



Planning and Development Department
Land Use Planning Division

DATE: April 6, 2022

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 Final EIR

RECOMMENDATION

Conduct a public hearing and make a recommendation to City Council to:

1. Adopt an Ordinance amending the Zoning Ordinance and Zoning Map to incorporate the R-BART Mixed Use Zoning District (**Attachment 1**);
2. Adopt a Resolution to:
 - a. Amend the General Plan to include the Ashby and North Berkeley BART Mixed Use Transit Oriented Development General Plan Land Use Classification text and map amendments (**Attachment 2, Exhibits A, B and C**);
 - b. Adopt the City and BART Joint Vision and Priorities (JVP) for Transit Oriented Development at the Ashby and North Berkeley BART Stations (**Attachment 2, Exhibit D**);
 - c. Adopt the CEQA findings for the proposed zoning and General Plan, Municipal Code, and Map amendments, including certification of the Final EIR, rejection of alternatives as infeasible, and adoption of the Statement of Overriding Considerations (**Attachment 2, Exhibit E**) and adoption of the Mitigation Monitoring and Reporting Program (MMRP).

I. INTRODUCTION

The Planning Commission is asked to review and recommend approval of the attached documents, which are the culmination of two years of research, analysis and engagement that has included meetings with the Council-appointed Community Advisory Group (CAG), the community at-large and the Planning Commission. The Planning Commission has conducted three hearings on these matters, including a detailed review of the proposed zoning and General Plan amendments, the City and BART Joint Vision and Priorities (JVP) for Transit

Oriented Development, and the Draft Environmental Impact Report (DEIR). A summary of public engagement to-date related to developing these documents is provided in **Attachment 3**.¹

II. ZONING AND GENERAL PLAN AMENDMENTS

The recommended actions 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 (**Attachment 1**). 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 (**Attachment 2**). The zoning and General Plan amendments were presented in detail at the November 3, 2021 Planning Commission meeting. Subsequent to that meeting, the following additions were made to the Ordinance to incorporate the measures identified in the MMRP:

- Add the following text to Section 23.202.150.F (R-BMU-Development Standards):
14. **Mitigation Measures.** Projects under this section are subject to applicable measures identified in the adopted Mitigation Monitoring Program of the Ashby and North Berkeley BART Stations Transit-Oriented Development Zoning Project Final EIR.
- Add the following text to Section 23.304.140 (General Development Standards – Area Plans):
E. *Ashby and North Berkeley BART Stations Transit-Oriented Development Zoning Project.* Projects in the Ashby and North Berkeley BART Stations Transit-Oriented Development Zoning Project boundaries are subject to the applicable mitigation measure in the adopted Mitigation Monitoring Program of the Ashby and North Berkeley BART Stations Transit-Oriented Development Zoning Project EIR.

III. CITY AND BART JOINT VISION AND PRIORITIES (JVP) FOR TRANSIT-ORIENTED DEVELOPMENT AT ASHBY AND NORTH BERKELEY BART

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

¹ For the latest status update about the overall process to plan for transit-oriented development at the Ashby and North Berkeley BART Stations Areas, see the March 29, 2022 *Off Agenda Memo to Mayor and City Council regarding Transit-Oriented Development (TOD) at Ashby and North Berkeley BART Station Areas* available at: <https://www.cityofberkeley.info/off-agenda-memos/>

undertaken as part of this planning process. The JVP was presented at the Planning Commission meetings on September 1, 2021 and November 3, 2021. The JVP is unchanged since then (**Attachment 2, Exhibit D**).

IV. ENVIRONMENTAL REVIEW

An Environmental Impact Report (EIR) was prepared for the Ashby and North Berkeley BART Station Zoning Standards project. The project does not propose specific development projects, but for the purposes of environmental review, includes a buildout projection which represents a reasonably foreseeable maximum amount of development for the Plan Area through 2030. In total, the proposed project's buildout projection would include the total development of 2,400 housing units and 125,000 square feet of commercial space across the two sites.

The EIR was made available for review through the City's website at www.cityofberkeley.info/bartplanning, at the Planning and Development Department at 1947 Center Street (2ndFloor), and at the following locations in the city:

- Tarea Hall Pittman South Branch Library, 1901 Russell Street
- West Branch Library, 1125 University Avenue
- Central (Downtown) Library, 2090 Kittredge Street.

The environmental review process for the Project has included:

- A Notice of Preparation (NOP) of a Draft EIR was circulated to potentially interested parties and agencies on November 20, 2020.
- The City held an EIR scoping meeting as part of the regularly scheduled Planning Commission meeting on December 2, 2020.
- The Draft EIR (DEIR) were made available for public review on Friday, October 15, 2021.
- A Notice of Availability (NOA) for the DEIR was distributed to State and local planning agencies on October 15, 2021.
- A Planning Commission hearing on the DEIR was held on November 3, 2021.
- The public comment period on the DEIR closed on December 1, 2021.
- A Notice of Availability/Release of Final EIR (FEIR) and the FEIR was published in March 30, 2021.

The following actions are anticipated as part of the environmental review of the project:

- This Planning Commission meeting to consider certification of the Final EIR
- Meeting(s) of the City Council to consider certification of the Final EIR.

A. Draft EIR

1. **Potentially Significant Impacts Identified in the Draft EIR.** All environmental impacts, relevant City Standard Conditions of Approval and mitigation measures are summarized in the CEQA Findings and Statement of Overriding Considerations (see **Attachment 2, Exhibit E**). Other than the impacts discussed below, all of the environmental effects of the Project can be reduced to less than significant levels

through implementation of Standard Condition(s) of Approval and/or recommended mitigation measures.

The DEIR identified one significant and unavoidable environmental impact related to Noise (temporary construction noise) and one significant and unavoidable cumulative impact related to historic 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. The findings include a statement of overriding consideration that provides reasons the project could be adopted even though those impacts could occur.

2. **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 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 are briefly summarized below (See also **Attachment 2, Exhibit E**):
 - **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 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); and 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; therefore, this project would allow for 2,500 units between both sites (1,250 units at each site).
 - **Alternative 2: BART Rider Parking Alternative.** Alternative 2 assumes that 15 to 30 percent of current BART rider parking on the main BART station sites 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.² 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. 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.

² 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. 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 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, including vehicle and bicycle parking requirements, minimum open space, and minimum public space, would remain the same as the proposed project.

B. Final EIR

The City received written and oral comments about the Draft EIR and the Ashby and North Berkeley BART Stations Zoning Standards during the official public comment period for the EIR (from October 15 through December 1, 2021). All of the written comments are reproduced in their entirety in the Response to Comments document of the Final EIR. Responses to all of the comments that pertain to the EIR are addressed in the Response to Comments document of the Final EIR, including specific revisions to text in the Draft EIR that are being made to correct errors or omissions or clarify information presented in the Draft EIR in response to comments received during the public review period (Chapter 5, FEIR). In no case do these revisions result in a greater number of impacts or impacts of a substantially greater severity than those set forth in the Draft EIR such that recirculation of the Draft EIR would be required. In sum, staff recommends that the Planning Commission adopt the CEQA findings in Attachment 2, Exhibit E, which include certification of the EIR, adoption of the Mitigation Monitoring Report Program (MMRP), rejection of alternatives as infeasible or not environmentally superior, and a Statement of Overriding Considerations.

In addition to public comments addressed in the FEIR, comments from City Commissioners are summarized below:

1. Landmarks Preservation Commission (LPC). Members of the LPC provided comments on the Draft EIR at their meeting of November 4, 2021.

Comments included:

- A recommendation for further research into the historical status of the BART stations and station areas;
- Suggested revisions to the characterization of the North Berkeley BART station;
- A recommendation to prepare Historic American Buildings Surveys-like documentation for the North Berkeley BART station; and
- A suggestion that a watercourse was omitted from the description of the Ashby BART station area.

LPC Commissioners also provided the following comments that are not directly related to the Draft EIR or environmental issues:

- A request that project design should respect the historic character of neighborhoods surrounding the BART stations;
 - A suggestion to rename the Ashby BART station; and
 - A suggestion to commemorate Berkeley's transit history through the project.
2. Planning Commission. Members of the Planning Commission provided comments on the Draft EIR at their meeting of November 3, 2021.

Comments included:

- A recommendation to analyze transportation impacts beyond the boundaries of the project area, including potential impacts on transit;
- A suggestion to explore construction methods that may produce less noise; and
- A statement on the need to strengthen the Cultural Resources analysis for the Ashby BART station.

Planning Commissioners also provided the following comments that are not directly related to the Draft EIR or environmental issues:

- Suggestions for amendments to the R-BMU zoning district, including:
 - Allowing Nursing Homes as a permitted use;
 - Prohibiting retail at the corner of Delaware and Acton;
 - A requirement that all public open space be visible from a public right of way; and
 - The inclusion of more elements of the JVP in the actual R-BMU zoning district language.
- A recommendation to add a property management plan to the JVP;
- Recommendations to prioritize accessibility and include larger unit sizes.

C. Mitigation Monitoring Reporting Program (MMRP)

The Environmental Impact Report (EIR) identifies the applicable mitigation measures that will be implemented to reduce the impacts associated with the Adeline Corridor Specific Plan. The California Environmental Quality Act (CEQA) requires a public agency to adopt a monitoring and reporting program for assessing and ensuring compliance with any required mitigation measures applied to proposed development. The table in the Mitigation Monitoring Reporting Program (MMRP) lists the mitigation measures that may be included as performance standards in the zoning, contractual obligations, and/or conditions of approval for the project.³

NEXT STEPS

³ The MMRP can be found here:

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Land_Use_Division/Ashby%20and%20NB%20BART%20Stations%20TOD%20Zoning%20Project_MMRP.pdf

Staff anticipates bringing the Planning Commission recommendation to the City Council on May 31, 2022 for consideration and approvals/certification of draft zoning and General Plan amendments, City-BART Joint Vision and Priorities, Final Environmental Impact Report, and (tentatively) amended MOU and/or other agreement(s) between City and BART. Prior to this meeting, the City Council will hold a Work Session to hear an overview and status update about these documents, as well as key issues related to parallel efforts/technical studies and the future agreement(s) between the City and BART that will extend and expand on the existing Memorandum of Understanding.

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 Land Use Diagram 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

3. Summary of Public Engagement
4. Public Hearing Notice

REFERENCED LINKS

1. Final Environmental Impact Report (FEIR):
https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Land_Use_Division/Ashby%20and%20NB%20BART%20Stations%20TOD%20Zoning%20Project_Final%20EIR_3-29-22.pdf

2. Mitigation Monitoring and Reporting Program (MMRP):
https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Land_Use_Division/Ashby%20and%20NB%20BART%20Stations%20TOD%20Zoning%20Project_MMRP.pdf

Attachment 1: Draft Ordinance

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.

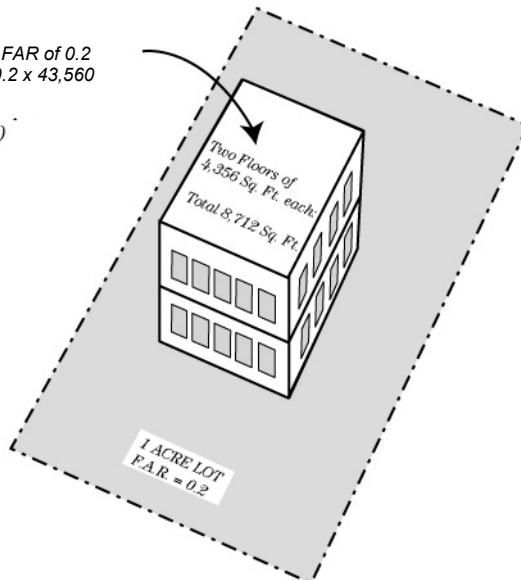
A. Floor Area Ratio Defined. Floor area ratio (FAR) means the quotient resulting from division of the gross floor area of all buildings on a lot by the area of the lot. See Figure 23.106-1: Floor Area Ratio.

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)



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.

