required.** Buildings containing a mix of residential and non-residential uses shall provide separate building entrances for each major use category. Amenity areas such as exercise rooms do not require separate building entrances from the primary use.
- d. **Entrance Orientation.** Principal building entrances shall face a public street, publicly accessible pathway, or Public Open Space.
- e. **Illumination.** Building entries and addresses shall be illuminated to provide nighttime visibility from adjacent streets, public accessways, and common areas

11. Ground-Floor Non-Residential Space Dimensions. The minimum ground floor height for non-residential uses is 15 feet, as measured from the ground level floor to the first floor above.

12. Parking Design and Access.

- a. **Unbundled Parking Required.** All parking spaces shall be leased separately from the residential unit or commercial space except where

prohibited by affordable housing financing sources.

- b. **Structured Parking Required.** All new off-street parking shall be located within an enclosed structure, with the exception of curb-side pickup and drop-off, curb-side metered parking, ADA parking, or small-scale surface parking for security and station operations and maintenance purposes only.
- c. **Structured Parking Design.** Parking garages shall be located underground or located behind conditioned building space at any adjacent street, sidewalk, or other publicly accessible accessway or open space. Conditioned building space is not required along shared interior lot lines of abutting parcels.
- d. **Vehicular Entry.** Parking garage vehicular entrances facing the street shall be no more than 20 feet wide.
- e. **Pedestrian Entry.** Parking garage pedestrian entrances shall be provided at-grade, connecting directly to the public pedestrian circulation network, on each street-facing frontage.
- f. **Light Screening.** Parking garages shall be designed such that interior lighting is fully shielded and automobile headlamps are not visible from adjacent buildings, parcels, streets, public parks, publicly accessible outdoor space or designated open space area.

13. Objective Design Standards. Objective design standards, including, but not limited to, BART station functionality, public realm, building form and massing (e.g. vertical and horizontal articulation) building facade design, and open space shall be developed prior to the acceptance of any Preliminary Development Plan or Final Development Plan.

G. BART Mixed Use District Master Development Permit (MDP)

1. Purpose of the R-BART Mixed Use District Master Development Permit (MDP) process. The purpose of these provisions is to prescribe the procedure for the review of development on parcels in the R-BART Mixed Use District, in order to allow for the predictable buildout of the sites over time and achieve a high standard of site and building design that fulfills the City and BART Joint Vision and Priorities for the Ashby and North Berkeley BART Station Areas relating to:

- Affordable Housing
- Public and Civic Space
- Land Use

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- Building Form and;
 - Station Access.
2. Applicability of the Ashby and North Berkeley BART Master Development Permit (MDP). These provisions shall apply to all land within the R-BART Mixed Use District.
 3. Preliminary Development Plan. The preliminary development plan shall include, at a minimum, the following:
 - a. A plan of the entire development, defined as either the North Berkeley BART Station Area or Ashby BART Station Area, showing the items listed below. Such development plan shall include maps and information on the surrounding area within one hundred (100) feet of the development. All elements listed in this paragraph shall be characterized as existing or proposed, and sufficiently detailed to indicate intent and impact.
 - Streets, driveways, sidewalks and pedestrian ways, and off-street parking and loading areas;
 - Location and approximate dimensions of structures;
 - Utilization of structures, including activities and the number of living units;
 - Estimated population;
 - Reservations for public uses, including schools, parks, playgrounds, and other open spaces;
 - Major landscaping features;
 - Relevant operational data; and
 - Drawings and elevations clearly establishing the scale, character, and relationship of buildings, streets, and open spaces.
 - b. A table demonstrating that the plan meets the development standards set forth in Section 202.23.150C and the other requirements of this Chapter, including compliance with any Objective Development Standards.
 - c. A development phasing plan describing the order in which various portions of the development will be built, along with a proposed schedule for such phases.
 4. Notice of Application and Public Hearing for Preliminary Development Plan.
 - a. Preliminary Development Plans shall be reviewed by the Zoning

Adjustments Board, the decisions of which are appealable to the City Council.

- b. The public notice and hearing process for a Master Development Plan shall be the same as for Use Permits as defined in BMC Section 23B.32, except that notice shall be mailed or delivered to all businesses, residents and owners of property located within five hundred (500) feet of the subject property.
- c. The Board shall determine whether the proposal conforms to the permit criteria set forth in Section 23.202.150.D8, and may approve or disapprove the application and the accompanying Preliminary Development Plan or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria and regulations. In so doing, the Board may, in its discretion, authorize submission of the Final Development Plan in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the Preliminary Development Plan and staged development schedule.

5. Final Development Plan

The applicant shall file with the Planning and Development Department a Final Development Plan for one or more of the phases identified in the Preliminary Development Plan.

- a. The Final Development Plan shall conform in all major respects with the approved Preliminary Development Plan and shall include the following additional information:
- Location of water, sewerage, and drainage facilities;
 - Detailed building and landscaping plans and elevations;
 - Character and location of signs;
 - Plans for street improvements; and
 - Grading or earth-moving plans.

The Final Development Plan shall be sufficiently detailed to indicate the ultimate operation and appearance of the development, including compliance with the Objective Development Standards. Final Development Plans shall be reviewed by the Zoning Adjustments Board.

- b. The public notice and hearing process for a Final Development Plan

shall be the same as for Use Permits as defined in BMC Section 23B.32, except that notice shall be mailed or delivered to all businesses, residents and owners of property located within five hundred (500) feet of the subject property.

6. City Engineer's Report

Within thirty (30) days after the filing of the Final Development Plan, the Zoning Officer shall forward it to the City Engineer for review of public improvements, including streets, sewers, and drainage. The Zoning Adjustments Board shall not act on a Final Development Plan until it has first received a report from the City Engineer or until more than thirty (30) days have elapsed since the plan and application were sent to the City Engineer, whichever is the shorter period.

7. Appeal to Council

The process for appeal to Council for a Master Development Plan, Preliminary Development Plan and/or Final Development Plan shall be the same as for Use Permits as defined in BMC Section 23B.32.

8. Findings

- a. That the location, design, size, and uses are consistent with the General Plan and with any other applicable plan, development control map, design guidelines, or ordinance adopted by the City Council or Planning Commission;
- b. That the location, design, and size are consistent with the City of Berkeley and San Francisco Bay Area Rapid Transit District (BART) Joint Vision and Priorities document for the Ashby and North Berkeley BART Station Areas adopted by the City Council and the BART Board of Directors.

9. Adherence to the Approved Plan and Modification.

Variations of up to ten percent (10%) from any numerical or non-numerical standard set forth on the Master Development Plan may be authorized by the Zoning Officer through an Administrative Use Permit. Variations of more than ten percent (10%) may be authorized by a Master Development Plan permit modification by the Zoning Adjustments Board.

10. Revocation of Permits

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If a Final Development Plan for an initial portion of a site has not been submitted within 10 years after approval of the applicable Master Development Plan for all or a majority portion of the site, the City Council may revoke the approval of the remainder of the Master Development Permit. If Final Development Plans for the entirety of a site have not been submitted within 20 years after approval of the applicable Master Development Plan permit, the City Council may revoke the remainder of the Master Development Plan permit.

Section 6. That Berkeley Municipal Code Section 23.302.070.G.2 is amended to read as follows:

2. Table 23.302-9 shows required permits for the exclusive or primary use of a lot for off-street parking spaces.

TABLE 23.302-2: PERMIT REQUIREMENTS FOR PARKING LOTS/STRUCTURES

DISTRICT	PERMIT REQUIRED
Residential Districts	
R-3	Use Permit for all parking lots and structures. [1]
R-S, R-SMU, <u>R-BMU</u>	Use Permit for parking structures only. Parking lots are not permitted.
All other residential districts	Use Permit for all parking lots and structures.
Commercial Districts	
C-C, C-U	Zoning Certificate for parking lots and structures with 5 spaces or fewer. Use Permit for more than 5 spaces.
C-SO	AUP for parking lots and structures with 5 spaces or fewer. Use Permit for more than 5 spaces.
C-DMU	AUP for parking lots with 8 spaces or fewer. Use Permit for all parking structures. Lots with more than 8 spaces not permitted.
C-N, C-E, C-NS, C-SA	Use Permit for all parking lots and structures.
C-T	Use Permit for all parking structures. All parking lots not permitted.
C-W	AUP for parking lots and structures with 10 spaces or fewer. Use Permit for parking lots and structures with more than 10 spaces.
Manufacturing Districts	
M, MM	AUP for parking lots and structures with 10 or fewer spaces exclusively for uses in the district. Use Permit for parking lots and

	structures with any number of spaces not exclusively for uses in the district.
MU-LI	Zoning Certificate for parking lots and structures with 10 or fewer spaces exclusively for uses in the district. AUP for parking lots and structures with 11 spaces or more exclusively for uses in the district. Use Permit for parking lots and structures with any number of spaces not exclusively for uses in the district.
MU-R	Zoning Certificate for parking lots and structures exclusively for uses in the district. Use Permit for parking lots and structures not exclusively for uses in the district.
Notes: [1] Parking lots and structures in the R-3 district are not permitted within the Southside Plan area	

Section 7. That Berkeley Municipal Code Section 23.308.020.C is amended to read as follows:

C. **Required Permits.** Table 23.308-1 shows permits required for emergency shelters.

TABLE 23.308-3: PERMIT REQUIREMENTS FOR EMERGENCY SHELTERS

DISTRICTS	PERMIT REQUIRED [1]
Residential Districts	
R-1, R-1A, ES-R, R-2, R-2A, R-3	Not Permitted
R-4, R-5, R-S, and R-SMU , <u>and R-BMU</u>	
15 beds or fewer [1]	ZC
More than 15 beds	UP(PH)
Commercial Districts	
C-C, C-U, C-N, C-E, C-NS, C-SA, C-T, C-SO, C-W, C-AC	
25 beds or fewer	ZC
More than 25 beds	UP(PH)
C-DMU	
60 beds or fewer	ZC
More than 60 beds	UP(PH)
Manufacturing Districts	
M, MM, MU-LI, MU-R	Not Permitted
Notes:	

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[2] See also permit requirements based on floor area of use in Table 23.308.040-1

Section 8. That Berkeley Municipal Code Section 23.310.030.A is amended to read as follows:

A. Permits Required. Table 23.310-1 shows permits required for alcoholic beverage service when incidental to a food service establishment.

