



Planning Commission

AGENDA

REGULAR MEETING OF THE PLANNING COMMISSION

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Wednesday, September 1, 2021

7:00 PM

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the Planning Commission (PC) will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID19 virus, there will not be a physical meeting location available.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us06web.zoom.us/j/84065714189>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon by rolling over the bottom of the screen.

To join by phone: Dial **1 669 900 6833** and enter Meeting ID: **840 6571 4189**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.

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

See **"MEETING PROCEDURES"** below.

All written materials identified on this agenda are available on the Planning Commission

webpage:https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Planing_Commission_Homepage.aspx

PRELIMINARY MATTERS

1. **Roll Call:** **Wiblin, Brad**, appointed by Councilmember Kesarwani, District 1
Vincent, Jeff, appointed by Councilmember Taplin, District 2

Moore III, John E., appointed by Councilmember Bartlett, District 3
Vacant, Councilmember Harrison, District 4
Beach, Benjamin, appointed by Councilmember Hahn, District 5
Kapla, Robb, Chair, appointed by Councilmember Wengraf, District 6
Twu, Alfred, appointed by Councilmember Robinson, District 7
Hauser, Savlan, Vice Chair, appointed by Councilmember Droste, District 8
Ghosh, Barnali, appointed by Mayor Arreguin

2. **Order of Agenda:** The Commission may rearrange the agenda or place items on the Consent Calendar.
3. **Public Comment:** Comments on subjects not included on the agenda. Speakers may comment on agenda items when the Commission hears those items. (See “Public Testimony Guidelines” below):
4. **Planning Staff Report:** In addition to the items below, additional matters may be reported at the meeting.
5. **Chairperson’s Report:** Report by Planning Commission Chair.
6. **Committee Reports:** Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.
7. **Approval of Minutes:** [Approval of Draft Minutes from the meeting on July 14, 2021.](#)
8. **Future Agenda Items and Other Planning-Related Events:**

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

9. **Discussion:** **Draft Zoning and General Plan Amendments and City-BART Joint Vision and Priorities for the Ashby and North Berkeley BART Station Areas**
Recommendation: Receive information about the draft zoning and General Plan amendments and the City-BART Joint Vision and Priorities (“JVP”), as well as a general status update about planning for the Ashby and North Berkeley BART station areas. Note: The Commission will discuss these documents and the Draft EIR on the draft zoning and General Plan Amendments at a subsequent meeting.
Written Materials: [Attached](#)
Presentation: N/A
-

- 10. Discussion:** **Overview of the Upcoming Housing Element Update and Request to Identify a Member to Participate in the Public Outreach Effort**
Recommendation: *Receive information about the update to the Housing Element of the General Plan, discuss potential community partners to be included on the stakeholder list, and identify a commissioner to participate in public outreach efforts related to the Housing Element Update who will report back to the Planning Commission at future meetings.*
- Written Materials:** [Attached](#)
Presentation: N/A
-

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

Information Items:

- None.

Communications:

- [Walk Bike Berkeley – BART](#)

Late Communications: (Received after the packet deadline):

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

ADJOURNMENT

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

Public Testimony Guidelines:

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

Procedures for Correspondence to the Commissioners:

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

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

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

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

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

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

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

Meeting Access: To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist, at 981-6418 (V) or 981-6347 (TDD), at least three (3) business days before the meeting date.

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

Alene Pearson
Planning Commission Secretary



Planning Commission

1 **DRAFT MINUTES OF THE SPECIAL PLANNING COMMISSION MEETING**
2 **July 14, 2021**

3 The meeting was called to order at 7:04 p.m.

4 **Location:** Virtual meeting via Zoom

5 **1. ROLL CALL:**

6 **Commissioners Present:** Benjamin Beach, Barnali Ghosh, Savlan Hauser, Robb Kapla,
7 Mary Kay Lacey, Chip Moore, Alfred Twu, Jeff Vincent, and Brad Wiblin.

8 **Commissioners Absent:** None.

9 **Staff Present:** Secretary Alene Pearson, Katrina Lapira, Shannon Allen, and Jordan Klein.