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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
R-BMU	Residential BART Mixed Use
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

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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 Section 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

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ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply <u>** - 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</u>	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*	
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)	
Religious Assembly	UP(PH)	UP(PH)	NP	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)	
Commercial Uses												
Alcoholic Beverage Service	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	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	UP(PH)*	UP(PH)*	23.302.070.E– Use-Specific Regulations
Group Class Instruction	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	
Gym/Health Club	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	
Hotel, Tourist	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Laundromat and Cleaner	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)	
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)*	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	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)*	23.202.040.B– Use-Specific Regulations
Veterinary Clinic	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	
Theater	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)	NP	
Industrial and Heavy Commercial Uses												

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ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply <u>** - 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</u>	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*		
Commercial Excavation	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)		
Other Uses													
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 Section 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 Section (23.202.150), 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

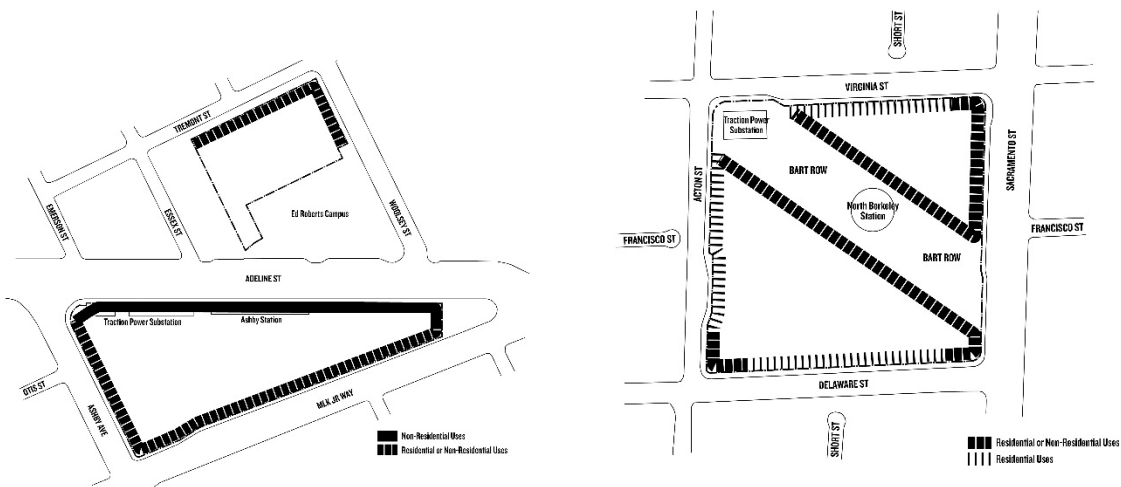
D. Ground-floor Uses. See Table 23.202-27.

TABLE 23.202-27: PERMITTED STREET-FACING GROUND FLOOR USES

Frontage Locations	Permitted Street-Facing Ground Floor Uses
Along Ashby and MLK	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.
Along Adeline	Non-Residential Uses or non-residential accessory spaces to residential buildings, such as community rooms
Along Woolsey, Tremont[1], or fronting interior public spaces	Residential or Non-Residential Uses
Along Sacramento, along the Ohlone Greenway, or within 50 feet of any street corner	Residential or Non-Residential Uses
Along Delaware, Acton, or Virginia	Residential Uses

[1] Public entrances for non-residential uses fronting Tremont Street must be located on Woolsey Street.

FIGURE 23.202-3 PERMITTED STREET-FACING GROUND FLOOR USES



1. Ashby BART Station Site

b. North Berkeley BART Station Site

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

F. Development Standards.

1. **Basic Standards.** See Table 23.202-28.
2. **Supplemental Standards.** Supplemental standards that apply in the R-BMU district are noted in Table 23.202-28.

TABLE 23.202-28: R-BMU DEVELOPMENT STANDARDS

		Supplemental Standards
Lot Area, Minimum	No minimum	23.304.020
Private Usable Open Space, Minimum [1][2]		23.302.090
Per Dwelling Unit	40 sf/DU	23.302.090
Per Group Living Accommodation Resident	15 sf/resident	23.302.090
Public Open Space, Minimum		
Per Dwelling Unit	35 sf/unit	
Per Group Living Accommodation Resident	18 sf/resident	
Floor Area Ratio (FAR), Maximum	4.2	
Main Building Height, Maximum [3]	80 ft. and 7 stories	23.304.050
Residential Density, Minimum	75 dwelling units per acre	
[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.		

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

Attachment 1: Draft Ordinance

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

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(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. **Front Upper-Story Step-backs.** Any street-facing building frontage above four stories in height that is not within 100 linear feet of Sacramento Street, Adeline Street, Ashby Avenue, or Martin Luther King Jr. Way, shall step back 15 feet from the property line for portions of the building above four stories.
6. **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.
7. **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.
8. **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.
9. **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

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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.

10. 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%.

11. 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

- 12. **Ground-Floor Non-Residential Space Dimensions.** The minimum ground floor height for non-residential uses is 15 feet, as measured from the ground

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level floor to the first floor above.

13. 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.
14. **Mitigation Measures.** Projects under this section are subject to applicable measures identified in the adopted Mitigation Monitoring and Reporting Program of the Ashby and North Berkeley BART Stations Transit-Oriented Development Zoning Project Final EIR.

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:

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- Affordable Housing
 - Public and Civic Space
 - Land Use
 - 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 23.202.150.F 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

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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

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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

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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

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 23.302-9: 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, R-BMU	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.

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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 23.304.140 is amended to read as follows:

23.304.140 Area Plans.

A. *Downtown Area Plan.* Projects in the Downtown Area Plan boundaries are subject to the applicable mitigation measure in the adopted Mitigation Monitoring Program of the Downtown Area Plan Final EIR.

B. *Southside Plan.*

1. *Mitigation Measures.* Projects in the Southside Plan boundaries are subject to the applicable mitigation measures in the adopted Mitigation Monitoring Program of the Southside Plan Final EIR.

2. *Permit Findings.* To approve an AUP or Use Permit for a project in the Southside Plan boundaries, the review authority must find that the project complies with the Southside Plan’s adopted Mitigation Monitoring Program (MMP).

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C. *West Berkeley Plan*. Projects in the West Berkeley Plan boundaries are subject to the applicable mitigation measure in the adopted Mitigation Monitoring Program of the West Berkeley Plan Final EIR.

D. *Adeline Corridor Plan*. Projects in the Adeline Corridor Plan boundaries are subject to the applicable mitigation measure in the adopted Mitigation Monitoring Program of the Adeline Corridor Plan Final EIR.

E. *Ashby and North Berkeley BART Stations Transit-Oriented Development Zoning Project*. Projects in the Ashby and North Berkeley BART Stations Transit-Oriented Development Zoning Project boundaries are subject to the applicable mitigation measure in the adopted Mitigation Monitoring Program of the Ashby and North Berkeley BART Stations Transit-Oriented Development Zoning Project EIR.

Section 8. 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 23.308-1: 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, R-SMU, and R-BMU	
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: [2] See also permit requirements based on floor area of use in Table 23.308.040-1	

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Section 9. 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 23.310-1: 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, and R-BMU	ZC	UP(PH)
C_AC	ZC	AUP
MU-LI, MU-R	UP(PH)	UP(PH)

Section 10. 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 11. 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 12. 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 23.322-1: 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>All Other Residential Districts: See 23.322.030.A.2</p>
Community Care Facility	<p>R-BMU District: None required; no more than 1.5 spaces per 1,000 sq. ft.</p> <p>All Other Residential Districts: One per two non-resident employees</p>
Food Service Establishment	<p>R-BMU District: None required; no more than 1.5 spaces per 1,000 sq. ft.</p> <p>All Other Residential Districts: 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>

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Land Use	Number of Required Off-street Parking Spaces
	All Other Residential Districts: 1 per each 4 beds plus 1 per each 3 employees
Library	R-BMU District: None required; no more than 1.5 spaces per 1,000 sq. ft. All Other Residential Districts: 1 per 500 sq. ft. of publicly accessible floor area
Nursing Home	1 per 3 employees
Medical Practitioners	R-BMU District: None required; no more than 1.5 spaces per 1,000 sq. ft. All Other Residential Districts: 1 per 300 sq. ft.
Non-Medical Offices	R-SMU District: 1 per 1,000 sq. ft. R-BMU District: None required; no more than 1.5 spaces per 1,000 sq. ft. All Other Residential Districts: 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 13: 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 23.322-10: REQUIRED NON-RESIDENTIAL BICYCLE PARKING

District	When Required	Required Spaces
R-BMU	New commercial space	1 per 1,000 sq. ft.
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
R-BMU	New commercial space	1 per 1,000 sq. ft.
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 23.322-11: REQUIRED RESIDENTIAL BICYCLE PARKING

Use	Long-Term Parking Requirement [1]	Short-Term Parking Requirement [1]
Dwelling Units (1 to 4 units)	R-BMU: 1 space per unit All other districts: None required	None required
Dwelling Units (5 units or more)	R-BMU: 1 space per unit All other districts: 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 14: 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.

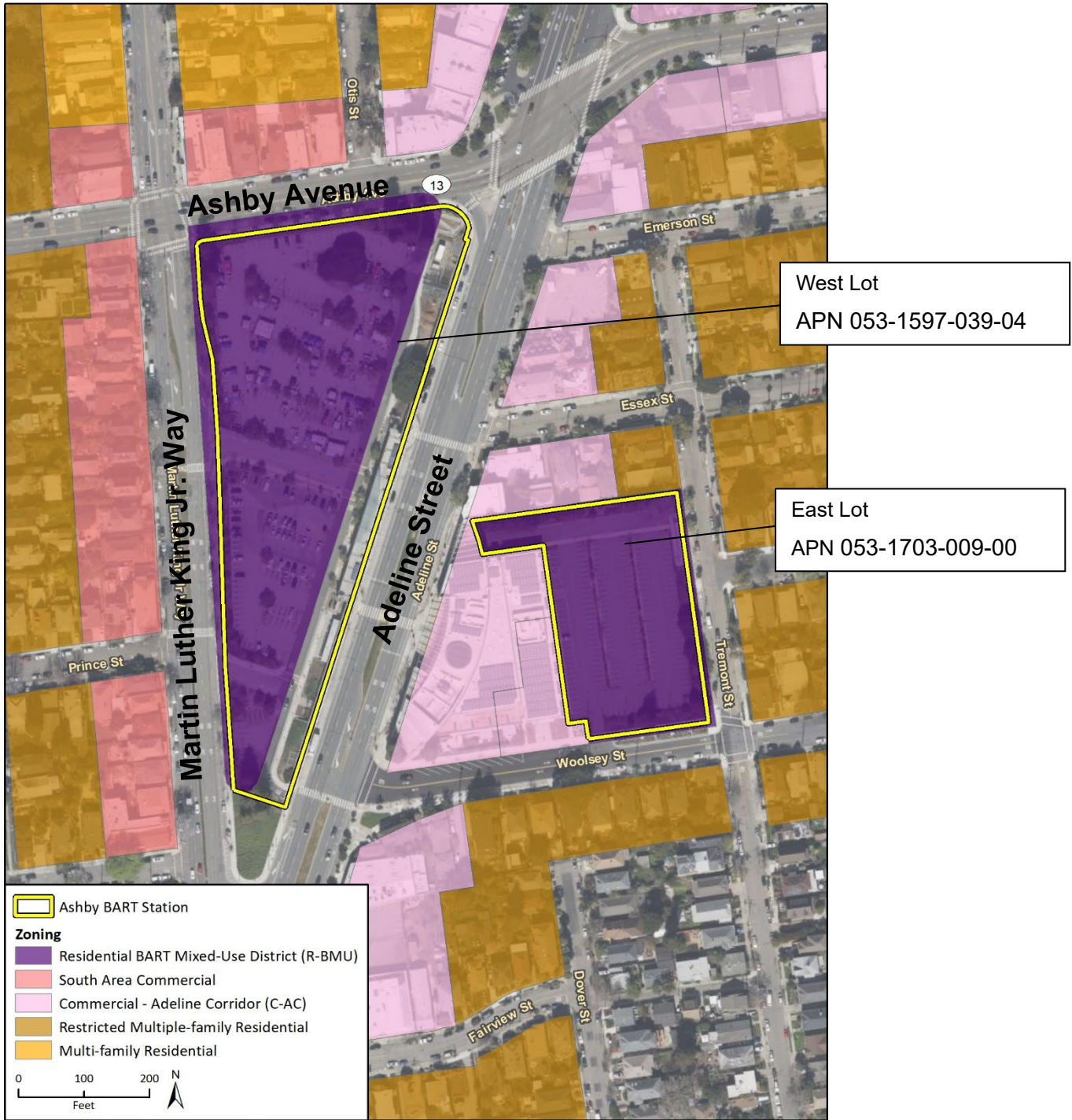
Section 15. Objective design standards, including, but not limited to, BART station functionality, public realm, building form and massing (e.g. vertical and horizontal articulation) building facade design, and open space shall be presented to the Council for adoption within one-year from the adoption of this code section.

Section 16. 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.