TABLE 23.310-4: PERMITS REQUIRED FOR ALCOHOLIC BEVERAGE SERVICE

District	Permit Required Based on Type of Beverages Served When Incidental to Food Service	
	Beer and Wine	Distilled Spirits
R-SMU	UP(PH)	UP(PH)
All Commercial Districts, except C-AC ₁ and R-BMU	ZC	UP(PH)
C_AC	ZC	AUP
MU-LI, MU-R	UP(PH)	UP(PH)

Section 9. That Berkeley Municipal Code Section 23.310.030.B.3 is amended to read as follows:

B. Use Limitations.

3. C-NS and R-BMU Districts. In the C-NS district, distilled spirit service is allowed only for full-service restaurants. Distilled spirit service is not allowed for carry out food stores and quick-service restaurants.

Section 10. That Berkeley Municipal Code Section 23.312.030.B is amended to read as follows:

B. Residential Districts.

1. All Residential Districts Except R-BMU. Live/work units are not permitted.
2. R-BMU District: A Use Permit is required for live/work units.

Section 11. That Berkeley Municipal Code Section 32.322.030.A.1 is amended to read as follows:

A. Residential Districts.

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1. Spaces Required. Table 23.322-1 shows minimum required off-street parking spaces in the Residential Districts.

TABLE 23.322-5: REQUIRED OFF-STREET PARKING IN RESIDENTIAL DISTRICTS

Land Use	Number of Required Off-street Parking Spaces
Residential Uses	
Accessory Dwelling Unit	See Chapter 23.306
Dwellings, including Group Living Accommodations	<p><u>R-3, R-4, and R-5 Districts (1-9 units):</u> If located on a roadway less than 26 feet in width in the Hillside Overlay: 1 per unit.</p> <p><u>R-3, R-4, and R-5 District (10 or more units):</u> If located on a roadway less than 26 feet in width in the Hillside Overlay: 1 per 1,000 sq ft of gross floor area</p> <p><u>All Other Districts:</u> If located on a roadway less than 26 feet in width in the Hillside Overlay: 1 per unit</p> <p><u>All Other Locations:</u> None required</p>
Dormitories, Fraternity and Sorority Houses, Rooming & Boarding Houses, Senior Congregate Housing	<p>If located on a roadway less than 26 feet in width in the Hillside Overlay: 1 per each 5 residents, plus 1 for manager.</p> <p>All Other Locations: None required.</p>
Rental of Rooms	<p>If located on a roadway less than 26 feet in width in the Hillside Overlay: 1 per each two roomers</p> <p>All Other Locations: None required</p>
Non-Residential Uses	
All non-residential uses except uses listed below	<p><u>R-SMU District:</u> 1 per 1,000 sq. ft.</p> <p><u>R-BMU District:</u> None required; no more than 1.5 spaces per 1,000 sq. ft.</p> <p><u>All Other Residential Districts:</u> See 23.322.030.A.2</p>
Community Care Facility	<p><u>R-BMU District:</u> None required; no more than 1.5 spaces per 1,000 sq. ft.</p> <p><u>All Other Residential Districts:</u> One per two non-resident employees</p>
Food Service Establishment	<p><u>R-BMU District:</u> None required; no more than 1.5 spaces per 1,000 sq. ft.</p> <p><u>All Other Residential Districts:</u> 1 per 300 sq. ft.</p>
Hospital	<p><u>R-SMU District:</u> 1 per 1,000 sq. ft.</p> <p><u>R-BMU District:</u> None required; no more than 1.5 spaces per 1,000 sq. ft.</p>

Land Use	Number of Required Off-street Parking Spaces
	<u>All Other Residential Districts</u> : 1 per each 4 beds plus 1 per each 3 employees
Library	<u>R-BMU District</u> : None required; no more than 1.5 spaces per 1,000 sq. ft. <u>All Other Residential Districts</u> : 1 per 500 sq. ft. of publicly accessible floor area
Nursing Home	1 per 3 employees
Medical Practitioners	<u>R-BMU District</u> : None required; no more than 1.5 spaces per 1,000 sq. ft. <u>All Other Residential Districts</u> : 1 per 300 sq. ft.
Non-Medical Offices	<u>R-SMU District</u> : 1 per 1,000 sq. ft. <u>R-BMU District</u> : None required; no more than 1.5 spaces per 1,000 sq. ft. <u>All Other Residential Districts</u> : 1 per 400 sq. ft.
Hotels, Tourist	1 per 3 guest/sleeping rooms or suites plus 1 per 3 employees
[1] Excludes community care facilities which under state law must be treated in the same manner as a single-family residence	

Section 12: That Berkeley Municipal Code Section 23.322.090 is amended to read as follows:

23.322.090 – Bicycle Parking

A. Parking Spaces Required.

1. **Non-Residential Bicycle Parking.** Table 23.322-10 shows districts where bicycle parking is required, land uses requiring bicycle parking, and the number of required spaces. Bicycle parking is required for new construction and for expansions to existing buildings that add new floor area.

TABLE 23.322-6: REQUIRED NON-RESIDENTIAL BICYCLE PARKING

District	When Required	Required Spaces
<u>R-BMU</u>	<u>New commercial space</u>	<u>1 per 1,000 sq. ft.</u>
R-S, R-SMU	New commercial space	1 per 2,000 sq. ft.
All Commercial Districts except for C-E and C-T	New floor area or for expansions of existing industrial, commercial, and other non-residential buildings	1 per 2,000 sq. ft.
All Manufacturing Districts except	New floor area or for expansions of existing industrial, commercial, and	1 per 2,000 sq. ft.

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District	When Required	Required Spaces
<u>R-BMU</u>	<u>New commercial space</u>	<u>1 per 1,000 sq. ft.</u>
for C-E and C-T	other non-residential buildings	
C-E, C-T	None required	N/A

a. In the C-DMU district, the Zoning Officer, in consultation with the City Traffic Engineer, may approve an AUP to modify the bicycle parking requirement in Table 23.322-10 for Tourist Hotels.

2. Residential Parking. Table 23.322-11 shows the types of residential projects, including the residential portion of mixed-use projects, for which bicycle parking is required.

TABLE 23.322-7: REQUIRED RESIDENTIAL BICYCLE PARKING

Use	Long-Term Parking Requirement [1]	Short-Term Parking Requirement [1]
Dwelling Units (1 to 4 units)	<u>R-BMU: 1 space per unit</u> <u>All other districts:</u> None required	None required
Dwelling Units (5 units or more)	<u>R-BMU: 1 space per unit</u> <u>All other districts:</u> 1 space per 3 bedrooms	2, or 1 space per 40 bedrooms, whichever is greater
Group Living Accommodations, Dormitories, Fraternity and Sorority Houses, Rooming and Boarding Houses, Transitional Housing	2, or 1 space per 2.5 bedrooms, whichever is greater	2, or 1 space per 20 bedrooms, whichever is greater
[1] Long-Term Parking and Short-Term Parking shall meet the design standards included in Appendix F of the 2017 <i>Berkeley Bicycle Plan</i> , or as subsequently amended by the Transportation Division.		

B. Bicycle Parking Standards. The following standards apply to required bicycle parking spaces in a non-residential district:

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1. Bicycle parking spaces shall be located in either a locker, or in a rack suitable for secure locks, and shall require location approval by the City Traffic Engineer and Zoning Officer.
2. Bicycle parking shall be located in accordance to the Design Review Guidelines and other design specifications promulgated by the Transportation Division.

Section 13: That Berkeley Municipal Code Section 23.502.020.L.14-20 are amended to read as follows:

14. Lot Area. The total horizontal area within a lot's boundary lines.

a. Lot Area in R-BMU Only: The total horizontal area within a lot's boundary lines, minus the square footage of any buildings, facilities or equipment that are, or shall be, under the control of the San Francisco Bay Area Rapid Transit District (BART).

15. Lot Coverage. See 23.106.020 (Lot Coverage).

16. Lot Depth. The average distance from the front lot line to the rear lot line measured in the general direction of the side lines.