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

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

12 **4. PLANNING STAFF REPORT:**

- 13 • City Council Meetings
- 14 ○ June 15 – Council received the Planning Commission Work Plan
- 15 ○ July 13 –
- 16 ▪ PDA and Regional Early Action Planning Grants – *Accepted*
- 17 ▪ Re-Zone Five Adeline Corridor Parcels – *Unanimous Approval*
- 18 ▪ Presentation: General Plan and Annual Progress Report
- 19 ▪ Local ADU Ordinance re-scheduled for *September 28*
- 20 ○ July 27-
- 21 ▪ JSISHL’s Recommendation
- 22

23 **Information Items:**

- 24 • April 28, 2021 Housing Element Update Memo to City Council
- 25

26 **Communications:**

- 27 • None.

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

- 29 • Supplemental Packet One
- 30 • Supplemental Packet Two

- 31 • Supplemental Packet Three

32 **5. CHAIR REPORT:**

- 33 • Introduction of Planning Commissioners

34
35 **6. COMMITTEE REPORT:** Reports by Commission committees or liaisons. In addition to the
36 items below, additional matters may be reported at the meeting.

- 37
38 • None.

39 **7. APPROVAL OF MINUTES:**

40 Motion/Second/Carried (Wiblin/Ghosh) to approve the Planning Commission Meeting Minutes
41 from June 2, 2021

42
43 Ayes: Beach, Ghosh, Hauser, Kapla, Moore, Vincent, and Wiblin. Noes: None. Abstain: Lacey
44 and Twu. Absent: None. (7-0-2-0)

45
46 **8. FUTURE AGENDA ITEMS AND OTHER PLANNING:**

- 47 • Planning Commission
48 ○ September 1 – Public Hearing: BART zoning regulations
49 ○ September 15 – Yom Kippur (no meeting)

50 **AGENDA ITEMS**

51 **9. Action: Elect Planning Commission Vice Chair**

52 Motion/Second/Carried (Ghosh/Vincent) to elect Commissioner Hauser as the Planning
53 Commission Vice Chair.

54
55 Ayes: Beach, Ghosh, Hauser, Kapla, Lacey, Moore, Twu, Vincent, and Wiblin. Noes: None.
56 Abstain: None. Absent: None. (9-0-0-0)

57
58 **Public Comments: 0**

59 **10. Action: Elect Planning Commission Representative to the BART CAG**

60 Motion/Second/Carried (Beach/Lacey) to elect Commissioner Moore as the Planning
61 Commission representative to the BART CAG.

62
63 Ayes: Beach, Kapla, Lacey, Moore, and Twu. Noes: Hauser, Vincent, and Wiblin. Abstain:
64 Ghosh. Absent: None. (5-3-1-0)

65
66 **Public Comments: 8**

67

68 **11. Public Hearing: Workshop Regarding the Proposed Community Benefits Package for**
69 **the Bayer HealthCare LLC Development Agreement (DA)**

70 After the staff and consultant presentation, the Commission and the public provided comment
71 on the Proposed Community Benefits Package for the Bayer HealthCare LLC Development
72 Agreement. The Bayer community benefits proposal allocates funds into three categories:
73 STEM/ career technical education, affordable housing, and community infrastructure
74 investments and resiliency programs.

75 Motion/Second/Carried (Twu/Vincent) to close the public hearing on the Workshop Regarding
76 the Proposed Community Benefits Package for the Bayer HealthCare LLC Development
77 Agreement (DA) at 9:23pm.