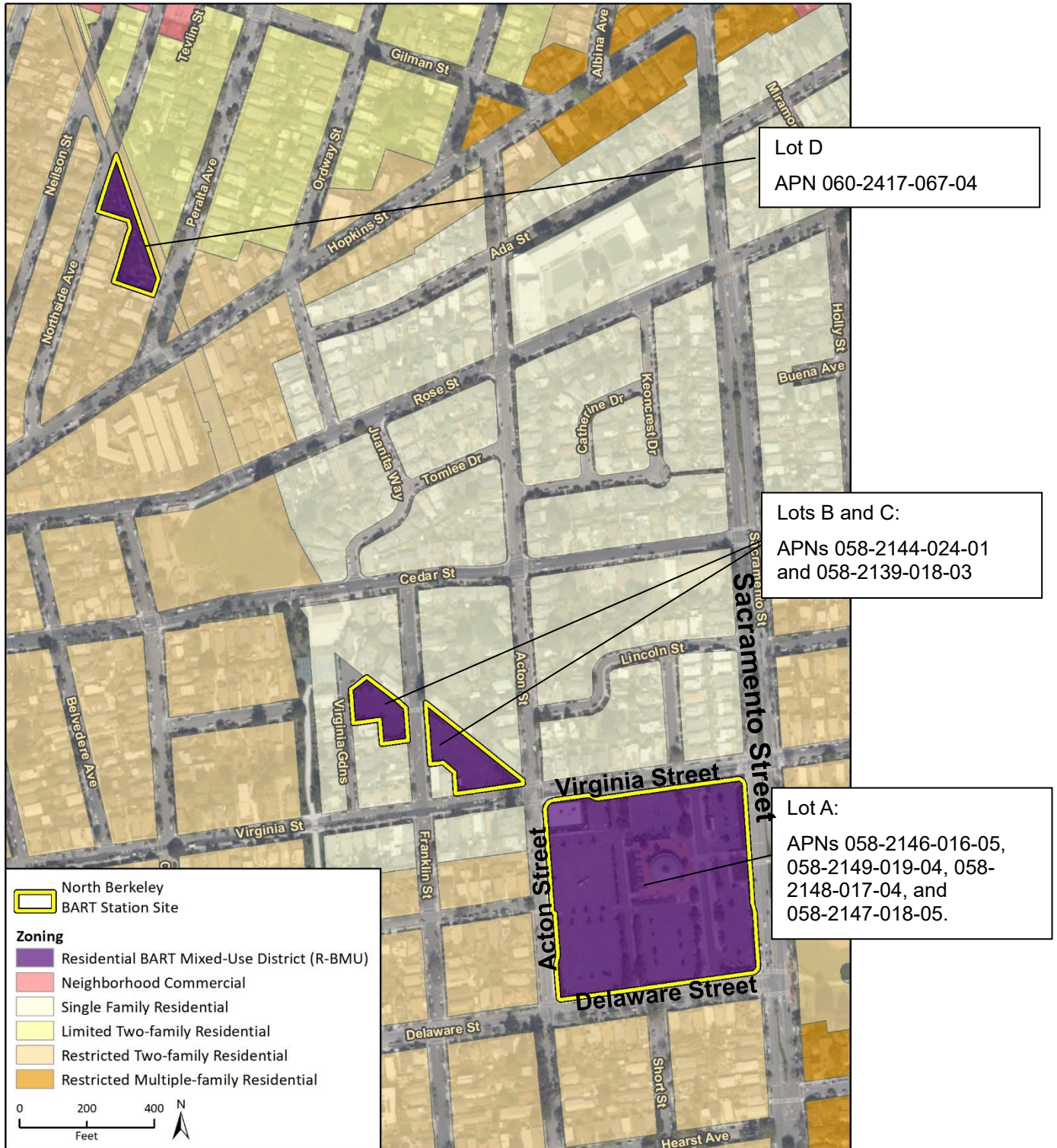
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Exhibit A: Proposed Zoning Maps

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.

Fig. 4-14 Proposed Planning in Berkeley

Attachment 2: Draft Resolution

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

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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 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

Attachment 2: Draft Resolution

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

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

Attachment 2: Draft Resolution - Exhibit A

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.

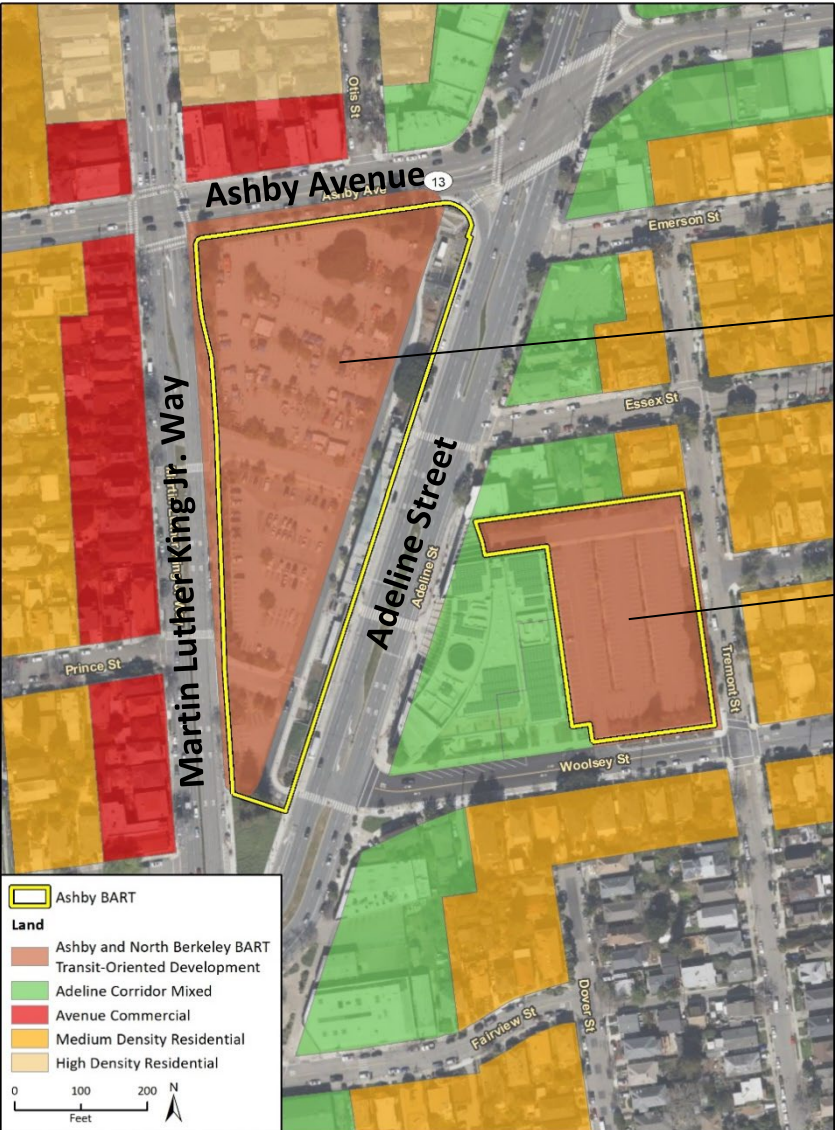
Ashby and North Berkeley BART Transit Oriented Development (TOD)

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.

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Attachment 2: Draft Resolution - Exhibit B

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



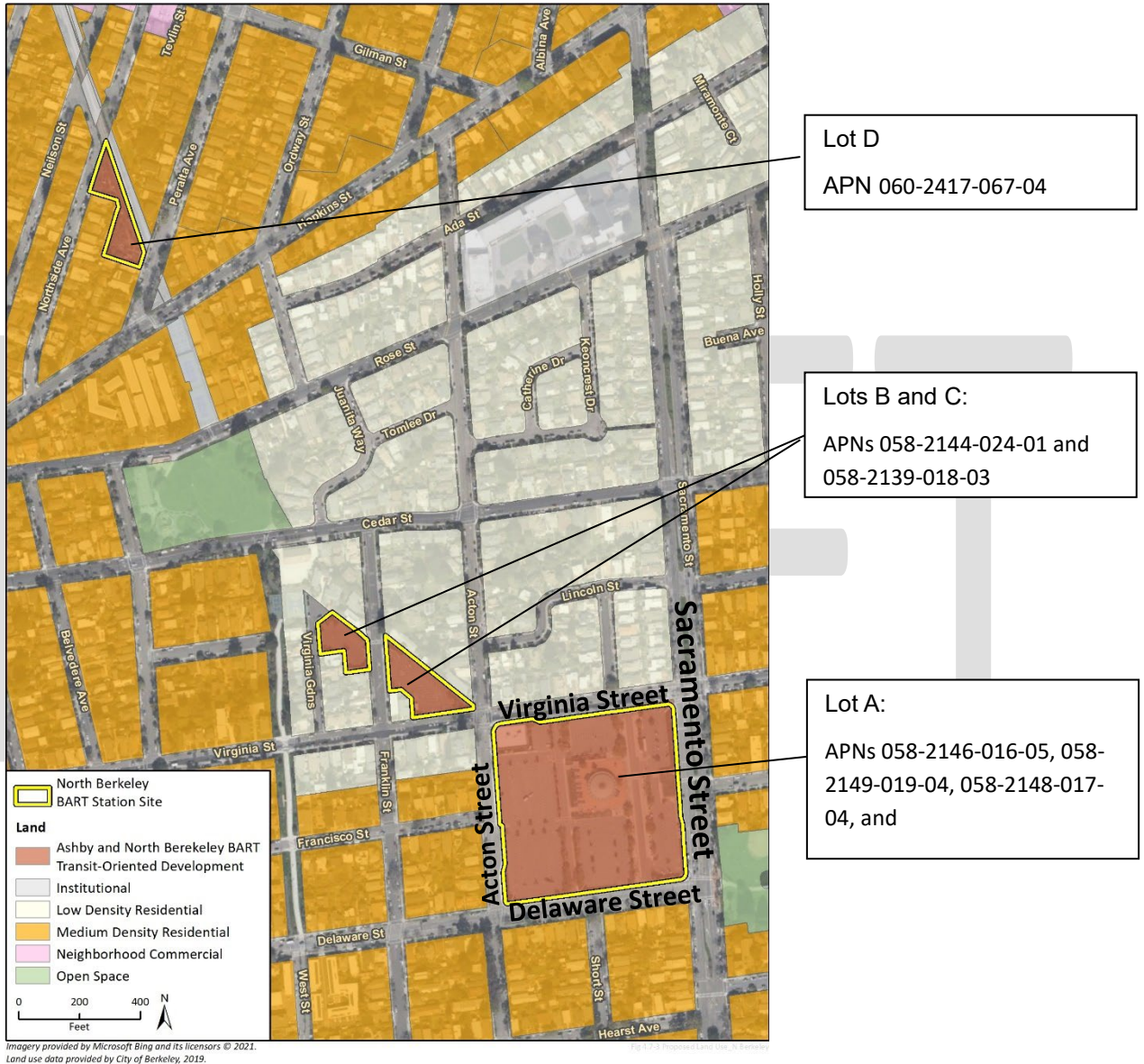
West Lot
APN 053-1597-039-04

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.

Attachment 2: Draft Resolution - Exhibit B

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



Attachment 2: 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.

Attachment 2: 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

Attachment 2: Draft Resolution - Exhibit C

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.

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Attachment 2: Draft Resolution - Exhibit D

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

November 2021

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.

Attachment 2: Draft Resolution - Exhibit D

- 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 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.
- 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.

Attachment 2: 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.

Attachment 2: 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. Explore the feasibility of reducing the width and number of traffic lanes in adjacent streets to their

Attachment 2: Draft Resolution - Exhibit D

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.

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.

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- 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
 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.

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

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

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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 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.

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- 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 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.

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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.

- 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.

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- 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 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..

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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.

DRAFT

CEQA Findings and Statement of Overriding Considerations

Ashby and North Berkeley BART Stations Transit-Oriented Development (TOD) Zoning Project Pursuant to Sections 15091 and 15093 of the State CEQA Guidelines and Section 21081 of the Public Resources Code

The Final Environmental Impact Report (Final EIR) prepared by the City of Berkeley (City) for the Ashby and North Berkeley BART Stations Transit-Oriented Development (TOD) Zoning Project (“the project”) consists of the Draft EIR and Response to Comments on the Draft EIR. The Final EIR identifies significant environmental impacts that will result from implementation of the project. The City finds that the inclusion of certain mitigation measures as part of project approval will reduce all but the following significant impacts to levels that are less than significant: construction-related noise and cultural resources in the cumulative setting. No feasible mitigation measures have been identified to reduce these impacts to a less-than-significant level or mitigation measures have been identified but would not reduce impacts to a level of less than significant; these impacts will remain significant unavoidable impacts of the project. These impacts will be overridden due to specific considerations that are described within this document.