17. Lot Frontage. That dimension of a lot's front lot line abutting on a street.

18. Lot Lines. The boundaries between a lot and other property or the public right-of-way.

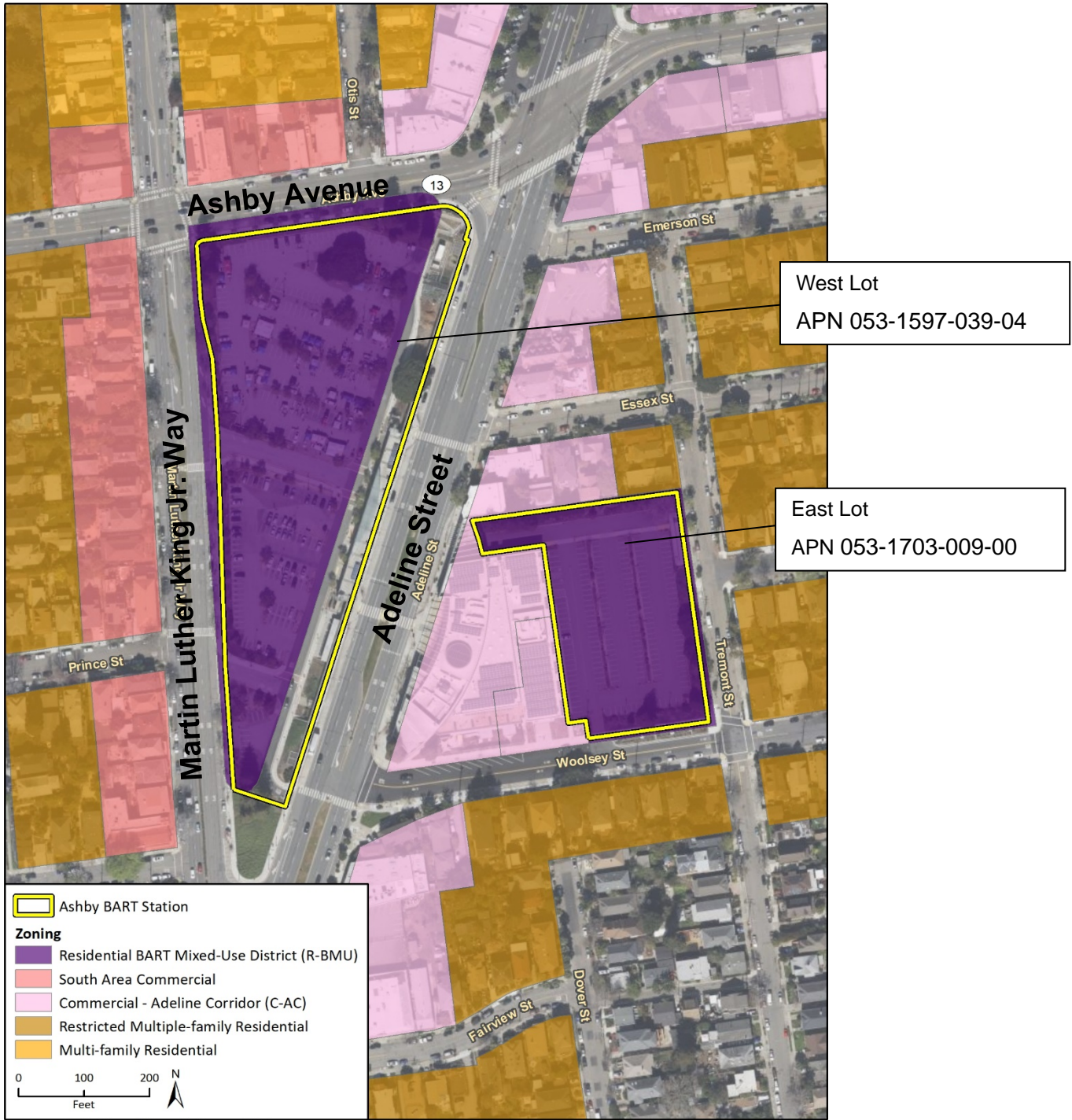
19. Lot Line, Front. The shorter of the two intersecting lot lines along the rights-of-way of a corner lot shall be deemed to be the front of the lot for purposes of determining the lot frontage and for yard requirements. In the case of a lot having equal frontage, or in the case of an irregularly shaped lot, the Zoning Officer shall determine the front in such a manner as to best promote the orderly development of the immediate area.

20. Lot Width. The average distance between the side lot lines measured at right angles to the lot depth.

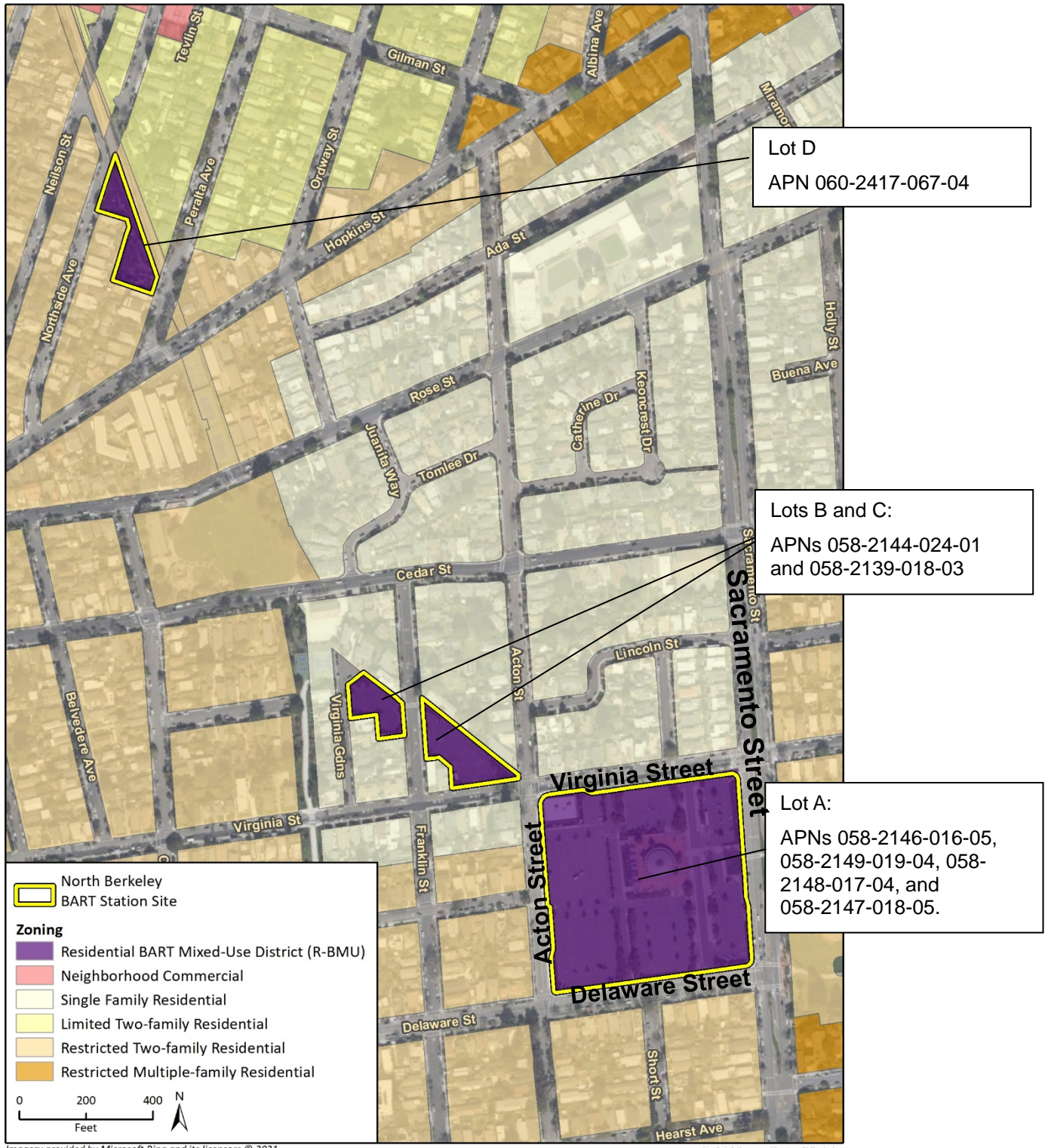
Section 14. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

Exhibit A: Proposed Zoning Maps

1. Ashby BART Site: Residential – BART Mixed Use



2. North Berkeley BART Site: Residential – BART Mixed Use



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 Land use data provided by City of Berkeley, 2019.

RESOLUTION NO. ##,###-N.S

A RESOLUTION (A) CERTIFYING THE ENVIRONMENTAL IMPACT REPORT (SCH# 2020110320) AND RELATED CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS AND; (B) ADOPTING GENERAL PLAN AMENDMENTS FOR THE ASHBY AND NORTH BERKELEY BART STATION AREAS; (C) ADOPTING THE CITY AND BART JOINT VISION AND PRIORITIES DOCUMENT FOR TRANSIT ORIENTED DEVELOPMENT (“TOD”) AND THE IMPLEMENTATION OF ASSEMBLY BILL 2923 (“AB 2923”) AT THE ASHBY AND NORTH BERKELEY BART STATION AREAS.

WHEREAS, the City of Berkeley and the San Francisco Bay Area Rapid Transit District (“BART”) executed a Memorandum of Understanding (“MOU”) to cooperatively pursue Transit Oriented Development (“TOD”) at the Ashby and North Berkeley BART station areas in March 2020; and

WHEREAS, City staff and a consultant team have been working with a Council-appointed Community Advisory Group (CAG) and BART staff since June 2020 to develop zoning and associated General Plan amendments that are consistent with Assembly Bill 2923 and a City-BART Joint Vision and Priorities (“JVP”) document for the Ashby and North Berkeley BART station areas; and

WHEREAS, the City Council of the City of Berkeley has the authority to approve land use amendments to the General Plan and zoning ordinance (“the amendments”) in order to address unforeseen circumstances and changing priorities; and

WHEREAS, the City Council of the City of Berkeley desires to adopt the City-BART JVP for the Ashby and North Berkeley BART station areas to implement the amendments; and

WHEREAS, the amendments serve the public interest by encouraging transit-oriented development, sustainable development, and the development of affordable housing; and

WHEREAS, the amendments were prepared to provide high-quality transit-oriented development, affordable housing, civic and public space, multi-modal transportation and site access, high-quality building design and architecture, and a mix of land uses that contributes positively to the community; and

WHEREAS, the proposed amendments are consistent and compatible with the General Plan by promoting high-quality, well-designed transit-oriented development and facilitating the development of affordable housing; and

WHEREAS, the proposed amendments are consistent and compatible with adjacent zoning districts; and

WHEREAS, the amendments would not be detrimental to the public health, safety and welfare of the City because they would not directly result in changes to the physical

Draft Resolution

characteristics of any property or existing structure, but, as described above, could facilitate development that would be completed in compliance with current codes and regulations. New development also would be reviewed for compliance with BMC and CEQA and would be constructed in compliance with California Building and Safety Code as adopted by the City of Berkeley; and

WHEREAS the amendments do not change the designation to reduce the intensity of use allowed under the existing General Plan or zoning pursuant to Gov. Code section 66300(b)(1); and

WHEREAS on November 20, 2020 a Notice of Preparation of a Draft Environmental Impact Report (Draft EIR) to analyze the environmental effects of the General Plan amendment; and

WHEREAS a duly noticed Draft EIR scoping hearing was held by the Planning Commission on December 2, 2020 to receive comments on the scope and content of the Draft EIR; and

WHEREAS a Notice of Availability/Release of a Draft EIR was issued October 15, 2021, along with the publication of the Draft EIR itself, both of which were made available to the public/governmental agencies for review and comment; and

WHEREAS, November 3, 2021, the Planning Commission held a duly noticed public hearing and took public testimony, which was preceded by the distribution of notices in accordance with State and local noticing requirements; and

WHEREAS a Notice of Availability/Release of a Final EIR was issued, and a Final EIR was published on ###/###/##; and

WHEREAS, on ###/###/##, the City Council held a duly noticed public hearing and took public testimony, which was preceded by the distribution of notices in accordance with State and local noticing requirements; and

WHEREAS, all documents constituting the record of this proceeding are and shall be retained by the City of Berkeley Planning and Development Department, Land Use Planning Division, at 1947 Center Street, Berkeley, California.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley, as the final decision-making body for the lead agency, has independently reviewed, considered and analyzed the Ashby and North Berkeley BART Zoning Standards EIR and the CEQA findings (Exhibit E); and

BE IT FURTHER RESOLVED that the City Council as the final decision-making body for the lead agency, hereby adopts and incorporates by reference into this Resolution, all the CEQA findings (Exhibit E) and General Plan and zoning amendment required findings for approval (Exhibit C) prior to taking action in approving the General Plan amendments (Exhibits A and B) and City and BART JVP (Exhibit D); and

Draft Resolution

BE IT FURTHER RESOLVED that the City Council incorporates by reference into this Resolution (as if fully set forth herein), as conditions of approval for the General Plan and zoning amendments, the Mitigation Measure Reporting Program (MMRP) contained in the ###/###/### Final Environmental Impact Report (Appendix ##); and

BE IT FURTHER RESOLVED by the City Council that the General Plan and General Plan Land Use Diagram is hereby amended, as shown in Exhibits A, and B; and

BE IT FURTHER RESOLVED that the City Council adopts the City and BART Joint Vision and Priorities document, as presented in Exhibit D.