78
79 Ayes: Beach, Ghosh, Hauser, Kapla, Lacey, Moore, Twu, Vincent, and Wiblin. Noes: None.
80 Abstain: None. Absent: None. (9-0-0-0)

81

82 **Public Comments: 12**

83 Motion/Second/Carried (Ghosh/Vincent) to adjourn the Planning Commission meeting at
84 9:54pm.

85
86 Ayes: Beach, Ghosh, Hauser, Kapla, Lacey, Moore, Twu, Vincent, and Wiblin. Noes: None.
87 Abstain: None. Absent: None. (9-0-0-0)

88

89 **Members in the public in attendance: 40**

90 **Public Speakers: 20 speakers**

91 **Length of the meeting: 2hr 50 minutes**



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: September 1, 2021

TO: Members of the Planning Commission

FROM: Alisa Shen, Principal Planner

SUBJECT: Draft Zoning and General Plan Amendments and City-BART Joint Vision and Priorities (JVP) for the Ashby and North Berkeley BART Station Areas

SUMMARY

At this meeting, staff will provide an informational presentation on the City-BART Joint Vision and Priorities (“JVP”) document, the draft zoning and General Plan amendments, as well as a general status update about planning for the Ashby and North Berkeley BART station areas (**Attachments 1 and 2**). At a subsequent meeting (date to be confirmed) the Planning Commission will hold a public hearing to solicit comments on the draft City-BART JVP, proposed zoning and General Plan amendments and the Draft Environmental Impact Report (“DEIR”) on the amendments. Staff will bring these comments forward to the City Council for consideration, along with an update to the Memorandum of Understanding (MOU) between the City and BART that addresses the next steps in the overall planning process for the two BART sites.

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 that is consistent with Assembly Bill 2923 and a City-BART JVP document for the Ashby and North Berkeley BART station areas. To date, there have been eight CAG meetings (open to the public), as well as three community-wide meetings. This report provides background on that process and the relevant regulatory framework; a summary of the key elements of these documents, and; it also describes how these documents fit into the overall planning process for the Ashby and North Berkeley BART station areas.

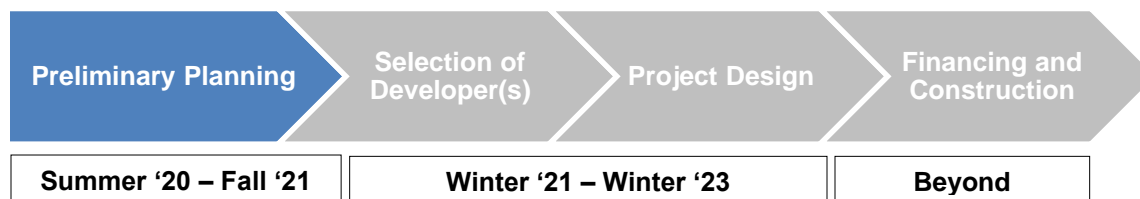
I. BACKGROUND

Spurred by the requirements of Assembly Bill 2923 and the opportunity to achieve mutual objectives of creating housing, including substantial amounts of deed-restricted

affordable housing adjacent to transit and reducing greenhouse gas emissions, the City and BART have embarked on a process to redevelop the Ashby and North Berkeley BART station areas.¹ The City Council and BART Board unanimously adopted a Memorandum of Understanding (MOU) at their December 2019 and January 2020 meetings, respectively. The MOU lays out a process for community engagement, zoning, station access and affordable housing decisions, among other topics.

The development of the Ashby and the North Berkeley BART station sites will be a multi-year, multi-phase process, including ongoing community engagement (**Figure 1**). BART is the property owner and BART’s current policy is to enter into long-term ground-leases with developers. The City and other public agencies (e.g. Alameda County Transportation Commission, Caltrans, AC Transit) have varying degrees of regulatory authority (see Regulatory Framework section of this report below). Additionally, the City also has its own affordable housing funding that it can allocate towards affordable housing for the BART sites and it retains an option to purchase the air rights over the western parcel at the Ashby BART site.

Figure 1. Planning Process for Berkeley Transit-Oriented Development



The results of the preliminary stage to plan for the Ashby and North Berkeley BART sites will include:

- Zoning that is consistent with AB 2923, associated General Plan amendments, and an environmental review document;
- A City - BART Joint Vision and Priorities (JVP) document;
- An updated Memorandum of Understanding (MOU) that outlines the next steps in the planning process in greater detail, based on new information from on-going studies and analysis;
- Request(s) for Qualifications (RFQs) to solicit potential developers.