As required by CEQA, the City, in adopting these CEQA Findings and Statement of Overriding Considerations, also adopts a Mitigation Monitoring and Reporting Program (MMRP) for the project. The City finds that the MMRP, which is incorporated by reference, meets the requirements of Public Resources Code Section 21081.6 by providing for the implementation and monitoring of measures intended to mitigate potentially significant effects of the project. In accordance with CEQA and the *CEQA Guidelines*, the City adopts these findings as part of the project approval. Pursuant to Public Resources Code Section 21082.1(c)(3), the City also finds that the Final EIR reflects the City’s independent judgment as the lead agency for the project.

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SECTION 1: INTRODUCTION

1.1 Statutory Requirements for Findings

Section 15091 of the *CEQA Guidelines* states that:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
 - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to avoid or mitigate significant environmental impacts that will otherwise occur with implementation of the project. Project mitigation or alternatives are not required, however, where they are infeasible or where the responsibility for modifying the project lies with another agency.¹

For those significant effects that cannot be mitigated to a less-than-significant level, the public agency is required to find that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.² The *CEQA Guidelines* state in section 15093 that:

“If the specific economic, legal, social, technological, or other benefits of a propos[ed] project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered ‘acceptable.’”

1.2 Record of Proceedings

For purposes of CEQA and the findings set forth herein, the record of proceedings for the City’s decision on the project consists of: a) matters of common knowledge to the City, including, but not limited to, federal, State and local laws and regulations; and b) the following documents which are in the custody of the City:

- Notice of Preparation and other public notices issued by the City in conjunction with the project dated November 20, 2020 (see Appendix A of the Draft EIR for the Notice of Preparation);
- The Draft EIR, which was made available for public review on October 15, 2021;
- All written and verbal comments submitted by agencies, organizations and members of the public during the public comment period and at public hearings on the Draft EIR and responses to those comments (see Response to Comments Document, dated **XXX 2022**);
- The Mitigation Monitoring and Reporting Program;

¹ *CEQA Guidelines*, 2012. Section 15091 (a), (b).

² Public Resources Code Section 21081(b).

- All findings and resolutions adopted by the City in connection with the project, and all documents cited or referred therein;
- All final reports, studies, memoranda, maps, correspondence, and all planning documents prepared by the City or the consultants to each, or responsible or trustee agencies with respect to: a) the City's compliance with CEQA; b) development of the project site; or c) the City's action on the project; and
- All documents submitted to the City by agencies or members of the public in connection with development of the project.

1.3 Organization/Format of Findings

Section 2 of these findings sets forth the objectives of the project and contains a summary description of the project and project alternatives. Section 3 identifies the potentially significant effects of the project which were determined to be mitigated to a less-than-significant level. All numbered references identifying specific mitigation measures refer to numbered mitigation measures found in the Draft EIR and Response to Comments Document. Section 4 identifies the project's potential environmental effects that were determined not to be significant, and do not require mitigation. Section 5 discusses the feasibility of project alternatives. Section 6 identifies the significant impacts of the project, including cumulative impacts that cannot be mitigated to a less-than-significant level even though all feasible mitigation measures have been identified and incorporated into the project. Section 7 includes the City's Statement of Overriding Considerations.

SECTION 2: ASHBY AND NORTH BERKELEY BART STATIONS TRANSIT-ORIENTED DEVELOPMENT (TOD) ZONING PROJECT

This section lists the objectives of the proposed project, provides a brief description of the project, and lists the project alternatives evaluated in the Draft EIR.

2.1 Project Objectives

The Ashby and North Berkeley BART Stations Transit-Oriented Development (TOD) Zoning Project is intended to achieve the following project objectives:

1. **Compliance with Assembly Bill (AB) 2923:** AB 2923, enacted in 2018, requires the adoption of transit-oriented development zoning standards establishing specific local zoning requirements for height, density, parking, and floor area ratio for BART-owned properties within ½-mile of station entrances in Alameda, Contra Costa and San Francisco counties. If local standards are not adopted, then State/BART standards will apply. The Ashby and North Berkeley BART stations are both subject to AB 2923.
2. **Environmental Sustainability.** Promote environmental sustainability by encouraging healthy, fossil-fuel free, energy- and water-efficient transit-oriented development that includes location efficiency and sustainable low carbon transportation modes

2.2 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 the City and BART's 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.

2.3 Alternatives

Based on the project objectives and anticipated environmental consequences, and pursuant to Section 15126.6 of the *CEQA Guidelines*, the following project alternatives were selected for analysis:

- **Alternative 1: No Project Alternative.** The No Project Alternative assumes that the City takes no action to rezone the station sites. By default, both station sites would be effectively rezoned with the following development standards included in AB 2923:
 - Density of 75 units per acre
 - Height of 7 stories
 - Floor Area Ratio (FAR) of 4.2

Alternative 1 assumes that the AB 2923 development standards are maximums. This alternative also includes AB 2923's parking standards. This alternative would involve the same density, height, and FAR as the proposed project, but would not include other development standards that are included in the proposed project. This alternative would meet the CEQA-related project objective to comply with AB 2923. It would also meet the project objective to promote "green" development as well as location efficiency and sustainable transportation modes.

- **Alternative 2: BART Rider Parking.** Alternative 2 includes structured parking designated for BART riders at each site. The alternative assumes that the station sites would include 160 vehicle parking spaces at Ashby BART station and 300 vehicle parking spaces at North Berkeley BART station, all located in above-ground parking garages, separate from any other parking provided for the mixed-use developments. In addition to examining the physical environmental effects of including dedicated BART rider parking, the alternative also considers the loss of development potential, if any, due to the commitment of surface area at the station sites to above-ground BART rider parking. This alternative would meet the CEQA-related project objective to comply with AB 2923 by allowing new development consistent with the law's development standards at the station sites. It would also meet the project objective to promote location efficiency and sustainable transportation modes, but to a lesser extent than would the proposed project.
- **Alternative 3: Increased Height.** Alternative 3 would allow for the development of 12-story buildings on the station sites. Increasing the maximum building height by 70 percent compared to the proposed project would allow for a corresponding increase in the number of residential units. All of the other development standards in the proposed project, including maximum FAR, vehicle and bicycle parking requirements, minimum open space, and minimum public space, would remain the same. This alternative would meet the CEQA-related 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.

Refer to Chapter 6, *Alternatives*, of the Draft EIR for the complete alternatives analysis.

SECTION 3: EFFECTS DETERMINED TO BE MITIGATED TO LESS-THAN-SIGNIFICANT LEVELS

The Draft EIR identified certain potentially significant effects that could result from the project. However, the City finds for each of the significant or potentially significant impacts identified in this section (Section 3) that based upon substantial evidence in the record, changes or alterations have been required or incorporated into the project which avoid or substantially lessen the significant effects as identified in the Final EIR³ and, thus, that adoption of the mitigation measures set forth below will reduce these significant or potentially significant effects to less-than-significant levels. These measures will be imposed on development projects as part of the City and BART review and approval process through zoning performance standards, contractual obligations, and/or other means. In addition, City Conditions of Approval and compliance with City and other regulations will further reduce project impacts.

3.1 Air Quality

Impact AQ-2: Future development under the proposed project would result in the temporary generation of air pollutants during construction, which would affect local air quality. Compliance with the BAAQMD Basic Construction Mitigation Measures would be required for future development within the project sites to implement measures to reduce construction emissions. This impact would be less than significant with mitigation incorporated.

Mitigation Measure AQ-1: Construction Emissions Measures. As part of the City's development approval process, the City shall require applicants for future development projects within the project sites to comply with the current Bay Area Air Quality Management District's basic control measures for reducing construction emissions of PM10 (Table 8-2, Basic Construction Mitigation Measures Recommended for All Proposed Projects, of the May 2017 BAAQMD CEQA Guidelines).

Finding: The City finds that the foregoing mitigation measure has been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Implementation of Mitigation Measure AQ-1 would require future development projects within the project sites to comply with measures to reduce air pollution emissions during construction. Impacts would be less than significant with implementation of Mitigation Measure AQ-1 to require the BAAQMD Basic Construction Measures and required application of the City's air quality standard condition of approval.

3.2 Biological Resources

Impact BIO-1: The projects sites are highly urbanized and no special-status species have been recorded. However, future development under the proposed project could affect special status species. This impact would be less than significant with mitigation incorporated

Mitigation Measure BIO-1: Worker Environmental Awareness Program. Prior to initiation of construction activities (including staging and mobilization), all personnel associated with project construction shall attend a Worker Environmental Awareness Program (WEAP) training, conducted by a qualified biologist, to aid workers in recognizing special status resources that may occur in the construction area. The specifics of this program shall include identification of the sensitive species and habitats, a description of the regulatory status and general ecological characteristics of sensitive resources, and review of the limits of construction and mitigation measures required to reduce impacts to biological resources within the work area. A fact sheet conveying this information shall also be prepared for distribution to all contractors, their employers, and other personnel involved with construction. All

³ CEQA Guidelines, 2012. Section 15091.

construction employees shall sign a form provided by the trainer indicating they have attended the WEAP and understand the information presented to them. The form shall be submitted to the City to document compliance.

Mitigation Measure BIO-2: Special-status Bat Species Avoidance and Minimization. Development that involves removal of mature trees large enough to contain crevices and hollows that could support bat roosting, focused surveys to determine the presence/absence of roosting bats shall be conducted prior to demolition or tree removal. If active maternity roosts are identified, a qualified biologist shall establish avoidance buffers applicable to the species, the roost location and exposure, and the proposed construction activity in the area. If active non-maternity day or night roosts are found on the project site, measures shall be implemented to passively relocate bats from the roosts prior to the onset of construction activities. Such measures may include removal of roosting site during the time of day the roost is unoccupied or the installation of one-way doors, allowing the bats to leave the roost but not to re-enter. These measures shall be presented in a Bat Passive Relocation Plan that shall be submitted to, and approved by, CDFW prior to issuance of grading permit.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: With implementation of Mitigation Measures BIO-1 and BIO-2, impacts to special status species during construction of development projects encouraged by the proposed project would be avoided. This impact would be less than significant.

3.3 Cultural Resources

Impact CR-1: The proposed project would guide development on the Ashby BART station site, which qualifies as a historical resource pursuant to CEQA. However, with mitigation, impacts would be less than significant.

Mitigation Measure CR-1: Ashby BART Station Interpretive Display. The proposed project shall be designed to include a permanent, high-quality on-site interpretive display in a publicly-accessible location, preferably near or within the publicly accessible civic plaza at the Ashby BART Station. The display shall focus on the station's history, particularly the community-led effort for the station to be underground and the subsequent use of the land by the community. The interpretive display will be prepared by a professional exhibit designer and historian meeting the Secretary of the Interior's Professional Qualification Standards (36 CFR Part 61). The goal of the interpretive display is to educate the public about the property's historic themes and associations within broader cultural contexts and shall include incorporate elements of public art as appropriate. Plans for the display shall be subject to review and approval by the Land Use Planning Division prior to installation.

Finding: The City finds that the foregoing mitigation measure has been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Implementation of Mitigation Measure CR-1 would reduce potential impacts because it would communicate the history of the site. This would mitigate the potential impact to the Ashby BART Station's ability to convey its significance, which would result from a change in setting. With mitigation, impacts would be less than significant.

3.4 Geology and Soils

Impact GEO-1: Because the project sites are underlain by geologic units assigned a high paleontological sensitivity, paleontological resources may be encountered during ground-disturbing activities associated with project construction. Construction activities could potentially uncover and disturb paleontological resources beneath the surface. This impact would be less than significant with mitigation incorporated

Mitigation Measure GEO-1: Paleontological Resources Studies. Because the project sites are underlain by geologic units assigned a high paleontological sensitivity, paleontological resources may be encountered during ground-disturbing activities associated with project construction (e.g., grading, excavation, or other ground disturbing construction activity).