Exhibits:

- A. General Plan Text Amendment
- B. General Plan Land Use Diagram Amendment
- C. General Plan and Zoning Amendments – Required Findings For Approval
- D. City and BART Joint Vision and Priorities for Transit Oriented Development for the Ashby and North Berkeley BART Stations
- E. CEQA Findings: Certification of EIR, Rejection of Alternatives and Statement of Overriding Considerations **(Note: This exhibit will be prepared after Final EIR is completed and included as part of materials for review by City Council)**

Proposed GP Land Use Classification

A new General Plan Land Use Classification is proposed for both BART sites: the Ashby and North Berkeley BART Transit Oriented Development (TOD) classification.

Ashby and North Berkeley BART Transit Oriented Development (TOD)

These areas leverage their location and the proximity of the BART stations to provide high-quality transit-oriented development, affordable housing, civic and public space, multi-modal transportation and site access, high-quality building design and architecture, and a mix of land uses that contributes positively to the community. Building intensity will permit a Floor Area Ratio (FAR) of at least 4.2, development at a height of at least 7 stories, and a development density of at least 75 dwelling units per acre.

DRAFT

1. Ashby BART Site General Plan Land Use Classification:
Ashby and North Berkeley BART Transit Oriented Development

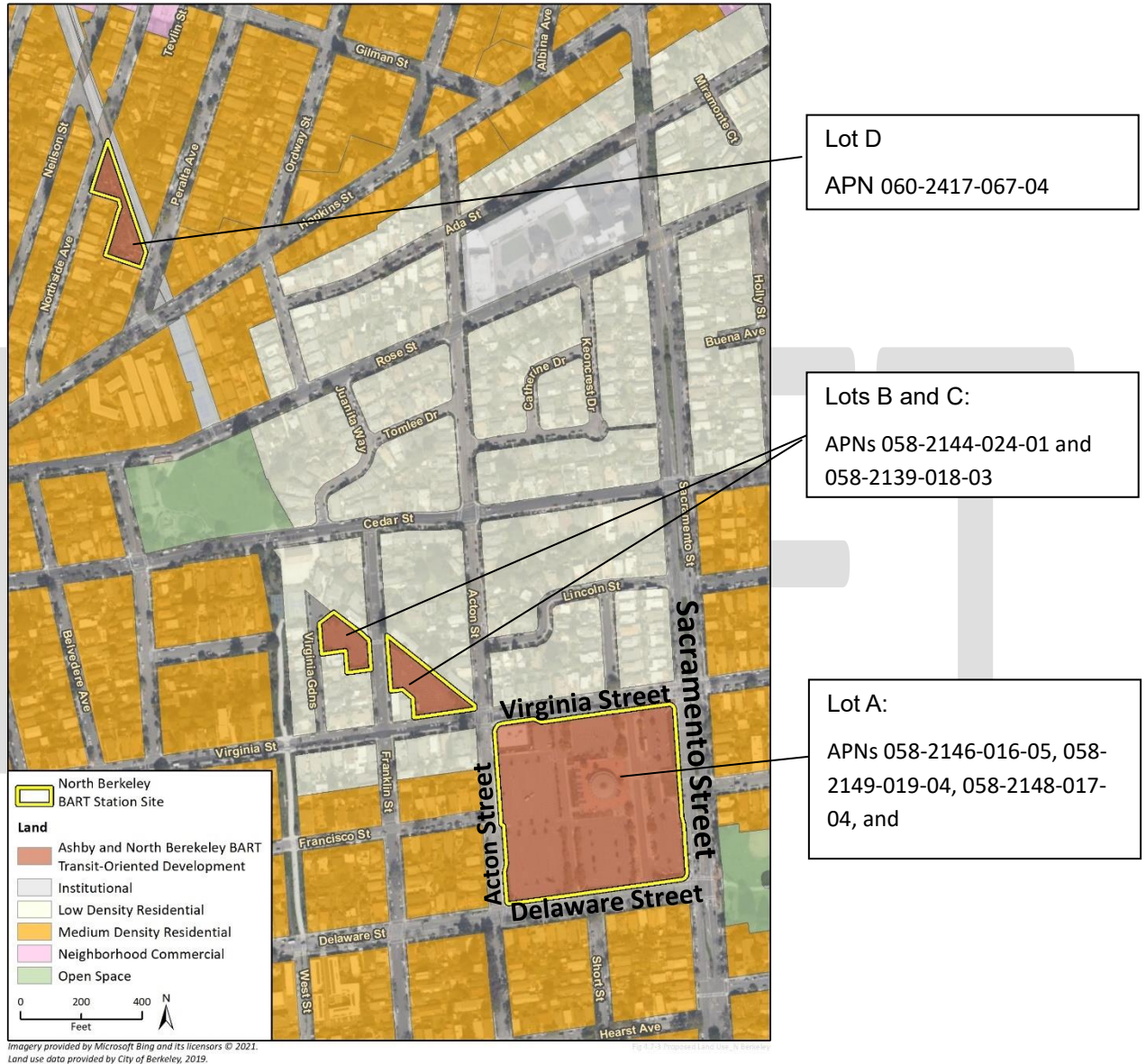


West Lot
APN 053-1597-039-04

East Lot
APN 053-1703-009-00

Imagery provided by Microsoft Bing and its licensors © 2021.
Land use data provided by City of Berkeley, 2019.

**2. North Berkeley BART Site: General Plan Land Use Classification:
 Ashby and North Berkeley BART Transit Oriented Development**



Draft Resolution - Exhibit C

The Planning Commission's role is to conduct a public hearing, consider testimony, and make a recommendation to the City Council regarding the proposed General Plan and zoning amendments according to BMC Section 22.04.020 (Amendment -- Procedures Required -- Planning Commission and City Council Authority), BMC Chapter 23A.20 (Zoning Ordinance Amendments), and California Government Code Sections 65353 and 65853. The following two sets of findings support the proposed General Plan and zoning amendments for the Ashby and North Berkeley BART sites.

A. General Plan Amendment Findings:

- 1. The proposed amendments are in the public interest.** The proposed General Plan amendments serve the public interest by encouraging transit-oriented development, sustainable development, and the development of affordable housing.
- 2. The proposed amendments are consistent and compatible with the General Plan.** The proposed General Plan amendments are consistent with General Plan policies, including Policy H-12 (Transit-Oriented New Construction), Policy LU-11 (Pedestrian- and Bicycle-Friendly Neighborhoods), Policy LU-23 (Transit-Oriented Development), Policy LU-25 (Affordable Housing Development), Policy LU-30 (Ashby BART Station) as well as Policy T-10 (Trip Reduction), Policy UD-16 (Context), UD-26 (Pedestrian-Friendly Design) and Policy UD-33 Sustainable Design), among others. As noted in the General Plan, "given the broad scope of the General Plan, inherent tensions exist between Plan objectives and policies that must be balanced against one another through the decision-making process on particular development and land use decisions. It is not the intent of the General Plan to predetermine these decisions, but rather to help guide the decision-making process."
- 3. The potential effects of the proposed amendments have been evaluated and have been determined not to be detrimental to the public health, safety, or welfare.** The proposed General Plan amendments could facilitate development that would be completed in compliance with current codes and regulations. New development also would be reviewed for compliance with BMC and CEQA and would be constructed in compliance with California Building and Safety Code as adopted by the City of Berkeley.
- 4. The proposed amendments have been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA).** The General Plan amendments require the discretionary approval of the City of Berkeley; therefore, the project is subject to the environmental review requirements of CEQA. In accordance with *CEQA Guidelines* §15121 (California Code of Regulations, Title 14), a DEIR was prepared that analyzes any adverse environmental effects of the proposed General Plan amendments. Development encouraged under the General Plan amendments would be subject to the mitigation measures included in the Final EIR.

Draft Resolution - Exhibit C

B. Zoning Amendment Findings:

1. The proposed zoning amendments are in the public interest.

The proposed zoning amendments serve the public interest by encouraging transit-oriented development, sustainable development, and the development of affordable housing.

2. The proposed zoning amendments are compatible with adjacent zoning districts.

At the North Berkeley BART site, the R-BMU district's primary development site is bounded by Sacramento, Virginia, Acton and Delaware Streets. This site's nearby residential zoning districts include the Single Family Residential (R-1) and Restricted Two-family Residential (R-2) districts. The Ashby BART site includes the west parking lot, which is surrounded on two sides by public rights-of-way and on its third side by the Ashby BART station, and the east parking lot, which is surrounded on two sides by public rights-of-way, and on two sides by parcels zoned Commercial-Adeline Corridor (C-AC) and Restricted Multiple-Family Residential (R-2A).

The R-BMU district includes development standards that limit height and bulk, require public open space, and require ground-floor uses. The R-BMU district will facilitate development that considers the scale and character of the surrounding built environment that it is compatible with adjacent zoning districts.