The role of the Planning Commission is to provide comments on the draft zoning and General Plan amendments, the Draft Environmental Impact Report (DEIR), and the draft City-BART Joint Vision and Priorities document. The City Council will review and consider these documents as well as an updated MOU which will address how the City

¹ See Figures 1 and 2 of the Notice of Preparation (NOP) for maps of the Ashby and North Berkeley BART Station Areas: https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Land_Use_Division/Final%20NOP.pdf

and BART will continue to work together on developer(s) selection and other future phases of planning. Many of the important details of the future BART station projects-- such as project-specific station access and parking management, site and building design, affordable housing unit count, affordability levels and populations served-- cannot be finally determined until after developer(s) have been selected and actual projects have been designed. A summary table of key documents that will guide development at the Ashby and North Berkeley BART sites is provided in **Attachment 3**.

There has been a great deal of community discussion about the future of the Ashby and North Berkeley BART stations, including the six-year planning effort to adopt the Adeline Corridor Specific Plan (adopted by Council in December 2020) and community meetings held by the Mayor Arreguin, Councilmembers Bartlett and Kesarwani and Former Councilmember Maio about the North Berkeley BART station and the North Berkeley BART Development Goals and Objectives (approved by Council in May 2019).² The current planning effort builds upon these past processes, and reflects changed laws and funding sources at the state, federal and regional levels, as well as additional technical analyses available to-date.

There are also parallel efforts that will inform transit-oriented development options at these two BART sites including:

- **Identification of City Funding for Affordable Housing and Infrastructure.** The City Council approved a reservation of \$53 million in City affordable housing funds so that at least 35% of the housing units proposed at each of the stations would be deed-restricted low, very-low and/or extremely low-income affordable housing.³ The Council also referred to the City Manager to explore the potential of a new bond measure for housing and/or infrastructure citywide.
- **The Berkeley - El Cerrito Corridor Access Plan (BECCAP).** The BECCAP is a collaborative effort of BART and the cities of Berkeley and El Cerrito to identify station access strategies for the interrelated stations of El Cerrito Plaza, North Berkeley, Downtown Berkeley, and Ashby BART stations before transit-oriented development occurs on these stations' surface parking lots. The development will change how BART customers in the surrounding communities get to and from the stations. The goal of the BECCAP is to develop strategies that equitably distribute investments in walking, rolling, biking, riding transit, driving, and parking. It will identify ranges and upper limits for BART rider parking at the Ashby and North Berkeley BART station areas.⁴

² An excerpt of the Adeline Corridor Specific Plan focused on the Ashby Station (Policy 3.7) and the North Berkeley BART Development Goals and Objectives are included as Exhibits to the City - BART MOU: available at: https://www.cityofberkeley.info/Clerk/City_Council/2019/12_Dec/Documents/2019-12-10_Item_31_Approval_of_a_Memorandum.aspx

The entire Adeline Corridor Specific Plan may be accessed at the following website: www.cityofberkeley.info/adelinecorridor/

³ For more information about how the City subsidy estimate was derived, see Council Meeting 4/27/21 Item 31, Attachment 2: 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_Availability.aspx

⁴ See www.bart.gov/beccap for more information.

- **The Adeline Corridor Roadway Reconfiguration Feasibility Study.** The study builds on the Adeline Corridor Specific Plan and responds to the City Council Referral to analyze the potential for a redesign of the segment of Adeline Street between Martin Luther King Jr. Way and Ward/Shattuck Street, in order to increase safety for pedestrians, cyclists, and people living with disabilities, while also meeting the needs of public transit and emergency vehicles.⁵ The study will evaluate a “road diet” that reduces the width of Adeline Street in this segment from the current four lanes to two lanes.

II. REGULATORY FRAMEWORK

There is a complex array of City of Berkeley and BART adopted plans, policies and regulations that guide future development at the Ashby and North Berkeley BART station sites. As noted above, BART is the property owner. While the City typically has zoning authority, AB2923 and other State laws limit that zoning authority and constrain the City’s approval process for applications for development (described in more detail below).

These City and BART adopted plans, policies and State laws are summarized below.