1. **Qualified Paleontologist.** The project applicant shall retain a Qualified Paleontologist to implement the following measures prior to excavations that have potential to impact paleontological resources. The Qualified Paleontologist shall direct all mitigation measures related to paleontological resources. A qualified professional paleontologist is defined by the SVP standards as an individual preferably with an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, and who has worked as a paleontological mitigation project supervisor for a least two years (SVP 2010).
 - a. The qualified professional paleontologist shall design a Paleontological Resources Mitigation and Monitoring Program (PRMMP) for submission to the City prior to the issuance of grading permits. The Plan will outline the procedures and protocol for conducting paleontological monitoring and mitigation. Monitoring shall be conducted by a qualified paleontological monitor who meets the minimum qualifications per standards set forth by the SVP. The PRMMP shall address the following procedures and protocols:
 - Timing and duration of monitoring
 - Procedures for work stoppage and fossil collection
 - The type and extent of data that should be collected with any recovered fossils
 - Identify an appropriate curatorial institution
 - Identify the minimum qualifications for qualified paleontologists and paleontological monitors
 - Identify the conditions under which modifications to the monitoring schedule can be implemented
 - Details to be included in the final monitoring report.
 - Prior to issuance of a grading permit, copies of the PRMMP shall be submitted for review to the Department of Planning and Development at the City of Berkeley.
 2. **Paleontological Worker Environmental Awareness Program (WEAP).** Prior to any ground disturbance, the applicant shall incorporate information on paleontological resources into the Project's Worker Environmental Awareness Training (WEAP) materials, or a stand-alone Paleontological Resources WEAP shall be submitted to the Department of Planning and Development at the City of Berkeley. The Qualified Paleontologist or his or her designee shall conduct training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The Paleontological WEAP training shall be fulfilled simultaneously with the overall WEAP training, or at the first preconstruction meeting at which a Qualified Paleontologist attends prior to ground disturbance. Printed literature (handouts) shall accompany the initial training. Following the initial WEAP training, all new workers and contractors must be trained prior to conducting ground disturbance work.
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3. **Paleontological Monitoring.** Paleontological monitoring shall be conducted during any ground disturbing construction activities (i.e., grading, trenching, foundation work) in previously undisturbed (i.e., intact) Pleistocene alluvial fan and fluvial deposits (Qpaf), as well as ground disturbance exceeding depths of five feet within project areas mapped as Quaternary young (late to middle Holocene) alluvial and fluvial deposits (Qhaf)). Paleontological monitoring shall be conducted by a qualified paleontological monitor, who is defined as an individual who has experience with collection and salvage of paleontological resources and meets the minimum standards of the SVP (2010) for a Paleontological Resources Monitor. The duration and timing of the monitoring will be determined by the Qualified Paleontologist and the location and extent of proposed ground disturbance. If the Qualified Paleontologist determines that full-time monitoring is no longer warranted, based on the specific geologic conditions at the surface or at depth, he/she may recommend that monitoring be reduced to periodic spot-checking or cease entirely. Paleontological monitoring is not required for ground-disturbing activities that impact previously disturbed sediments (e.g., artificial fill) only.
4. **Fossil Discoveries.** In the event of a fossil discovery by the paleontological monitor or construction personnel, all work in the immediate vicinity of the find shall cease. A Qualified Paleontologist shall evaluate the find before restarting construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant, the Qualified Paleontologist shall complete the following conditions to mitigate impacts to significant fossil resources:
 - a. **Salvage of Fossils.** If fossils are discovered, all work in the immediate vicinity shall be halted to allow the paleontological monitor, and/or lead paleontologist to evaluate the discovery and determine if the fossil may be considered significant. If the fossils are determined to be potentially significant, the qualified paleontologist (or paleontological monitor) shall recover them following standard field procedures for collecting paleontological as outlined in the PRMMP prepared for the project. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case the paleontologist shall have the authority to temporarily direct, divert or halt construction activity to ensure that the fossil(s) can be removed in a safe and timely manner. If fossils are discovered, the Qualified Paleontologist (or Paleontological Monitor) shall recover them as specified in the project's PRMMP.
 - b. **Preparation and Curation of Recovered Fossils.** Once salvaged, significant fossils shall be identified to the lowest possible taxonomic level, prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection (such as the UCMP), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the Qualified Paleontologist.

5. Final Paleontological Mitigation Report. Upon completion of ground disturbing activity (and curation of fossils if necessary) the Qualified Paleontologist shall prepare a final mitigation and monitoring report outlining the results of the mitigation and monitoring program. The report should include discussion of the location, duration and methods of the monitoring, stratigraphic sections, any recovered fossils, and the scientific significance of those fossils, and where fossils were curated. The report shall be submitted to the Department of Planning and Development at the City of Berkeley. If the monitoring efforts produced fossils, then a copy of the report shall also be submitted to the designated museum repository.

Finding: The City finds that the foregoing mitigation measure has been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Implementation of Mitigation Measure GEO-1 require appropriate procedures to reduce potential impacts to paleontological resources during ground-disturbing activities in highly sensitive geological formations; as such, impacts to paleontological resources would be reduced to less-than significant levels. GEO-1 establishes procedures to be followed in the event that a unique paleontological resource is discovered, and the ongoing implementation of GEO-1 would not create additional impacts to paleontological resources.

3.5 Greenhouse Gas Emissions

Impact GHG-1: Construction and operation of future development under the proposed project would generate temporary and long-term increases in GHG emissions. However, with mitigation, the project's year 2030 emissions would not exceed the locally-applicable, project-specific 2030 efficiency threshold of 1.1 MT of CO₂e per person per year. This impact would be less than significant with mitigation.

Mitigation Measure GHG-1: GHG Reduction Program. Applicants for future development allowed under the proposed project shall prepare and implement a Greenhouse Gas Reduction Program (GGRP) that includes on-site GHG reduction measures to reduce the project's total remaining GHG emissions to 1.1 MT of CO₂e per service person per year or less (a total of approximately 1,355 MT of CO₂e per year). Potential options include, but would not be limited to:

- Supply 100 percent of electricity from renewable energy resources. Current options include opting into EBCE's Renewable 100, PG&E's Solar Choice, or PG&E's Regional Renewable Choice.
- Install additional electric vehicle charging stations beyond those required under BMC Chapter 19.37 within proposed parking areas.
- Implement a transportation demand program that includes measures beyond those required by the City of Berkeley Transportation Demand Management (TDM) requirements. Program measures may include priority parking spaces for carpools, electric rideshare vehicles for residents and employees, and a bicycle sharing program.
- Prohibit installation of natural gas fireplaces.
- Use electric-powered construction equipment.
- Use electric-powered landscape equipment.

Finding: The City finds that the foregoing mitigation measure has been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Implementation of Mitigation Measure GHG-1 could feasibly reduce GHG emissions by at least 1,369 MT of CO₂e per year to 1.1 MT of CO₂e per service person per year through use of renewable electricity. Given the reduction achieved by quantifiable on-site GHG emissions reduction measures with implementation of Mitigation Measure GHG-1, project emissions would equal but not exceed the 2030 threshold of 1.1 MT of CO₂e per service person.

3.6 Hazards and Hazardous Materials

Impact HAZ-3: There is one listed hazardous materials site located on or potentially adjacent to the North Berkeley BART station site. In addition, there are unknown former commercial and industrial uses within the North Berkeley BART station site and Ashby BART station site that may have included the use and storage of hazardous materials, including a gasoline service station. Therefore, hazardous materials in subsurface soils may be encountered during grading (construction) and construction workers or nearby residents could be exposed to contaminated soil resulting from development of a contaminated property. This impact would be less than significant with mitigation.

Mitigation Measure HAZ-1: Property Assessment – Phase I and II ESAs. Prior to issuance of a grading permit, the project applicant will retain a qualified environmental professional (EP), as defined by ASTM E-1527 to prepare a project specific Phase I ESA in accordance with standard ASTM methodologies, to assess the land use history of the property that will be developed.

The determination of specific areas that require a Phase II ESA (i.e., soil, groundwater, soil vapor subsurface investigations) will be evaluated by the project applicant after the site-specific Phase I ESAs have been completed. The Phase II ESA will be completed prior to construction and will be based on the results of the Phase I ESA. Specifically, if the Phase I ESAs identify recognized environmental conditions or potential concern areas, the project applicant will retain a qualified environmental consultant, California Professional Geologist (PG) or California Professional Engineer (PE), to prepare a Phase II ESA of the project site that will be developed, to determine whether the soil, groundwater, and/or soil vapor has been impacted at concentrations exceeding regulatory screening levels for commercial/industrial land uses.

As part of the Phase II ESA, the qualified environmental consultant will screen the analytical results against the San Francisco Regional Water Quality Control Board environmental screening levels (ESL). These ESLs are risk-based screening levels for direct exposure of a construction worker under various depth and land use scenarios. The lead agency will review and approve the Phase I ESA prior to demolition and grading (construction).

If the Phase II ESA for the development site indicates that contaminants are detected in the subsurface at the project site, the project applicant will take appropriate steps to protect site workers and the public. This may include the preparation of a Soil Management Plan for Impacted Soils (see Mitigation Measure HAZ-2) prior to project construction.

If the Phase II ESA for the contaminant site indicates that contaminants are present at concentrations exceeding hazardous waste screening thresholds for contaminants in soil and/or groundwater (California Code of Regulations [CCR] Title 22, Section 66261.24 Characteristics of Toxicity), the project applicant will take appropriate steps to protect site workers and the public. This may include the completion of remediation (see Mitigation Measure HAZ-3) at the project site prior to onsite construction.

Mitigation Measure HAZ-2: Soil Management Plan for Impacted Soils. If impacted soils or other impacted wastes are present at the project site, the project applicant will retain a qualified environmental consultant (PG or PE), to prepare a Soil Management Plan (SMP) prior to construction. The SMP, or equivalent document, will be prepared to address onsite handling and management of impacted soils or other impacted wastes, and reduce hazards to construction workers and offsite receptors during construction. The plan must establish remedial measures and/or soil management practices to ensure construction worker safety, the health of future workers and visitors, and the off-site migration of contaminants from the site. These measures and practices may include, but are not limited to:

- Stockpile management including stormwater pollution prevention and the installation of BMPs
- Proper disposal procedures of contaminated materials
- Monitoring and reporting
- A health and safety plan for contractors working at the site that addresses the safety and health hazards of each phase of site construction activities with the requirements and procedures for employee protection
- The health and safety plan will also outline proper soil handling procedures and health and safety requirements to minimize worker and public exposure to hazardous materials during construction.

The City of Berkeley will review and approve the development site Soil Management Plan for Impacted Soils prior to issuance of a grading permit.

Mitigation Measure HAZ-3: Remediation. If soil present within the construction envelope at the development site contains chemicals at concentrations exceeding hazardous waste screening thresholds for contaminants in soil (California Code of Regulations [CCR] Title 22, Section 66261.24), the project applicant will retain a qualified environmental consultant (PG or PE), to conduct additional analytical testing and recommend soil disposal recommendations, or consider other remedial engineering controls, as necessary.

The qualified environmental consultant will utilize the development site analytical results for waste characterization purposes prior to offsite transportation or disposal of potentially impacted soils or other impacted wastes. The qualified environmental consultant will provide disposal recommendations and arrange for proper disposal of the waste soils or other impacted wastes (as necessary), and/or provide recommendations for remedial engineering controls, if appropriate.

The project applicant will review and approve the disposal recommendations prior to transportation of waste soils offsite, and review and approve remedial engineering controls, prior to construction.

Remediation of impacted soils and/or implementation of remedial engineering controls may require additional delineation of impacts; additional analytical testing per landfill or recycling facility requirements; soil excavation; and offsite disposal or recycling.

The City of Berkeley will review and approve the development site disposal recommendations prior to transportation of waste soils offsite and review and approve remedial engineering controls, prior to issuance of a grading permit.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Implementation of mitigation measure HAZ-1 would require completion of a Phase I Environmental Site Assessment (ESA) to investigate the former site uses, and, possibly, the completion of a Phase II ESA to physically investigate the subsurface for potential impacts. Where potential impacts are identified in the Phase II ESA, implementation of mitigation measure HAZ-2 will address the onsite handling and management of impacted soils or other impacted wastes and will reduce hazards to construction workers and offsite receptors during construction. Where remediation of onsite soils or other impacted wastes is necessary, implementation of mitigation measure HAZ-3 would address the offsite removal and proper disposal of impacted soils or other impacted wastes.

Implementation of mitigation measures HAZ-1, HAZ-2, and HAZ-3 would identify, manage onsite, and/or remove hazardous material impacted soils prior to construction (demolition and grading) and would reduce construction workers exposure to hazards resulting from development of a potential hazardous materials site to a less than significant level.

3.7 Noise

Impact N-2: The proposed project would facilitate new development that would introduce additional operational noise sources on the project sites. With implementation of mitigation to reduce noise from on-site mechanical equipment and trash hauling activity, operational noise would not exceed applicable standards. Operational noise impacts would be less than significant with mitigation.

Mitigation Measure N-2: HVAC Noise Reduction Measures. Prior to the issuance of building permits, applicants for development projects on the project sites shall retain a qualified acoustical consultant to review the type, location, and design of heating, ventilation, and cooling (HVAC) equipment. The acoustical consultant shall determine specific noise reduction measures as necessary to comply with the City's daytime and nighttime exterior noise standards in Section 13.40.050 of the Berkeley Municipal

Code at properties in the R-1, R-2, and C-SA zones. Noise reduction measures could include, but are not limited to, selecting HVAC equipment that emits low noise levels, locating HVAC equipment as far from off-site sensitive receptors as possible, and installing equipment enclosures. The City's Planning and Development Department shall review the type, location, and design of HVAC equipment in site plans to verify that the project has incorporated recommended noise reduction measures.