3. The proposed zoning amendments allow uses which would be compatible with adjacent districts uses.

The initial establishment of land uses for new buildings in the R-BMU district will be determined by the R-BMU Master Development Permit (MDP) process outlined in the proposed zoning ordinance amendment. Uses permitted under the MDP must fulfill the land use principles laid out in the City – BART Ashby and North Berkeley BART Joint Vision and Priorities document:

Land uses at Ashby and North Berkeley Stations will serve community needs; provide significant amounts of new housing; complement neighborhood businesses, services, and institutions; create a welcoming environment for all; support BART ridership; and improve quality of life for current and future residents. Ground-floor uses should be pedestrian-oriented and contribute positively to public space and the pedestrian experience.

Land use changes after the establishment of initial uses in the MDP will be subject to permits included in the R-BMU section of the Zoning Ordinance's *Allowed Land Uses in Residential Districts Table*. Allowed land uses in this table are similar to uses currently at the Ashby BART Station site under its current C-AC zoning. At the North Berkeley BART station site, more commercial uses are permitted than in adjacent residential zoning districts, but these commercial uses are subject to a Use Permit (Public Hearing) process, through which any incompatibilities can be addressed, prohibited, or subject to conditions.

4. The potential effects of the proposed rezone will not be detrimental to the public health, safety and welfare.

The proposed zoning amendments would not result in changes to the physical characteristics of the property or existing structure, but, as described in Finding 1 above, will facilitate compliance with current codes and regulations. New development would be reviewed for compliance with CEQA and be constructed to comply with the State Building and Safety Code as adopted by the City of Berkeley.

5. The proposed zoning amendments are consistent with California Government Code Section 66300(b)(1)(A).

California Government Code section 66300(b)(1)(A) prohibits a locality from changing the General Plan designation or zoning of residential parcels to a less intensive use or in a manner which reduces the allowable intensity of a permitted residential use. The amendments provide as least the same or higher density as existing zoning.

DRAFT

**Joint Vision & Priorities for Transit-Oriented Development
for Ashby and North Berkeley BART Stations**

AUGUST 2021 *[Date to be updated]*

Background

The December 10, 2019 Memorandum of Understanding (MOU) between BART and the City of Berkeley calls for the City and BART, with input from the City’s Community Advisory Group (CAG) to establish a “joint vision and priorities” document. The goal of this document is to provide a concise statement of the City and BART’s shared, high-level expectations for future development of both the Ashby and North Berkeley BART properties.

Per the MOU, this “joint vision and priorities” document will be incorporated into future Request(s) for Qualifications (RFQs) for development of both the Ashby and North Berkeley Station development, and will help guide the process from developer selection through project construction. This City-BART Joint Vision and Priorities document will be one of three key outcomes of the CAG process for both North Berkeley and Ashby BART development (along with updated zoning consistent with AB 2923, and the RFQs for developers).

Affordable Housing

VISION

New housing at a variety of income levels at both the Ashby and North Berkeley BART Stations will address the City’s housing crisis, stem the displacement of residents—especially of the African American community in Berkeley—and support more equitable access to housing for lower-income families and individuals. New housing must also be created quickly to reflect the urgency of the climate crisis, capturing the inherent environmental benefits of walkable, transit-oriented housing in Berkeley’s most transit-rich areas. North Berkeley and Ashby will provide a new model for delivering affordable housing in neighborhoods that are rich in infrastructure and strategically located to make regional transit, economic opportunity, and community amenities more broadly and equitably accessible.

Shared Priorities

- A. **Housing Priorities.** Maximize the number of new homes, and especially permanently affordable, deed-restricted homes. We anticipate a range of 500-1200 units at each station with a variety of unit sizes.

- B. **Urgency.** Deliver new housing within 10 years, by 2031, to reflect the urgency of the climate and housing crises.

- C. **Affordable Housing Goal.** The City and BART will strive to maximize the number of permanently affordable, deed-restricted housing units within the funding that can be identified.
1. Affordable housing may be developed in multiple phases over a number of years.
 2. The amount of affordable housing which can be provided at each site within the 10-year time frame will depend on many outside factors including the availability of state and federal housing resources.
 3. At a minimum, at least 35% of the new units at each site will be restricted affordable housing. It is anticipated that each site could achieve at least 50% affordable housing, subject to the timely availability of financing.
 4. The City and BART will work together to support selected developers in proactively assembling affordable housing subsidies in order to exceed the minimum.
 5. If both sites are able to provide at least 50% affordable housing in a way that is financially feasible, and if additional funding becomes available, the priority for that additional funding would be to maximize the number of affordable units at Ashby station in recognition of the ongoing threat of displacement to the historic community of South Berkeley.
- D. **Income Targets:** At least 35% of new housing at each site must be affordable to households earning less than 60% of Area Median Income (AMI). Of that, at least 20% (or 7% of total units at each site) must be affordable to Extremely Low-income households, those earning up to 30% of AMI. Additional affordable units should prioritize Very Low Income (up to 50% of AMI) households and Low Income (up to 80%) households but may include some housing restricted with households with incomes up to 120% of AMI.
- E. **Sequencing.** Affordable housing should be built prior to, or along with, any market rate housing.
- F. **Displacement Prevention.** Affordable housing should provide a preference for residents of Berkeley who are facing displacement, or who have been displaced from Berkeley in the past due to economic or discriminatory reasons.
- G. **Developer Selection.** In the developer selection process, prioritize a nonprofit master developer or a partnership between a private developer and one or more community-based organizations who have experience showing accountability towards equity goals in the City of Berkeley.
- H. **Developer Accountability.** The selected developers must have a demonstrated commitment and feasible plans to produce affordable housing and be willing to be held accountable for making affordability the first priority. Selecting a developer who merely pledges a best effort to provide affordable units would not be sufficient.

Draft Resolution - Exhibit D

- I. **Funding.** BART and the City of Berkeley should proactively seek new, innovative funding solutions to help achieve two truly visionary, equitable, and sustainable projects.
- J. **Clustering and Integration.** Affordable units may be clustered into one or more 100% affordable housing buildings on the BART sites but must be designed in a way that integrates with the larger project and shares the same design standards and quality.
- K. **Inclusive Housing Design.** The selected developer will prioritize affordable housing for renters with various needs, including but not limited to families, people with physical or mental disabilities, and formerly homeless people.

Priorities for Ashby

- A. **Adeline Corridor Affordable Housing Goal.** Consistent with the Adeline Corridor Specific Plan, the City and BART should strive for a goal of 100% deed-restricted affordable housing, prioritizing extremely low, very-low and low-income affordable housing.
- B. **Residents with Disabilities.** Ashby BART should be developed in a way that prioritizes the inclusion of residents with disabilities, who are likely to benefit from proximity to the Ed Roberts Campus.
- C. **South Berkeley Preference.** To address past and current displacement, the development should provide a preference to applicants who either currently live in South Berkeley or have been displaced from the community. This preference must be implemented in a way which is consistent with the City's Fair Housing goals and federal law.

Public and Civic Space

VISION

New public and civic space at both Ashby and North Berkeley BART will provide a community anchor, open space amenity, and memorable neighborhood gathering space that is accessible to all. It will be available for programmed community uses and activities, as well as for informal, unprogrammed public use by residents, visitors, and transit riders alike. New public space will enhance the ability of all community members to walk, roll, and take transit, supporting better station access and healthy, climate-friendly active transportation. North Berkeley will be a nexus of active transportation centered along a major new connection of the Ohlone Greenway. Ashby will be anchored by a market and oriented along a street built for people and multiple modes of transportation.

Shared Priorities

- A. **Maintenance Costs.** New civic space should be designed in a way that minimizes the ongoing cost of operations and maintenance to BART and the City.

Draft Resolution - Exhibit D

- B. **New Public Space.** Pursue new public space design in a way that delivers on the vision while maximizing the number of on-site affordable housing units.
- C. **Station Access.** Design the public realm to support priorities in the Access section of this document.

Priorities for Ashby

- A. **Hub for African American Life.** Reinforce South Berkeley's historic role as a hub for African American culture and life in the Bay Area.
- B. **Flea Market.** Provide a permanent, viable home for the Berkeley Community Flea Market – offering supportive amenities such as public restrooms, limited office/storage space, electrical and water access and weather protection - in a prominent location.
- C. **Stakeholder Input.** Public space will be designed with input from the Flea Market, Lorin Business Association, neighborhood residents, representatives from the disability community, and other neighborhood stakeholders. Facilities for the Flea Market will be designed in collaboration with the vendors and Community Services United.
- D. **Adeline Design.** Reconfigure Adeline Street to transform a four-lane arterial into a safer space for all modes of transportation, creating a more walkable, vibrant place. Flea Market and/or other public activities may occur on some or all of this portion of Adeline Street.
- E. **Green Space.** Expand the availability of green space for the neighborhood.

Priorities for North Berkeley

- A. **Ohlone Greenway Connection.** The development should include a protected bikeway that connects the disjointed ends of the Ohlone Greenway to each other and to BART, providing a primary access route and orientation of the development that enables a prioritized pedestrian and bicycle connection from approximately the southeast corner of the site to the northwest corner of the site and across the streets.
- B. **Public Space Use.** Public space should provide opportunities for both active and passive public use, with strong connections to the station entrance, the Ohlone Greenway, or other public spaces and pedestrian facilities.
- C. **Street Design.** The design of surrounding streets should be considered as a strategy to accommodate public space needs, and improve safety for pedestrians and bicycles.

Land Use

VISION

Land uses at Ashby and North Berkeley Stations will serve community needs; provide significant amounts of new housing; complement neighborhood businesses, services, and institutions; create a welcoming environment for all; support BART ridership; and improve quality of life for current and future residents. Ground-floor uses should be pedestrian-oriented and contribute positively to public space and the pedestrian experience.

Shared Priorities

- A. **Overall Mix of Uses.** At both stations, the predominant use will be transit-oriented housing and transit uses, complemented by public space and appropriate non-residential uses. Additional priorities for these uses are found in the Affordable Housing, Public and Civic Space, and Station Access and Parking Management sections of this document.
- B. **Non-residential Spaces.** Curate and program any non-residential spaces to provide interest and character, encourage community gathering, support social interactions, and provide unique neighborhood activities and services. Any non-residential uses should be customized to meet the unique needs of each station and neighborhood.