A. City of Berkeley Adopted Plans, Policies and Regulations

The City has several adopted plans and policy documents that emphasize the value of creating affordable homes and transit-oriented development, enhancing infrastructure, reducing vehicle miles traveled, and improving safety for pedestrians and bicyclists, including those listed below:

- **Adeline Corridor Specific Plan.** The Plan has a long-range focus with a community-developed vision that calls for preserving existing affordable housing, adding new affordable and market rate housing, providing local economic opportunity, and featuring public spaces that are walkable, bikeable, green, and accessible. The Plan includes a specific goal and objectives for the Ashby BART station area (Policy 3.7) relating to achieving a minimum of 50 percent and striving for 100% affordable housing, public space and community facilities, including for the Berkeley Flea Market, public art, pedestrian and bicycle connections, parking and transportation demand management and community engagement in planning for the area.⁶
- **North Berkeley BART Development Goals and Objectives.** This document provides guidance about the topic areas and process for the North Berkeley BART station area that was approved by Council in May 2019. It addresses priorities regarding: community input, station access, affordability, livability and environmental sustainability.⁷

⁵ See <https://www.cityofberkeley.info/adelineroaddietstudy/> for more information.

⁶ See www.cityofberkeley.info/adelinecorridor for more information.

⁷ See p.23 of PDF for North Berkeley BART Development Goals and Objectives document: https://www.cityofberkeley.info/Clerk/City_Council/2019/12_Dec/Documents/2019-12-10_Item_31_Approval_of_a_Memorandum.aspx

- **Berkeley General Plan.** The General Plan is composed of several documents or “Elements”. In particular, the Land Use Element, the Housing Element (which is currently being updated)⁸, the Transportation Element, the Berkeley Bicycle Plan, and the Pedestrian Master Plan.⁹
- **Berkeley Climate Action Plan.** The Climate Action Plan outlines measures to meet the community’s greenhouse gas reduction target by increasing density along transit corridors through new development of affordable housing, retail, services and employment centers. The Plan also promotes a resilience framework that highlights the steps the City has taken to advance neighborhood equity, adapt to the changing climate and establish community partnerships to further its climate commitments.

B. BART Adopted Plans, Policies and Regulations

BART’s Board of Directors have adopted policies related to how they interpret AB2923 and for development and access at BART stations. These policies are summarized below:

- **Transit-Oriented Development (TOD) Policy and Development Parameters.** BART has a several documents that outline its goals and expectations for transit-oriented development at and around its stations, as well as a 10-year workplan that outlines BART’s approach to development of its property and how BART prioritizes sites for development.¹⁰
- **Affordable Housing Policy.** In 2016, the BART Board adopted an affordable housing policy that established an affordable housing requirement of at least 20 percent of the total proposed housing units on any station property it planned to develop.¹¹ In April 2020, it approved policy amendments to provide greater clarity about the expected financial return to BART from its developments, and allow for a discount of up to 60% from fair market value for its land for projects with affordable housing. Projects with a greater share of affordable housing, and serving households with lower incomes, will be eligible for a higher discount.¹²
- **Station Access Policy and Performance Metrics.** Adopted in 2016, BART’s Station Access Policy includes goals and strategies to support the broader livability goals of the Bay Area, reinforce sustainable communities, and enable riders to get to and from stations safely, comfortably, affordably, and cost-effectively (See also above for more information about the Berkeley - El Cerrito Corridor Access Plan).¹³

⁸ See <https://www.cityofberkeley.info/housingelement/> for more information.

⁹ For more information about the City’s General Plan, see:

https://www.cityofberkeley.info/Planning_and_Development/Home/General_Plan_A_Guide_for_Public_Decision-Making.aspx; for the Berkeley Bicycle Plan, see: <https://www.cityofberkeley.info/berkeleybikeplan/>; for the Berkeley Pedestrian Plan, see: <https://www.cityofberkeley.info/pedestrian/>.

¹⁰ For more information about BART’s TOD policies, see <https://www.bart.gov/about/business/tod>.