Mitigation Measure N-3: Trash Hauling Noise Reduction Measures. Prior to the issuance of building permits, applicants for development projects on the project sites shall retain a qualified acoustical consultant to review the location and design of proposed loading areas. The acoustical consultant shall recommend measures as necessary to ensure that trash hauling noise at loading areas does not exceed the City's exterior noise standards in Section 13.40.050 of the Berkeley Municipal Code at neighboring properties. This includes compliance with noise standards that may not be exceeded for any period of time and for more than one minute in a given hour. Noise reduction measures could include, but are not limited to, locating loading areas as far as possible from off-site sensitive receptors, shielding loading areas to block the line of sight to sensitive receptors, and installing a damping treatment on dumpsters. The City's Planning and Development Department shall review the layout and design of loading areas in site plans to verify that the project has incorporated recommended noise reduction measures.

Finding: The City finds that the foregoing mitigation measures have been incorporated into the project to avoid or substantially lessen the significant environmental effect identified in the Final EIR to a less-than-significant level.

Facts in Support of Finding: Implementation of Mitigation Measure N-2 would reduce the exposure of sensitive receptors to HVAC noise. For example, placing HVAC equipment within an enclosure would result in a sound transmission loss of at least 9 dBA, with the amount of noise reduction depending on the enclosure material selected and the frequency of noise. With this amount of noise reduction, HVAC noise would be an estimated 44 dBA L_{eq} at residences near the Ashby BART station site and 40 dBA L_{eq} at residences near the North Berkeley BART station site. These noise levels would not exceed the City's exterior noise standard of 45 dBA in residential zones.

Implementation of Mitigation Measure N-3 would ensure that trash hauling noise does not exceed the City's exterior noise standards at sensitive receptors. Noise reduction measures that may be required by Mitigation Measure N-3 include locating loading areas as far as possible from sensitive receptors, shielding loading areas, and installing damping material on dumpsters. Shielding would block the line of sight to sensitive receptors, reducing noise exposure by at least 5 dBA. Damping materials can reduce noise from emptying dumpsters by 4 to 5 dBA (DSA Engineers 2003). In combination, these measures could reduce exposure to trash hauling noise to below the City's exterior noise standards. As discussed above, the estimated increase in traffic noise also would not exceed the FTA's criteria. Therefore, with implementation of mitigation measures N-2 and N-3, operational noise from development allowed by the proposed project would have a less than significant impact.

SECTION 4: EFFECTS DETERMINED TO BE LESS THAN SIGNIFICANT OR NOT SIGNIFICANT

The City finds that, based upon substantial evidence in the record, as discussed below, the following impacts associated with the project are not significant or are less than significant. The Draft EIR provides a detailed analysis of the less-than-significant impacts of the proposed project for all issue areas.

4.1 Aesthetics

Senate Bill (SB) 743 was signed into law on September 27, 2013. According to SB 743, which became effective January 1, 2014, “aesthetics...impacts of a residential, mixed-use, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment.” Pursuant to Section 21099 of the California Public Resources Code, a “transit priority area” is defined in as an area within 0.5 mile of an existing or planned major transit stop. A “major transit stop” is defined in Section 21064.3 of the California Public Resources Code as a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

The proposed rezoning provides a vision and planning framework for future growth and development in on the project sites that includes infill residential projects. The project sites are within a transit priority area and as such meet the criteria of SB 743. The Ashby BART station site and North Berkeley BART station site are rail transit stations and are served by multiple bus lines connecting the stations to the community, and the ancillary parking lots encompassed in the project sites are within 0.5 miles of the nearest BART stations.

Because implementation of the proposed rezoning would result in residential, mixed-use, and employment center projects on infill sites within a transit priority area, aesthetics impacts may not be considered significant impacts on the environment.

Pursuant to CEQA Statute §21099.d, “aesthetic impacts do not include impacts on historical or cultural resources.” Additional analysis of impacts related to historic or cultural resources is warranted in the EIR. This analysis is included in Section 4.2, Cultural Resources, of this EIR. In addition, Section 4.7, Land Use and Planning, includes a discussion of the proposed rezoning’s consistency with City plans and goals, including applicable ones related to design and aesthetics.

4.2 Agricultural and Forest Resources

There are no agricultural lands on or adjacent to the project sites. None of the properties on or adjacent to the project sites are under a Williamson Act contract. Also, no properties on or adjacent to the project sites are zoned for timberland or contain forest land or significant stands of trees (City of Berkeley 2001a). Therefore, there would be no impacts with respect to agricultural lands, Williamson Act contracts, timberland, or forest resources.

4.3 Air Quality

Impact AQ-1. The proposed project would be consistent with BAAQMD’s 2017 Clean Air Plan because it would not result in significant and unavoidable criteria pollutant emissions, would support the primary goals of the 2017 Plan, and would include applicable 2017 Plan control strategies. This impact would be less than significant.

Impact AQ-3. Development would be consistent with the applicable control measures of the 2017 Clean Air Plan and would not result in a VMT increase that would be proportionally greater than its anticipated population increase. Therefore, this impact would be less than significant.

Impact AQ-4. The proposed project would not expose sensitive receptors to substantial concentrations of carbon monoxide (CO). In addition, construction activities allowed under the project would occur over a limited period, and new residential units would be required to include filters that would minimize potential exposure to substantial toxic air contaminant (TAC) emissions. Therefore, this impact would be less than significant.

Impact AQ-5. The proposed project would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people. No impact would occur.

4.4 Biological Resources

Impact BIO-2. Implementation of the proposed project would not result in impacts to riparian habitat or other sensitive habitats. No impact would occur.

Impact BIO-3. Implementation of the proposed project would not result in impacts to federally protected wetlands. No impact would occur.

Impact BIO-4. Implementation of the proposed project would not impact the movement of native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors. No Impact would occur.

Impact BIO-5. Implementation of the proposed project would not conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. No impact would occur.

Impact BIO-6. Implementation of the proposed project would not conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan. No impact would occur.

4.5 Cultural Resources

Impact CR-2. Known individual historical resources, including three historic districts eligible for inclusion in the NRHP, have been identified adjacent to or in proximity to the Ashby BART station project site. Development of the project site would introduce new visual elements that would alter the settings of known historical resources. However, impacts would be less than significant.

Impact CR-3. The North Berkeley and Ashby BART station sites do not contain known archaeological resources. Nonetheless, development facilitated by the proposed project has the potential to impact unrecorded archaeological resources. However, with compliance with City of Berkeley standard conditions of approval, impacts would be less than significant.

Impact CR-4. Ground-disturbing activities associated with development under the proposed project could result in damage to or destruction of human burials. However, adherence to existing regulations regarding the discovery of human remains and to City of Berkeley standard conditions of approval would reduce potential impacts to a less than significant level.

Impact CR-5. Project site preparation and construction associated with development and right-of-way improvements under the proposed project could adversely impact tribal cultural resources (TCR). However, with compliance with City of Berkeley standard conditions of approval, impacts would be less than significant.

4.6 Geology and Soils

Impact GEO-1. The project area is near the Hayward Fault Zone and other faults. Therefore, the project area is subject to seismically-induced ground shaking and other seismic hazards, including liquefaction, which could damage structures in the project area and result in loss of property and risk to human health and safety.

However, incorporation of State-mandated building standards and compliance with General Plan policies would ensure impacts would be less than significant.

Impact GEO-2. With adherence to applicable laws and regulations, the proposed project would not result in substantial soil erosion or the loss of topsoil. Therefore, impacts would be less than significant.

Impact GEO-3. The project area is located on expansive soils. Proper soil engineering practices would be required to ensure that soil conditions would not result in significant adverse impacts. With required implementation of standard engineering practices, impacts associated with unstable or expansive soils would be less than significant.

Impact GEO-4. The proposed project would not include septic tanks or alternative wastewater disposal systems. No impact would occur.

4.7 Energy

Impact E-1. Project construction and operation would require temporary and long-term consumption of energy resources. However, the project would not result in the wasteful, inefficient, or unnecessary consumption of energy resources. This impact would be less than significant.

Impact E-2. The project would be consistent with the energy efficiency and renewable energy policies of the City's Climate Action Plan (CAP) and General Plan. This impact would be less than significant.

4.8 Greenhouse Gas Emissions

Impact GHG-2. The proposed project would be consistent with the goals of Plan Bay Area 2040 and the City's CAP. Therefore, the project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions. This impact would be less than significant.

4.9 Hazards and Hazardous Materials

Impact HAZ-1. Implementation of the proposed project would include development of residential or commercial land uses that could involve the use, storage, disposal, or transportation of hazardous materials. Upset or accident conditions on the project sites could involve the release of hazardous materials into the environment. However, required adherence to existing regulations and the nature of the proposed land uses would ensure that impacts would be less than significant.

Impact HAZ-2. Implementation of the proposed project would not involve facilities that would produce or emit hazardous materials near schools. This impact would be less than significant.

Impact HAZ-4. The project sites are not located in an airport land use plan or in the vicinity of a private airstrip. Impacts related to airports would not occur.

Impact HAZ-5. Implementation of the proposed project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. This impact would be less than significant.

4.10 Hydrology and Water Quality

Impact HYD-1. Future development under the proposed project would involve ground-disturbing activities and the use of heavy machinery that could release materials, including sediments and fuels, which could adversely affect water quality. In addition, operation of potential future development could result in discharges to storm drains that could be contaminated and affect downstream waters. However, compliance with required permits

and existing regulations, and implementation of Best Management Practices contained therein, would ensure that potential water quality impacts would be less than significant.

Impact HYD-2. Construction of future development facilitated by the proposed project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table. Further, implementation of low impact development measures and on-site infiltration required under the C.3 provisions of the MRP, compliance with General Plan goals and policies, and compliance with the Berkeley Municipal Code would increase the potential for groundwater recharge. Impacts would be less than significant

Impact HYD-3. Future development facilitated by the proposed project would not substantially alter the existing drainage pattern of the project sites, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site or substantially increase the rate or amount of surface runoff in a manner which would result in flooding or exceed the capacity of stormwater drainage systems. Impacts related to drainage patterns would be less than significant.

Impact HYD-4. Development facilitated by the proposed project would not impede or redirect flood flows or expose people or structures to other flood hazards such as tsunamis or seiches. Impacts would be less than significant.

4.11 Land Use and Planning

Impact LU-1. Implementation of the proposed project would not result in the physical division of an established community. This impact would be less than significant.

Impact LU-2. The proposed project would implement and be consistent with the goals and policies of applicable land use plans and policies adopted for the purpose of avoiding or mitigating an environmental effect. This impact would be less than significant.

Impact LU-3. The proposed project would not conflict with an applicable habitat conservation plan or natural community conservation plan. There would be no impact.

4.12 Mineral Resources

The project sites are not designated as a significant mineral resources zone and mineral resource extraction in this area would be generally incompatible with existing and planned uses (City of Berkeley 2001c). As such, no mineral resource impacts would occur.

4.13 Noise

Impact N-4: The station sites are located outside of noise contours associated with airports. Therefore, new development facilitated by the proposed project would not be exposed to excessive noise levels from aircraft operations, and no impact would occur.

4.14 Population and Housing

Impact PH-1: Implementation of the proposed project could allow up to an additional approximately 5,424 residents and 465 jobs. This population growth would not exceed planned growth in Berkeley and would occur in a designated transit-rich, Priority Development Area. Therefore, this impact would be less than significant.

Impact PH-2: There is no existing housing within either of the project sites. Implementation of the proposed project would not displace existing housing units or people and would increase the city's housing stock. No impact would occur.

4.15 Public Services and Recreation

Impact PS-1: Future development under the proposed project would introduce new residential and non-residential uses on the project sites, contributing to the potential future need for a new fire station in Berkeley. If the Fire Department proposes a new station and identifies an appropriate site, the City will conduct a separate evaluation of the station's environmental impacts under CEQA. A potential future facility would likely be infill development and is unlikely to cause additional significant environmental impacts. Therefore, the proposed project would have a less than significant impact related to fire protection facilities.

Impact PS-2: Implementation of the proposed project would facilitate development of new residential and non-residential uses to the project sites, generating additional need for the City of Berkeley Police Department's protection services. If the Police Department proposes a new station serving either of the project sites and identifies an appropriate site, the City will conduct a separate evaluation of the station's environmental impacts under CEQA. Therefore, the proposed project would have a less than significant impact related to police protection services.

Impact PS-3: Implementation of the proposed project would generate an estimated 230 students to each project site and a total of 460 overall. However, with payment of state-mandated school impact fees, impacts related to public school operating capacity would be less than significant.