Priorities for Ashby

- A. **Role of Non-residential Uses.** Non-residential uses at Ashby should reinforce the area's historic role as a center of neighborhood commerce, cultural expression, social connection, and economic empowerment.
- B. **Non-Residential Active Frontages.** Non-residential uses should have active frontages oriented towards Adeline Street, Ashby Avenue, and the future Flea Market public space. Ground-floor uses should activate public space and complement the Flea Market, while promoting everyday activities when the Flea Market isn't occurring.
- C. **Prioritized Non-residential Uses.** The following types of potential non-residential uses should be prioritized, though not all are anticipated to be present in any one development project¹:
 1. The Berkeley Flea Market, and indoor or outdoor spaces related to the Flea Market
 2. Businesses and organizations that reinforce the neighborhood's historic role as a center of Black culture and identity
 3. Businesses, organizations, or services that are oriented towards, or provide economic opportunity for people in the neighborhood or their descendants who were involuntarily displaced, interned, or historically disenfranchised on the basis of race

¹ Specific permitted and prohibited uses for Ashby Station will be identified in the zoning code.

Draft Resolution - Exhibit D

4. New uses that expand and complement the role and mission of the Ed Roberts Campus and empower those living with disabilities
5. Spaces for cultural activities, performance, display, community activities, or other uses and amenities that support the area's role as an arts and culture district.

Priorities for North Berkeley

- A. **Role of Non-residential Uses.** Non-residential uses such as retail, services, or indoor community spaces is anticipated to have a limited role at North Berkeley.
- B. **Non-residential Active Frontages.** Non-residential uses that do occur should be oriented with active frontages towards the station entry and/or Sacramento Street.
- C. **Respect Neighborhood Needs.** Non-residential uses that do occur should be focused towards meeting neighborhood needs and complementing the existing range of businesses and services already available nearby.
- D. **Potential Non-Residential Uses.** Non-residential uses may include the following²:
 1. Uses that help reduce the need for driving in North Berkeley, such as commuter-focused amenities, childcare, community services, or satellite locations for existing community businesses or organizations
 2. Small-scale walkable retail or café type uses
 3. Space for activities, gatherings, or events.

Building Form

VISION

New buildings at Ashby and North Berkeley Stations will be beautiful, creatively designed, well-proportioned, create visual and physical connections with the neighborhood through its architectural design and contribute positively to the physical fabric and long-term quality of life of the neighborhood. They will provide elements that neighborhood residents currently enjoy – such as natural light, air, direct outdoor access, variety, quiriness, walkability, and sociability – in a denser, transit-oriented format that supports BART ridership. Buildings should exhibit a level of architectural diversity that expresses the social, racial, economic, and design diversity that is desired at both stations. Ground-floor spaces and building frontages should activate

² Specific permitted and prohibited uses for North Berkeley Station will be identified in the zoning code.

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public space, while providing a sense of place and character to the stations and the surrounding neighborhood.

Shared Priorities

- A. **Height Variation.** AB 2923 does not permit the City's zoning controls to restrict building height below seven stories on the station sites. The City and BART will support variations in building height and form at both stations. It is anticipated that some buildings and some portions of buildings will be shorter than the maximum height in keeping with good urban design practice.
- B. **Context.** Building design should consider the scale and character of the surrounding built environment.
- C. **Location and Orientation.** Locate and design new buildings to enhance public spaces while mitigating impacts on existing neighbors through site orientation, setbacks, lines of sight between buildings, landscape and topography.
- D. **Equitable Design Quality.** Design affordable housing units in a way that integrates with the larger project and shares the same design standards and quality.
- E. **Small Blocks.** Prioritize site designs with smaller blocks and building footprints instead of larger blocks.
- F. **Architectural Variety.** Design buildings to provide visual interest with variation in height, scale, massing, rooflines, materials, and architectural styles.
- G. **Building Scale.** Provide regular breaks in building forms, as well as both horizontal and vertical detail to respond to the existing neighborhood context and character, particularly at the edges of the site.
- H. **Unit Diversity.** Encourage building forms that allow a diversity of unit sizes, types, and configurations.
- I. **Sunlight.** Seek to configure buildings and include design strategies that allow sunlight to reach public spaces, and design outdoor spaces, outdoor seating and active retail frontages, if provided, to maximize southern, western, and/or eastern exposure.
- J. **Outward-facing Entrances.** For ground-floor housing units, encourage outward-facing entrances with a range of design treatments and access strategies. These could include stoops, front doors, courtyard and forecourt entrances, ramped or at-grade universally

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accessible entries, outward-facing and visually permeable lobby entrances, and transition spaces from private frontages to public spaces.

- K. **Ground-floor Non-residential Frontages.** For ground-floor non-residential uses, provide frequent windows and doors, visual connection between indoors and outdoors, frontage onto public space, direct access to the pedestrian circulation network, and activation strategies such as outdoor seating, dining, display spaces, public art, and architectural detailing.
- L. **Universal Accessibility.** Preference building designs with universally accessible units and elevator redundancy to promote accessibility for seniors and those with disabilities.
- M. **BART Entrances.** Ensure that BART entrances are featured prominently and integrated into the overall site plan.
- N. **Integrated Green Space.** Integrate gardens, courtyards, roof terraces, trees, native landscaping, and other green spaces into building architecture and site design.

Priorities for Ashby

- A. **Massing and Height Focus.** Focus density, larger building forms and height towards Adeline Street and Ashby Avenue on the west parking lot parcel, and towards the rear of the Ed Roberts Campus on the east parking lot parcel.
- B. **Active Frontages.** Connect new buildings to Adeline Street and Ashby Avenue with direct pedestrian access, minimal setbacks, and active frontages to complement the existing active uses across the street.
- C. **Site Design.** Ensure that building form, scale, and the overall site plan provide sufficient space for the Flea Market and other civic and community uses.

Priorities for North Berkeley

- A. **Massing and Height Focus.** Focus density, larger building forms and height towards the Ohlone Greenway and the center of the site, as well as towards Sacramento Street.
- B. **Massing Breaks and Step-downs.** Provide massing breaks, step-downs in height, and frequent pedestrian building entrances along Delaware Street, Acton Street, and Virginia Street, with building forms and frontages that create a residential character and scale.

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- C. **Active Frontages.** Prioritize active frontages, public space programming, and car-free activities along the Ohlone Greenway.

Station Access

Vision

Station access investments in and around the stations will enhance community vibrancy, safety, equity, and health while improving the quality of the public space and pedestrian experience, both within and beyond the station areas. Priority access investments are those that encourage people to walk, bike, roll, ride transit, and use shared micro-mobility options, while still providing flexibility for changing technologies and trends. Access investments will be distributed equitably to improve the experience for people of all ages, all abilities, and all income levels getting to and moving through the stations.

Shared Priorities

- A. **Housing and Community Benefits.** Favor affordable housing and other community benefits over BART rider parking and TOD resident parking in any physical or financial decision-making.
- B. **Non-Automobile Access.** Increase the share of BART riders who access the stations via modes other than driving alone and parking. Prioritize access improvements in the surrounding neighborhoods and within the station areas that offer safe, comfortable, affordable, cost-effective alternatives for all BART customers, particularly those with mobility challenges. Future access planning should consider the rapid evolution for mobility trends and technologies and consider the adaptability of the station access plans to future foreseeable and unforeseeable mobility patterns and their ability to handle ridership growth without running into capacity constraints.
- C. **Equitable Access.** Provide safe and secure station access options for people of all ages, abilities, races and ethnicities, genders, and income levels.
- D. **Parking Options.** Minimize the need for new structured on-site BART customer parking by maximizing the use of available parking capacity along the corridor (such as Center Street parking garage, shared parking with the TOD or with other sites, and on-street parking management).
- E. **Transportation Demand Management.** Any future development must include aggressive and innovative Transportation Demand Management strategies to reduce the vehicle miles traveled (VMT) and greenhouse gas (GHG) emissions by residents, visitors, and

Draft Resolution - Exhibit D

employees by 20% by complying with BART's Transportation Demand Management program.

- F. **Parking and Traffic Impacts.** Limit the impacts of parking and driving on residents of the developments and surrounding neighborhoods (such as noise, air quality, GHG, and collisions) through transportation demand management, multi-modal circulation and access planning, infrastructure improvements, parking management, and other best practices.
- G. **Market Rate Pricing for Parking.** Explore parking pricing that is better aligned with market demand as a possible strategy to promote BART rider and on-street parking availability, with consideration of the impacts of parking pricing on low income residents and BART riders.
- H. **Prioritize Curb Space.** Buses and shuttles will be located to prioritize people with disabilities, active loading of passengers (over waiting vehicles), services available to the public, and the number of people transferring to BART. Different types of passenger loading zones will be incorporated for quick pick-ups and drop-offs, those that need to wait for their passenger, accessible loading areas, ride apps and taxis.
- I. **Wayfinding and Signage.** Provide clear, accessible, adaptable station access signage and wayfinding to facilitate how people get to/from and through the station area consistent with the Metropolitan Transportation Commission's standards.

Priorities for Ashby

- A. **Pedestrian & Bicycle Connections.** Provide high-quality, safe pedestrian and bicycle connections to and through the site, including an off-street protected bicycle facility extending along Adeline Street, at least between Ashby Avenue and the intersection with MLK Way, with the potential to extend further through related Adeline improvement efforts.
- B. **Adeline Design.** Reconfigure Adeline Street to transform a four-lane arterial into a safer space for all modes of transportation, creating a more walkable, vibrant place..

Priorities for North Berkeley

- A. **Adjacent Streets.** Consider the role and design of adjacent streets – including Sacramento Street, Delaware Street, Virginia Street, and Acton Street – in multi-modal access planning for the North Berkeley Station.
- B. **Commuter Parking Priority.** Where parking would be provided, maximize parking for commuters over parking for residential and/or potential community, non-profit, or retail uses.



PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

NOVEMBER 3, 2021

Adoption of Zoning Ordinance Amendments to Title 23 of the Berkeley Municipal Code, Zoning Map Amendments, General Plan Amendments and General Plan Map Amendments for the Ashby and North Berkeley BART Station Areas

Public Hearing Draft Environmental Impact Report (DEIR) for the Ashby and North Berkeley BART Stations Transit-Oriented Development Zoning Project

The Planning Commission of the City of Berkeley will hold a public hearing on the above matters, pursuant to Zoning Ordinance Section 23A.20.030, on **Wednesday, November 3, 2021, beginning at 7:00 PM. The hearing will be conducted via Zoom** - see the Agenda for details, which can be found online at:

https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Planning_Commission_Homepage.aspx.

PUBLIC ADVISORY: Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the Planning Commission will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

PROJECT DESCRIPTION: As the Lead Agency overseeing the project's environmental review, the City of Berkeley is soliciting comments on Draft Environmental Impact Report (EIR) for the Ashby and North Berkeley BART Stations Transit-Oriented Development Zoning Project ("proposed project"). The Draft EIR addresses the potential physical environmental effects of the proposed project for the environmental topics outlined in the California Environmental Quality Act (CEQA).

The Planning Commission is conducting a public hearing about General Plan amendments and rezoning and for Assessor Parcel Numbers (APNs) 053-1597-039-04, 053-1703-009-00, 058-2146-016-05, 058-2149-019-04, 058-2148-017-04, 058-2147-018-05, 058-2144-024-01, 058-2139-018-03, and 060-2417-067-04, as shown on the attached maps (Figures 1 and 2). California Assembly Bill (AB) 2923, passed in 2018, requires the adoption of transit-oriented development (TOD) zoning standards for BART-owned properties within ½-mile of station entrances, establishing local zoning requirements for height, density, parking, and floor area ratio. The proposed project would create a new zoning district, the Residential BART Mixed-Use District (R-BMU), and apply the zoning district to the BART station, and also amend the General Plan to redesignate the project sites. The purpose of the R-BMU district is "to address City of Berkeley priorities such as affordable housing, civic and public space, multi-modal transportation and site access, high-quality building design and architecture, and a mix of land uses that contribute positively to the community, and to establish

zoning standards in compliance with AB 2923.” Table 1 summarizes the proposed changes.

Table 1 Proposed Zoning and General Plan Amendments

	Existing Zoning	Proposed Zoning	Existing General Plan Designation	Proposed General Plan Destination
North Berkeley BART Station, Lot A (APNs 058-2146-016-05, 058-2149-019-04, 058-2148-017-04, and 058-2147-018-05)	Unclassified (U)	Residential-BART Mixed Use (R-BMU)	Institutional	Ashby and North Berkeley BART Transit Oriented Development (TOD)
North Berkeley BART Auxiliary Parking Lots B and C (APNs 058-2144-024-01 and 058-2139-018-03)	Single Family Residential (R-1)		Low Density Residential	
North Berkeley BART Auxiliary Parking Lot D (APN 060-2417-067-04)	Restricted Two-Family Residential (R-2)		Institutional	
Ashby BART Station (APNs 053-1597-039-04 and 053-1703-009-00)	Commercial—Adeline Corridor (C-AC)		Adeline Corridor Mixed Use	

The DEIR includes a buildout projection which represents the foreseeable maximum development that the City has projected could reasonably occur as a result of the proposed project by the year 2030. The zoning at the Ashby and North Berkeley BART stations would primarily facilitate the development of housing but would also permit other non-residential uses such as retail, community-serving uses, and civic spaces. The proposed zoning standards also outline development standards related to open space, setbacks, step-backs, ground-floor residential and non-residential frontage, on-site pedestrian access, massing, building entrances, and parking design and access.

At the North Berkeley BART station site, the buildout assumptions include development of up to 1,200 dwelling units and 25,000 square feet of non-residential space located on the main 8.1-acre station site, including the area considered BART’s “Zone of Influence”. The three auxiliary lots located northwest of the station along the Ohlone Greenway are not anticipated to include new residential or non-residential development but may include transportation infrastructure improvements. At the Ashby BART station site, the buildout assumptions include development of up to 1,200 dwelling units and 100,000 square feet of non-residential space distributed between the 4.4-acre station site and the 1.9-acre surface parking lot east of the Ed Roberts campus.

The maximum reasonable development for both station sites is based on the following assumptions: buildings with a maximum height of seven stories and an average unit size of 700 square feet, and exclusion of non-buildable areas for circulation and BART station infrastructure.

Copies of the Draft EIR are available for review at: City of Berkeley Planning and Development at 1947 Center Street, 2nd Floor, the Central Library (2090 Kittredge St.); the Tarea Hall Pittman South Branch Library (1901 Russel Street) and the West Branch Library (1125 University Avenue); as well as on the City's project website: <https://www.cityofberkeley.info/bartplanning/>

LOCATION: The project location consists of the Ashby BART Station site and the North Berkeley BART Station site. The Ashby BART Station site consists of two parcels: a 4.4-acre parcel that makes up the block surrounded by Adeline Street, Ashby Avenue and Martin Luther King Jr Way; and a 1.9-acre surface parking lot located on the north side of Tremont Street on the block surrounded by Woolsey Street, Tremont Street, Adeline Street and Essex Street in south Berkeley (see Figure 1).

The North Berkeley BART Station site includes an 8.1 acre property on the block surrounded by Sacramento Street, Delaware Street, Acton Street and Virginia Street. The site also includes three auxiliary parking lots, located north and west of the 8.1-acre property along the Ohlone Greenway: a 0.75 acre surface parking lot at the northwest corner of the intersection of Acton and Virginia Streets; an 0.44 acre surface parking lot located on the west side of Franklin Street between Virginia and Cedar Streets; and an 0.64 acre parcel located between Peralta and Northside Avenues (see Figure 2).

PUBLIC COMMENT

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Commission. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Commission may limit the time granted to each speaker.

Comments may be made verbally at the public hearing and in writing before the hearing. Written comments concerning this project should be directed to:

Planning Commission
Alene Pearson, Secretary
Land Use Planning Division
1947 Center Street
Berkeley, CA 94704

Fax: (510) 981-7489
E-mail: apearson@cityofberkeley.info

Correspondence received by **12 noon, nine days** before this public hearing, will be included as a Communication in the agenda packet. Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:

- Correspondence received by **12 noon two days** before this public hearing, will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication and emailed to Commissioners one day before the public hearing.
- Correspondence received by **5 pm one day** before this public hearing, will be included in a second Supplemental Packet, which will be posted to the online agenda as a Late Communication and emailed to the Commissioners by 5pm on the day of the public hearing.
- Correspondence received **after 5 pm one day** before this public hearing will be saved as part of the public record.

Note: It will not be possible to submit written comments at the meeting.

COMMUNICATION ACCESS

To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice), or 981-6903 (TDD). Notice of at least five (5)

business days will ensure availability.

FURTHER INFORMATION

Questions should be directed to **Alene Pearson**, at (510) 981-7489, or **apearson@cityofberkeley.info**. Past and future agendas are also available on the Internet at: https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Planning_Commission_Homepage.aspx

Fig. 1: Ashby BART Station Site



West Lot
 APN 053-1597-039-04

East Lot
 APN 053-1703-009-00

Fig. 2: North Berkeley BART Station Site



Lot D
 APN 060-2417-067-04

Lots B and C:
 APNs 058-2144-024-01
 and 058-2139-018-03

Lot A:
 APNs 058-2146-016-05,
 058-2149-019-04, 058-
 2148-017-04, and
 058-2147-018-05.

Proposed Meeting Dates for Planning Commission 2022

Regular Meetings: First Wednesday of the month except for January
Reserve Third Wednesday of the month for Special Meetings

Planning Commission Meetings

Wednesday, January 19, 2022

Wednesday, February 2, 2022

Wednesday, March 2, 2022

Wednesday, April 6, 2022

Wednesday, May 4, 2022

Wednesday, June 1, 2022

Wednesday, July 6, 2022

Wednesday, September 7, 2022

Wednesday, October 5, 2022

Wednesday, November 2, 2022

Wednesday, December 7, 2022

Communication

From: Paul <paulbickmore@gmail.com>
Sent: Tuesday, October 26, 2021 9:29 AM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: Maximize.

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

To the Planning Commissioners,

We need our BART station parking lot to be developed into abundant affordable homes and lovable public spaces, and we need this now! I stand with North Berkeley Now! to tell you the following:

When it comes to affordability, we want mixed income at North Berkeley BART. Market rate apartments are more affordable than the million-dollar single-family homes we have now, and they are needed for people who don't qualify for new, subsidized, affordable housing. We also want the largest amount of subsidized housing possible in the context of an ambitious development, not least because lower income residents are more likely to use transit that they live next to.

Given the shortage of housing and the climate change-fighting benefits of living near transit, we want the highest density possible at our BART station. The majority of commenters on September First said agreed with this. Don't set BART's minimums as our maximums.

Alternatives to driving must also be a priority. Some BART users need to drive, but most do not. The demand for parking at BART can be significantly reduced by providing better connectivity and access for surface transit and alternative mobility. This includes infrastructure design that promotes the safety of pedestrians and cyclists over the convenience of drivers. Create smart infrastructure that keeps cars away from us so we all feel safe getting to BART.

Thank you for your consideration,

Paul Bickmore

Communication

From: Colette Meunier <Colette.Meunier@mindspring.com>
Sent: Monday, October 25, 2021 8:58 PM
To: Shen, Alisa <AShen@cityofberkeley.info>
Subject: Letters of comment for the November 3 Planning Commission meeting

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Alisa:

Attached are two letters of comment that I am submitting to be provided to the Planning Commission at their November 3 meeting.

Thank you for your help with this.