¹¹ https://www.bart.gov/sites/default/files/docs/C-%20Affordable%20Housing%20Policy%20Adopted%201-28-16_0.pdf

¹² https://www.bart.gov/sites/default/files/docs/BART%20Financial%20Return%20Framework_2021-03-21v1.pdf

¹³ For more information about BART’s station access policies and performance metrics, see https://www.bart.gov/sites/default/files/docs/BART%20Access%20Policy%20-%20Adopted%202016-06-09%20Final%20Adopted_0.pdf.

- **AB2923 Development Principles.** AB2923 stipulates that zoning and design standards for applicable BART properties cannot hinder height, density, FAR, parking requirements of AB 2923.¹⁴ In August 2020, the BART Board adopted AB2923 Development Principles that state that BART will uphold local design standards if BART property is zoned for highest feasible density, use, and height:

“AB 2923 may, in some cases, diminish the requirement for developers to adhere to certain local design requirements. If a jurisdiction shares BART’s commitment to regional climate, housing, and equity goals - as evidenced by zoning BART property for the highest feasible density, use and height - BART commits to encouraging consistency with that jurisdiction’s objective design standards in its development agreements, to deliver feasible, high quality, context-appropriate design.”¹⁵

C. State Laws Related to Housing and the Development Approval Process

The key State laws related to housing construction and the development approval process that limit what the City can adopt regarding zoning development standards and the development approval process are summarized below.

1. **Assembly Bill 2923 (AB2923)**¹⁶. AB2923 includes specific requirements for zoning standards for the Ashby BART Station and North Berkeley BART Station areas, including for density, FAR, height and vehicle/bike parking, as shown below in **Table 1**.

Table 1: AB2923 Zoning Requirements for Ashby and North Berkeley	
Density	75 units per acre (or higher)
Height	7 stories (or taller)
Floor Area Ratio (FAR)	4.2 (or greater)
Parking for residential development	Vehicles: No minimum, 0.5 spaces/unit maximum Bicycles: A minimum of one bicycle parking space/unit
Parking for office development	No minimum, 1.6 spaces per 1000 sq ft. maximum

Cities and counties have until July 1, 2022 to rezone BART’s property to align with or exceed the AB 2923 baseline zoning standards. Otherwise, BART’s Transit-Oriented Development standards become the baseline zoning standards

¹⁴ PUC Section 29010.7(d)(2).

¹⁵ <https://www.bart.gov/sites/default/files/docs/AB%202923%20Development%20Principles%20-%20Revised%20Draft%20for%20Board%208-26.pdf>

¹⁶ See www.bart.gov/ab2923 for more information.

for BART’s property governed by AB2923. AB2923 also includes requirements relating to the development approval process. AB2923 expressly authorizes the potential for a streamlined approval process, as set forth in Senate Bill 35 (SB35) for a developer that has entered into an exclusive negotiating agreement with BART and meets the following development standards and other requirements:

- the project includes at least 50% residential floor area;
- a minimum of 20% of proposed housing is affordable to low- or very low-income households;¹⁷
- the height is within one story of the tallest approved height within a ½ mile;¹⁸ and
- the construction plan meets required labor standards described in the bill.

Properties zoned R-4 are located within 0.5 miles of both the North Berkeley and Ashby BART stations. R-4 zoning allows a height of up to 65 feet and up to 6 stories, with a use permit. Applying the requirements of section 29010.7(a)(1), the maximum allowable height for a project eligible for ministerial approval is 80 feet and seven stories, and the maximum allowable FAR is 4.2. It is important to note that AB2923 expressly states that “eligible TOD projects” that meet the streamlining criteria outlined in AB2923 for their proposed project are still allowed the streamlined process after the addition of a density bonus.¹⁹ Because it is anticipated that the BART sites will achieve high levels of affordability, as outlined in the Draft JVP, it is likely that the BART sites will be eligible for this streamlined approval process. In light of this, as described below, City and BART staff are working together to put in place a process that embeds meaningful City participation throughout, including the development objective design standards that could be adopted by the City Council before developers submit their applications to the City.