Impact PS-4: Implementation of the proposed project would add an estimated combined 2,400 residential units and an estimated 5,424 residents to the project sites, which would increase use of parks. However, the project sites are served by existing and future proposed parks and recreational facilities and would not require the construction or expansion of such facilities. Therefore, impacts would be less than significant.

4.16 Transportation and Traffic

Impact T-1: The proposed project would not conflict with an applicable plan, ordinance, or policy. This impact would be less than significant.

Impact T-2: The proposed project would not exceed an applicable VMT threshold of significance. This impact would be less than significant.

Impact T-3: The proposed project would not substantially increase hazards due to a design feature or incompatible use. This impact would be less than significant.

Impact T-4: The proposed project would not result in inadequate emergency access. This impact would be less than significant.

Impact T-5: The proposed project, in combination with past, present, and reasonably foreseeable projects, would not result in a significant cumulative impact. Impacts would be less than significant.

4.17 Utilities and Service Systems

Impact UTL-1: New development facilitated by the proposed project would include new sources of wastewater, which would flow through the existing pipe network and to EBMUD's main wastewater treatment plant (MWWTP). The wastewater treatment plant has adequate capacity to serve development under the proposed project. Local conveyance infrastructure would be upgraded as necessary during implementation of the proposed project, in already developed utility corridors. Impacts related to wastewater infrastructure would be less than significant.

Impact UTL-2: Development facilitated by the proposed rezoning would increase water demand. Existing and projected water supply would be adequate to serve the project sites demands, with demand management measures required by EBMUD. Impacts related to water supplies would be less than significant.

Impact UTL-3: Implementation of the proposed rezoning would generate an increase of approximately 5.3 tons of solid waste per day, or 10.6 cubic yards per day. Because landfills that serve the City of Berkeley have adequate capacity to serve development facilitated by the proposed project, impacts related to solid waste facilities would be less than significant.

4.18 Wildfire

The project sites are not located in or near a Very High Fire Hazard Safety Zone, as both are approximately 1.2 miles away from the nearest such zone, which is in the eastern margins of the city in the Berkeley Hills. Therefore, the project would not impair an adopted emergency response or evacuation plan related to wildfire; exacerbate wildfire risks; or expose people to post-fire risks related to runoff, flooding, or landslides. No impact would occur.

SECTION 5: FEASIBILITY OF PROJECT ALTERNATIVES

5.1 Project Alternatives

The Final EIR included three alternatives: the No Project alternative, the BART Rider Alternative, and the Increased Height Alternative. The City hereby concludes that the Final EIR sets forth a reasonable range of alternatives to the Ashby and North Berkeley BART Station Transit Oriented Development (TOD) Zoning Standards Project that address the significant impacts of the project, so as to foster informed public participation and informed decision making. The City finds that the alternatives identified and described in the Final EIR were considered and further finds them to be infeasible for the specific economic, social, or other considerations set forth below pursuant to Public Resources Code section 21081(c).

5.1.1 Alternative 1 - No Project Alternative. The No Project Alternative (Alternative 1) assumes that the City takes no action to rezone the station sites. By default, both station sites would be effectively rezoned with the development standards included in AB 2923. This alternative assumes the following development standards in AB 2923 would apply to the station sites:

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

Alternative 1 assumes that the AB 2923 development standards are maximums. This alternative would involve the same density, height, and FAR as the proposed project, but would not include the same standards with respect to setbacks and stepbacks; therefore, this project is assumed, for the purpose of analysis, to allow 2,500 units between both sites (1,250 units at each site). With respect to ground-floor commercial space, the No Project Alternative would have a similar buildout to the proposed project (combined total of 125,000 square feet on both sites).

The following parking standards under AB 2923 also would apply to the station sites:

- No minimum vehicle parking space requirement;
- A maximum of 0.5 vehicle parking spaces per residential unit and 1.5 vehicle parking spaces per 1,000 square feet of office space;
- A minimum of one secure bicycle parking space per unit; and
- Shared or unbundled vehicle parking must be permitted.

Findings: Similar to the proposed project, the No Project Alternative would allow for the development of multi-story buildings with residential and commercial uses on the station sites, but it would allow for an estimated additional 50 units on each station site. The footprint of the project sites would remain the same, and generally the amount of site preparation and grading for construction would remain the same. Therefore, impacts caused by the construction and operation of new development would be similar in nature to those of the proposed project but incrementally increased. The No Project Alternative would also meet the project objectives of compliance with AB 2923 and encouraging sustainable transit-oriented development.

The City rejects the No Project alternative because, although it would meet the CEQA project objectives, it would not include the project design and development standards, programmatic priorities, and the open space and alternative transportation elements included in the proposed R-BMU zoning district and the Joint Vision and Priorities document.

5.1.2 Alternative 2 – BART Rider Parking: Alternative 2 includes a dedicated above-ground parking garage for BART riders at each site (160 vehicle parking spaces at Ashby BART station and 300 vehicle parking spaces at North Berkeley BART station). All other policies, standards, and guidelines in the proposed project would remain. Accommodating new parking garages would reduce the site acreage

available for residential buildout, relative to the proposed project, which, for the purpose of analysis, is assumed would result in approximately 400 fewer dwelling units.

Findings: Similar to the proposed project, Alternative 2 would allow for the development of multi-story buildings with residential and commercial uses on the station sites, but it would result in an estimated 400 fewer dwelling units and 460 more vehicle parking spaces. The footprint of the development on the project sites would remain the same, and generally the amount of site preparation and grading for construction would remain the same. This alternative would meet the CEQA-related project objective to comply with AB 2923 by allowing new development consistent with the law's development standards at the station sites. It would also meet the project objective to promote location efficiency and sustainable transportation modes, but to a lesser extent than would 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.

The City rejects the BART Rider Parking alternative because, although it would meet the CEQA project objectives, it would do so to a lesser extent, resulting in fewer residential units and more private vehicle trips.

5.1.3 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 70 percent compared to the proposed project would allow for a corresponding increase in the number of residential units. Buildout under this alternative would include, for the purpose of analysis, 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 allowable commercial use, which would still be an estimated 125,000 square feet. All other development standards included in the proposed project would remain the same. This alternative would meet the CEQA-related 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.

Findings: Similar to the proposed project, Alternative 3 would allow for the development of multi-story buildings with residential and commercial uses on the station sites, but it would result in buildings up to height of 12 stories and as many as 1,200 more residential units. The footprint of the project sites would remain the same, and generally the amount of site preparation and grading for construction would remain the same. This alternative would meet the CEQA-related project objective to comply with AB 2923 by allowing new development consistent with the law's development standards at the station sites. It would also meet the project objective to promote location efficiency and sustainable transportation modes to a greater extent than would the proposed project because it includes more residential units

The City rejects the Increased Height alternative because, although it would meet the CEQA project objectives, it would not include the project design and development standards, programmatic priorities, and the open space and alternative transportation elements included in the proposed R-BMU zoning district and the Joint Vision and Priorities document.

5.2 Environmentally Superior Alternative

Section 15126.6(e)(2) of the CEQA Guidelines requires that an environmentally superior alternative be identified among the selected alternatives.

Among the development options, Alternative 3 is considered the environmentally superior alternative as it would have the most benefits regionally due to the resulting increase in density in proximity to transit which is an effective way to encourage alternative transportation and reduce vehicle use and associated air quality and GHG emissions. Therefore, Alternative 3 is the environmentally superior alternative. However, this alternative would not include the project design and development standards, programmatic priorities, and the open space

and alternative transportation elements included in the proposed R-BMU zoning district and the Joint Vision and Priorities document. Therefore, the City rejects the Increased Height alternative.

SECTION 6: SIGNIFICANT EFFECTS THAT CANNOT BE MITIGATED TO A LESS-THAN-SIGNIFICANT LEVEL

As discussed in the Draft EIR, the proposed project would result in significant unavoidable impacts related to noise and traffic. A number of mitigation measures are presented, but none would reduce these impacts to a less-than-significant level. The City makes findings of overriding consideration for these impacts in Section 7, below.

6.1 Noise

Impact N-1: Future development under the proposed project would temporarily generate high noise levels near the project sites. Although conditions of approval would restrict the hours of construction activity and minimize noise from equipment to the extent feasible, construction noise could still exceed the City's standards at sensitive receptors. Therefore, the impact from a temporary increase in construction noise would be significant and unavoidable.

Mitigation Measure N-1: Foundation Pile Noise and Vibration Reductions Measures. The City shall require the construction contractor at individual future developments on the project sites to implement one of the following measures to minimize noise and vibration from the installation of pile foundations:

- Use of an impact or sonic pile driver shall not occur; or
- Use of drilled piles only with temporary noise barriers and/or blankets with a minimum height of 10 feet shall be constructed along the southern project site boundary. The temporary noise barriers and/or blankets may be constructed of material with a minimum weight of two pounds per square foot with no gaps or perforations. Temporary noise barriers and/or blankets may be constructed of, but not limited to, 5/8-inch plywood, 5/8-inch oriented strand board, and hay bales; or
- If an alternative method for foundation piles is proposed other than drilled piles (e.g., micro piles), the method shall be reviewed by a qualified acoustician to ensure that noise and vibration levels do not exceed the City's noise standards and applicable Caltrans vibration criteria for human annoyance. The analysis shall be performed prior to project approval from the City.

Finding: The City finds impacts related to construction noise have been mitigated to the maximum extent feasible. Despite the implementation of mitigation measures, impacts would remain significant and unavoidable. The City finds that although this impact would be significant and unavoidable, the impact is acceptable when weighed against the overriding social, economic, and other considerations set forth in the Statement of Overriding Considerations (Section 7 of these Findings).

Facts in Support of Finding: During the construction of future development on the project sites, reductions of up to 31 dBA Leq may be necessary to meet the City's standards for construction noise from stationary sources (as low as 50 dBA on weekends and holidays in residential zones). As discussed above, the City's standard conditions of approval for large projects would reduce construction noise levels to the maximum extent feasible. These conditions would include the installation of temporary sound barriers, which are the most effective advanced measure to reduce noise from construction sites adjacent to sensitive receptors. It is estimated that the standard conditions of approval would reduce construction noise levels by at least 5 dBA Leq. In addition, Mitigation Measure N-1 would require alternatives to pile driving such as augur drilling of piles, which would reduce construction noise by 6 to 7 dBA Leq during the building construction phase. These reduction measures would reduce construction noise to the extent feasible. However, construction noise levels from grading activity would still reach an estimated 73 dBA Leq at residences next to the Ashby BART station site, which would exceed the City's standards of 60 dBA on weekdays and 50 dBA on weekends and holidays in residential zones. Furthermore, grading noise would be an estimated 64 dBA Leq at residences next to the North Berkeley BART station site, which would exceed the same standards. Therefore, this impact would be significant and unavoidable.

6.2 Cumulative Impacts

The City finds that the proposed project will result in cumulatively considerable impacts to historic resources.

Cumulative development could occur within or in close proximity to any of the three known historic districts adjacent to the Ashby BART Station. The Adeline Corridor Specific Plan includes a framework for additional residential and commercial development in the corridor near the Ashby BART station that is intended to respect and protect historic resources. However, policies and regulations would not in all cases preclude 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, it is conservatively projected that development of sites in the vicinity, other than the Ashby BART Station, could result in the alteration or loss of some historical built environment resources, with potentially significant cumulative impacts. These effects are not caused by the proposed project, so no mitigation is required.

SECTION 7: STATEMENT OF OVERRIDING CONSIDERATIONS

CEQA requires the decision-making agency to balance the benefits of a project against its significant unavoidable impacts when determining whether to approve a project. If the benefits of the project outweigh its unavoidable adverse environmental effects, those effects may be considered acceptable.⁴ CEQA requires the agency to state in writing the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened. Those reasons must be based on substantial evidence in the Final EIR or elsewhere in the administrative record.⁵ The proposed project would result in significant unavoidable impacts related to construction noise, even after incorporation of all feasible mitigation measures. These significant unavoidable impacts are identified and discussed in Section 6 of these Findings. The City further finds that these significant unavoidable impacts are outweighed by the proposed project's benefits, each of which, independently of the others, constitutes overriding consideration warranting approval of the proposed project. Those benefits, and additional considerations related to this finding, are as follows:

- The proposed project ensures that the City of Berkeley complies with state law, namely AB 2923.
- The proposed project will encourage sustainable transit-oriented development that foster a diverse mix of uses to provide safe and convenient access for all people of all ages, abilities and income levels to meet daily needs: to live, work, play, dine, shop, and socialize with one another other.
- The proposed project will encourage affordable housing, community facilities, and public improvements desired by the community.
- The proposed project will encourage development of a variety of types of housing at a range of income levels.
- The proposed project will encourage development that is contextual and architecturally interesting, with ground-floor space and building frontages that activate public space and provide a sense of place and character.
- The proposed project will improve safety, connectivity, accessibility and access along and across the Ashby and North Berkeley BART stations for all people of all ages, abilities and income levels to meet daily needs: to live, work, play, dine, shop, and socialize with one another other.
- The proposed project will facilitate new parks, plazas and other public spaces for persons of all abilities, age and incomes.
- The proposed project will support Transportation Demand Management and encourage public transit, walking and bicycling as preferred modes of transportation.
- The proposed project will create a sustainable urban environment that incorporates green building features, green infrastructure and ecology, sustainable energy systems, water efficiency and conservation, and sustainable transportation systems.
- The proposed project will put the City in a better position to apply for grants because granting entities often prioritize applications for programs/capital improvements that are included in approved community plans that have undergone CEQA review.