--

COLETTE MEUNIER
1560 Sacramento Street
Berkeley, California 94702
510.847.9731
colette.meunier@mindspring.com



1560 Sacramento Street
Berkeley, California 94702
Cell: 510.847.9731
colette.meunier@mindspring.com

E-mailed to Alisa Shen, Principal Planner at bartplanning@cityofberkeley.info

October 25, 2021

Berkeley Planning Commission
c/o City of Berkeley
Department of Planning & Development
1947 Center Street, 2nd Floor
Berkeley, CA 94704

RE: Comments on the Draft R-BMU Residential BART Mixed-Use Zoning District

Dear Planning Commissioners:

This letter contains my comments about the Draft R-BMU Residential BART Mixed-Use Zoning District. I request that you recommend to the City Council all of the following changes:

1. Section 23.202.150 B. Definitions. The definition of *Lot Area* should be revised to include the following wording:
 - a. Change the wording, "...minus the square footage of any buildings, facilities or equipment..." To "minus the *footprint*..." As written, all the levels of a BART station, including the underground platform level would be counted and excluded from the BART site area.
 - b. Add the following wording to the definition: "*The BART tunnel right-of-way will not be available for development and so it is excluded from the Lot Area. If the adjacent "zones of influence" [areas on either side of the tunnel identified by BART as needed to protect the tunnel area] are not available for ground floor development, then these areas shall also be excluded from the Lot Area.*"
2. Table 23.202.150-1 Permitted Street-Facing Ground Floor Uses shows that both residential and non-residential uses would be allowed along Sacramento Street, along the Ohlone Greenway, or *within 50 feet of any street corner*. This would allow an isolated area of nonresidential use at the corner of Action and Delaware Streets, widely separated from any other nonresidential use and across from only single family uses. The fourth cell down on the left-hand column of this Table should be revised to read: "Along Sacramento, along the Ohlone, Greenway or within 50 feet of a street corner *with Sacramento Street*."
3. Figure 23.202.150-1, Permitted Street-Facing Ground Floor Uses should be revised to eliminate the highlighting at the corner of Delaware and Action on the North Berkeley BART

station site indicating that this is a location where ground floor non-residential uses would be allowed.

4. Table 23.202.150-2 R-BMU Development Standards: The description of the parking requirements should have a similar format for both residential and non-residential, for clarity. So, the Non-residential Parking requirement should be stated as:

*None required
Maximum of 1.5 spaces per 1,000 sf*

5. Section 23.202.150 F, Development Standards, Section 13, Parking Design and Access, paragraph (d) should be revised by adding the following: .

“Where vehicular entrances intersect with pedestrian walkways and bicycle paths, there shall be a change in paving texture and/or color to alert drivers, pedestrians and cyclists to the crossing.”

Consider also adding that there should be a flashing light or an audible tone to signal that a vehicle is coming out of the garage.

6. Section 23.202.150 G. BART Mixed Use District Master Development Permit, Section 5, Final Development Plan, should have an additional bullet point added requiring that the Final Development Plan show: *“All above ground utilities, such as electrical substations or transformers, water connections/backflows, etc.”* Second, the spelling of **sewage** in the first bulleted item under subparagraph **a.** should be corrected from **“sewerage.”** Finally, the last paragraph in this section is indented and identified as paragraph **b.** but there is no paragraph **a.** This paragraph numbering and indent should be eliminated.

7. Section 23.202.150 G. BART Mixed Use District Master Development Permit, last two sections titled, “2. Adherence to the Approved Plan and Modifications,” and 3. “Revocation of Permits,” should be revised as follows:

First of all, the sections should be renumbered as Sections 8 and 9 to comply the numbering scheme of the Zoning Ordinance.

Second, the Section on Adherence to the Approved Plan and Modification should include criteria or findings for granting the variations. As it is now written, the Section provides no guidance to the Zoning Officer or Zoning Adjustments Board on when variations from standards in the approved Mast Plan should be authorized. The following are my suggested findings that should be included:

“The variation may be granted only if the Zoning Officer or ZAB finds that such variation is necessary for at least one of the following reasons, and, with the variation, the development is still in compliance with the requirements of the B-RMU Zoning District.

- a. To accommodate the efficient provision of utilities to the proposed development without reduction in the square footage of development;

- b. To allow compliance with Building Code or Fire Code provisions that were not in effect at the time of the Master Development Permit without reduction in the square footage of development; or
- c. To allow better fulfillment of the *City and BART Joint Vision and Priorities* as adopted by both agencies.”

Third, in the last sentence under “*Revocation of Permits*,” the phrase, “*entirely of a site*” should be replaced with the phrase, “*entire site*.”

Fourth, the time periods for *Revocation of Permits* are too long. The requirements should be changed to allow consideration of revocation if a Development Plan for an initial portion of the site has not been submitted within five years, and if plans covering the entire site have not been submitted within 10 years. Keep in mind, that if there are compelling reasons why development has not been able to proceed, the City Council can choose not to revoke the Master Development Plan Permit. Also, this time period does not start until **AFTER** the Master Development Permit (MDP) has been approved, a process that will likely take at least a year from when the developer submits the application. Additionally, it will take some time for the developer to prepare the plans and documents necessary to file the application, once the developer is selected. It is likely to be several years before the MDP is approved and the time periods for permitting Revocation start running.

8. Table 23.202.020-1, Allowed Land Uses in Residential Districts includes two uses as permitted by a Public Hearing Use Permit which should be shown as prohibited uses.

- a. Under Commercial Uses, “Alcoholic Beverage Service” is shown as permitted by a Public Hearing Use Permit. Alcohol service as part of a full-service restaurant may be consistent with the residential setting of the redeveloped BART stations, but not an establishment that primarily serves only alcohol. If this use continues to be permitted by Use Permit, then the Zoning Ordinance Revision, Section 23.310.030, *Alcoholic Beverage Service When Incidental to Food Service*, Section B, *Use Limitations*, should be amended to include the following:

*5. **R-BMU District.** In the R-BMU district, alcoholic beverage service is allowed only for full-service restaurants. Alcoholic beverage service is not allowed for carry out food stores and quick-service restaurants, and distilled spirit service is allowed only for on-site consumption with seated food service.*

- b. Under Commercial Uses, “*Theater*” is shown as permitted by a Public Hearing Use Permit. In the Chapter 23.502, Glossary,” of the Zoning Ordinance Revision, a theater is defined as follows:

“**Theater.** Any establishment that has a permanent stage or screen for the presentation of live or recorded entertainment and which contains an audience viewing hall or room, with fixed seats. Theaters may be used for live performances of music, dance, plays, orations,

and other stage performances and/or the showing of projected motion pictures and videotapes.”

Given the proximity of both stations to downtown Berkeley which has a number of movie theaters and live performance spaces, there is no need to provide for such facilities in the mixed-use development at the BART stations, particularly at North Berkeley BART.

Thank you for the opportunity to provide comments. Please contact me if you have any questions about them.

Sincerely,

Colette Meunier

cm COLETTE MEUNIER

1560 Sacramento Street
Berkeley, California 94702
Cell: 510.847.9731
colette.meunier@mindspring.com

E-mailed to Alisa Shen, Principal Planner at bartplanning@cityofberkeley.info

October 25, 2021

Berkeley Planning Commission
c/o City of Berkeley
Department of Planning & Development
1947 Center Street, 2nd Floor
Berkeley, CA 94704

RE: Comments on Potential Use of the State's Bonus Density Provisions in the R-BMU Residential BART Mixed-Use Zoning District

Dear Planning Commissioners:

The September 1, 2021 staff report regarding *Draft Zoning and General Plan Amendments and City-BART Joint Vision and Priorities (JVP) for the Ashby and North Berkeley BART Station Areas*, on page 17, discusses State law regarding Density Bonus provided to developers as incentive for providing affordable housing as part of their developments.

The same staff report, on page 13, advises that:

“The City Council approved a reservation of \$53 million in City affordable housing funds so that at least 35% of the housing units proposed at each of the stations would be deed-restricted low, very-low and/or extremely low-income affordable housing. The Council also referred to the City Manager to explore the potential of a new bond measure for housing and/or infrastructure citywide.”

Also, I believe that BART is considering providing the BART sites to developers at less than full market price in support of providing affordable housing on these sites.

I am concerned that developers may receive these public subsidies from the City and BART and then also use the State Bonus Density Provisions, based on the affordable housing made possible by these public subsidies. I believe that this would be a misuse of the Bonus Density provisions by allowing developers to use affordable units funded by public subsidies to gain additional density.

I strongly urge the Planning Commission to include in the *Joint Vision and Priorities* document (or such other provisions as appropriate) that the affordable units funded by public subsidies from the City of Berkeley and any reduction in the land price from BART cannot be counted towards the percentage of affordable units needed to qualify for bonus density. I believe that this can be accomplished by BART making any reduction in the land price below market rate, and

Berkeley making the provision of public funds to help subsidize affordable units, contingent on the developer agreeing that the affordable units made possible by these public subsidies are excluded from the percentage of affordable units that the developer can use to qualify for bonus density under State law.

This would avoid allowing a developer to receive **both** public assistance from the City and BART to fund affordable units, **and** then using these same affordable units to qualify for the State bonus density which was intended to provide increased density as compensation for the provision of affordable units.

Thank you for the opportunity to provide comments. Please contact me if you have any questions about them.

Sincerely,

Colette Meunier

Communication

From: Tomas <writetotomas@gmail.com>
Sent: Friday, October 22, 2021 12:21 PM
To: Pearson, Alene <apearson@cityofberkeley.info>
Cc: Kesarwani, Rashi <RKesarwani@cityofberkeley.info>
Subject: Another North Berkeleyan for paradise instead of a parking lot

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Planning Commissioners,

I live in North Berkeley, and I truly cannot wait for our BART Station Parking Lot to become a paradise of mixed-income housing that helps more people live in our city and our area.

I stand with my neighbors and with North Berkeley Now!

We know that mixed-income housing creates affordability, creates de-segregated neighborhoods, and helps people like me--people who don't have millions of dollars--be a part of this wonderful neighborhood.

We want the largest amount of housing possible. Berkeley shouldn't limit ourselves to minimums. Berkeley used to be--and still can be audacious. Let's maximize housing. Don't let BART's minimums or AB2923 minimums be our ceiling. Let's create a truly inclusive Berkeley and build housing.

We want to make sure that our infrastructure puts people, NOT cars first. This means infrastructure design that promotes the safety of pedestrians and cyclists over the convenience of drivers.

Thank you for your time and consideration.

Let's build!

Tomas Moreno
North Berkeley Neighbor on Curtis St.