On balance, the City finds that there are specific considerations associated with the proposed project that serve to override and outweigh the proposed project's significant unavoidable effects. Therefore, pursuant to *CEQA Guidelines* Section 15093(b), these adverse effects are considered acceptable.

⁴ *CEQA Guidelines*, 2019. Section 15093(a)

⁵ *CEQA Guidelines*, 2019. Section 15093(b)

Ashby and North Berkeley BART Station Preliminary Planning Community Engagement Process

The City Council and BART Board unanimously adopted a Memorandum of Understanding (MOU) in December 2019 and January 2020, respectively, related to planning for the Ashby and North Berkeley BART station areas. The MOU lays out a process for community engagement, zoning, station access and affordable housing decisions, among other things. In June 2020, the City and BART initiated the preliminary planning stage of the overall planning process for the Ashby and North Berkeley BART stations which will result in new zoning that conforms with AB 2923, a City and BART Joint Vision and Priorities document, and other elements for inclusion in future Request for Qualifications (RFQs) for developer(s).¹

The community engagement process to develop these documents includes meetings with a Council-appointed Community Advisory Group (CAG), community workshops/meetings and meetings with City Commissions and the City Council.² All meeting materials, meeting summaries and additional background information is available online at the City's Ashby and North Berkeley BART Station Planning website: www.cityofberkeley.info/bartplanning.³ An overview of these meetings is provided below.

A. Community Advisory Group (CAG)

Pursuant to the adoption of the Memorandum of Understanding (MOU) in December, 2019, the City Council established a Community Advisory Group (CAG). The 15-member CAG included four representatives from the Planning Commission, Housing Advisory Commission, Transportation Commission and the Commission on Disability, as well as 11 community members from a number of stakeholder groups and communities, including homeowners, renters, all geographic areas of the city on which station area development would have an impact such as immediate, as well as commuter neighborhoods, the Berkeley Flea Market, and faith-based communities. CAG membership has reflected a wide-range of relevant expertise in areas such as city planning, architecture, transit, and environmental sustainability; and incorporating diverse life experiences.

The role of the CAG is to provide input to the Planning Commission on a) the zoning of the Ashby and North Berkeley BART station areas in conformance with AB 2923; b) bridge communication between the Planning Commission's zoning process and other neighborhood groups and the community at large, and; c) to provide input on a Joint Vision and Priorities document (JVP) to be developed by the City and BART.

From June 2020 to December 2021, there were eight CAG meetings, which were open to the public (as shown below in **Table 1**). In addition to CAG meetings, the City also held 11 "office hours" sessions. The office hours sessions were intended to be informal opportunities for CAG members to ask follow-up questions on topics covered during the CAG meetings. Staff from the City, the consultant team and BART were available to answer questions. All office hour sessions were open to the public.

¹ Descriptions of these documents are provided in the accompanying staff report for the September 1, 2021 Planning Commission meeting.

² Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, all public meetings held to-date were conducted exclusively through teleconference and Zoom videoconference.

³ Meeting summaries include copies of all written comments received from the public by the requested deadline.

Table 1: Community Advisory Group Meetings		
Mtg.	Topic(s)	Date
1	Introductions, Project Overview, CAG process, Review of Existing Conditions and Relevant Adopted Laws, Plans, Policies and Development Parameters	June 8, 2020
2	Process Overview, Introduction to AB 2923 and Zoning, Preliminary Site Concepts	August 3, 2020
3a	Financial Feasibility, Affordable Housing, and Building Form	October 14, 2020
3b	Introduction to City-BART Joint Vision and Priorities (JVP)	October 21, 2020
4	Zoning and Development Parameters, Building Form, and Land Uses	December 14, 2020
5	Review of Draft City-BART JVP and Draft Zoning: Affordable Housing, Public and Civic Space, Land Use and Building Form and Draft Zoning	March 22, 2021
6	Review Draft JVP including: BART Station Access and Draft Zoning	April 29, 2021
7	Final Review of Draft Joint Vision and Priorities and Zoning	June 21, 2021
8	CAG Wrap-Up and Next Steps in the Ashby and North Berkeley Transit-Oriented Development Planning Process	December 6, 2021

An overview of the purpose of each CAG meeting is summarized below:

- The purpose of the first CAG meeting was to introduce the members of the CAG to each other and to the public; review the group’s purpose and responsibilities; provide an overview of the process to develop zoning and development parameters for the Ashby and North Berkeley BART station areas; and share preliminary analysis of existing site conditions and relevant laws, and City and BART plans, policies and other development considerations for the two station areas.
- The second CAG meeting included an introduction to Assembly Bill AB2923 and its requirements; a discussion about how the City’s and BART’s plans, policies and other development considerations informed “big-picture” physical design ideas for each site.
- The third pair of CAG meetings focused on providing foundational information about project economics and feasibility and building form, in order to begin a discussion about preliminary drafts statements about affordable housing and public/civic space that would be included in the City-BART Joint Vision and Priorities document. Four informational videos were created for the CAG and general public about current practices and incentives in market rate and affordable housing in order to inform these discussions:
 - Market Rate Housing⁴
 - Affordable Housing⁵
 - Public Value Recapture⁶
 - Building Form and Density⁷

⁴ <https://cityofberkeley.box.com/s/mby2din90o2fn6pha9xohj3bez8mdnda>

⁵ <https://cityofberkeley.box.com/s/askxmccp2t5jxg35i1paceym3ra6ns6>

⁶ <https://cityofberkeley.box.com/s/9g3kfyt0gyq7xd62bzk8inix3y3upmhe>

⁷ https://www.dropbox.com/s/qhgu0gmdnon1rt/20201204_Building%20Form%20and%20Density_Slides-credits.mp4?dl=0

- The fourth CAG meeting focused on a discussion about zoning standards, AB2923 requirements, building form and desired land uses at the two stations sites.
- The purpose of the fifth CAG meeting was to review feedback from CAG members and the public on the four topics of the City-BART Joint Vision and Priority Statements (Affordable Housing, Public and Civic Space, Land Use and Building Form) and to discuss a preliminary draft zoning chapter for the two BART sites.
- The sixth CAG meeting focused on discussing the draft statements for the fifth topic of the City-BART Joint Vision and Priority Statements: Station Access; it was also an opportunity to introduce BART’s grant-funded effort prepare a corridor-level study for the City of Berkeley and the City of El Cerrito the Berkeley-El Cerrito Corridor Access Plan (BECCAP).⁸
- The primary objective of CAG Meeting #7 was to provide share and solicit feedback about revised draft of the City-BART Joint Vision and Priorities and draft zoning.
- At the final CAG meeting, the Mayor thanked CAG members and City and BART staff provided information and solicited feedback about the next steps in planning process that would occur after adoption of new zoning and associated General Plan amendments and the City-BART Joint Vision and Priorities document (e.g. developer selection and beyond).

B. Community Workshops/Meetings

Three community workshops were held to introduce the overall planning process for the Ashby and North Berkeley BART station areas, as well as to solicit feedback on the draft zoning and the City-BART Joint Vision and Priorities document. Topics covered in the Community Workshops paralleled those covered in the CAG meetings. CAG members were encouraged to attend the community workshops. Summaries of the community workshops, including copies of all written comments received were provided to CAG members to inform their work (and available on the City’s BART planning website).

Mtg.	Topic(s)	Date
1	Project Overview, Project Goals/Parameters and Preliminary Concepts	August 31, 2020
2	Draft City-BART Joint Vision and Priorities	February 8, 2021
3	Final Review of Joint Vision and Priorities and Zoning	June 26, 2021

C. Commission and City Council Meetings

In addition to the CAG and community workshops, the following City Council and Commission meetings have occurred to-date regarding draft zoning, General Plan amendments and required environmental review, as well as City funding for affordable housing at the Ashby and North Berkeley BART stations:

⁸ <https://www.bart.gov/about/planning/station-access/berkeley-elcerrito-corridor-plan/faq>

- Scoping Session on the Draft Environmental Impact Report (DEIR) on Zoning and General Plan Amendments for the Ashby and North Berkeley BART Station Areas - Planning Commission - Dec. 2, 2020
- Reserving City Affordable Housing Funds for the Ashby and North Berkeley BART Station Areas
 - Housing Advisory Commission - Feb. 10, 2020, March 4, 2021^{9,10}
 - Measure O Bond Oversight Committee – Feb. 1, 2020, March 1, 2021^{11,12}
 - City Council - April 27, 2021¹³
- Informational Meeting on the Proposed Zoning and General Plan Amendments and City-BART Joint Vision and Priorities for TOD at the Ashby and North Berkeley BART Station Areas and a Public Hearing on the Draft EIR at the Planning Commission (Sep. 1, 2021 and Nov. 3, 2021, respectively).¹⁴

The Planning Commission will hold an additional meeting, a public hearing, to make a recommendation to City Council on the draft zoning and General Plan amendments, City-BART Joint Vision and Priorities, and Final Environmental Impact Report. Subsequently, the City Council will review and consider these documents.¹⁵

⁹ <https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/2021-02-10%20HAC%20PACKET.pdf>

¹⁰ <https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/2021-03-04%20HAC%20agenda%20packet.pdf>

¹¹ https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/2021-02-01_MOBOC%20Agenda%20Packet.pdf

¹² https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/0_2021-03-01_Agenda_Packet%20revised.pdf

¹³ https://www.cityofberkeley.info/Clerk/City_Council/2021/04_Apr/Documents/2021-04-27_Item_31_City_Affordable_Housing_Funds_Ashby_and_North_Berkeley_BART_Station_Areas_and_Future_Housing_Funding_Notices_of_Funding_Availabilit_.aspx

¹⁴ https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-09-01_PC_Item_9_with%20attachments.pdf

¹⁴ https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-11-03%20PC%20Agenda_linked.pdf

¹⁵ Additional public meetings are being held on related efforts such as the Berkeley-El Cerrito Corridor Access Plan process. More information is available at: www.bart.gov/beccap



PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

APRIL 6, 2022

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

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, April 6, 2022, 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: 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. In addition to the proposed zoning and General Plan amendments, there is also a City and BART Joint Vision and Priorities (“JVP”) for Transit-Oriented Development at the Ashby and North Berkeley BART sites that has also been developed with input from a Council-appointed Community Advisory Group and the community-at-large. The purpose of the JVP document is to provide concise, high-level expectations (such as goals and minimum thresholds) for future developers on key topics.

ASHBY AND NORTH BERKELEY BART ZONING & GENERAL PLAN AMENDMENTS

Posted March 18, 2022

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	

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.

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 Fig. 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 Fig. 2).

ASHBY AND NORTH BERKELEY BART ZONING & GENERAL PLAN AMENDMENTS

Posted March 18, 2022

ENVIRONMENTAL REVIEW STATUS: The Final Environmental Impact Report (FEIR) for the Ashby and North Berkeley BART Zoning Standards Project, consisting of the Draft EIR (DEIR) and the Response to Comments document, will be available no later than March 30, 2022 for review on the Ashby and North Berkeley BART Zoning Standards Project webpage: <https://www.cityofberkeley.info/bartplanning>. The public comment period on the adequacy of the DEIR closed on December 1, 2021.

PUBLIC COMMENT & FURTHER INFORMATION

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. Written comments must be directed to:

Zoe Covello
Planning Commission Clerk
Email: zcovello@CityofBerkeley.info

City of Berkeley, Land Use Planning Division
1947 Center Street, 2nd Floor
Berkeley, CA 94704

Correspondence received by **12 noon on March 30, 2022**, 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 **Alisa Shen**, at (510) 981-7409, or ashen@cityofberkeley.info. Past and future agendas are also available on the Internet at: <https://www.cityofberkeley.info/PC/>

ASHBY AND NORTH BERKELEY BART ZONING & GENERAL PLAN AMENDMENTS

Posted March 18, 2022

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.