2. **State Density Bonus.** Under the State Density Bonus law, developers are entitled to a “density bonus” of more units corresponding to specified percentages of affordable housing in their projects. This bonus ranges from 35% to 50% more units depending on the percentage of affordable housing provided and the income level that the affordable units serve:
 - A 35% density bonus is available for projects that include 11% very low income below market rate (“BMR”) units, 20% low income BMRs, or 40% moderate income BMRs.
 - A 50% density bonus is available for projects with 15% very low income, 24% low income, or 44% moderate income BMRs.

Because it is anticipated that the BART sites will achieve high levels of affordability, as outlined in the Draft JVP, it is likely that they will be eligible for the State Density Bonus. This means that developers will be eligible for

¹⁷ Pub. Util. Code, § 29010.8(b)(1)(A).

¹⁸ Pub. Util. Code, § 29010.7(a)(1).

¹⁹ Pub. Util. Code, § 29010.7(c).

additional building height over and above the maximum permitted in the zoning in order to achieve the additional density under the Density Bonus law. There may be reasons related to project feasibility why a developer might not use the State Density Bonus, among other reasons.

D. Objective Design Standards

Because of the potential for proposed development at the BART stations to be eligible for the streamlined approval process pursuant to SB35 (if specific requirements stated in AB2923 are met), the City and BART have been working to design a process that includes the development of objective design standards that would apply any proposed project, including one eligible for streamlining. The process to develop and approve the objective design standards would be formalized through the updated Memorandum of Understanding (MOU) between the City and BART. It is anticipated that development of the objective design standards would include participation from the eventual selected developers in order to allow for a more accurate analysis of possible design options. Objective design standards for each station site would build on the Draft JVP and zoning standards and address the following topics:

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

III. COMMUNITY ENGAGEMENT

This preliminary stage of planning included a Community Advisory Group (CAG), community meetings and public meetings of City Commissions and the Council. These meetings are summarized below and described in more detail in **Attachment 4**.

A. Community Advisory Group (CAG) and Community Workshops

Pursuant to adoption of the City-BART Memorandum of Understanding (MOU), the City initiated meetings a Council-appointed Community Advisory Group (CAG) in June 2020 as part of the preliminary stage to develop the Ashby and North Berkeley BART sites.

The role of the 15-member CAG is to: provide input to the Planning Commission on matters directly related to zoning of the Ashby and North Berkeley BART Stations in

conformance with AB 2923 zoning standards; bridge communication between the Planning Commission's zoning process and other neighborhood groups and the community at large; and provide input on a joint vision and priorities document developed by the City and BART.²⁰

From June 2020 to June 2021, the CAG held eight meetings, which were open to the public. In addition to CAG members, participation via teleconference or Zoom video conference ranged from 35 to over 70 attendees. Each CAG meeting included a planning process update, a detailed presentation on a specific topic(s), discussion and questions from the CAG, and public comment. Three community workshops were held on topics that generally paralleled the CAG meetings to share information about the planning process, relevant policy and regulatory framework, site capacity and financial feasibility analyses, as well as to solicit feedback on the evolving drafts of the City-BART JVP and draft zoning. Participation via teleconference or Zoom video conference at the community workshops ranged from 180 – 200 participants at the first two workshops and over 50 participants at the third workshop.

B. Commission and City Council Meetings

In addition to the CAG and community workshops, the City Council and Commissions met and discussed zoning and affordable housing development at the Ashby and North Berkeley BART stations:

- 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^{21,22}
 - Measure O Bond Oversight Committee – Feb. 1, 2020, March 1, 2021^{23,24}
 - City Council - April 27, 2021²⁵

²⁰ For more information on the CAG, see <https://www.jessearrequin.com/bart/cag>.

²¹ <https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/2021-02-10%20HAC%20PACKET.pdf>

²² <https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/2021-03-04%20HAC%20agenda%20packet.pdf>

²³ https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/0_2021-02-01_MOBOC%20Agenda%20Packet.pdf

²⁴ https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/0_2021-03-01_Agenda_Packet%20revised.pdf

²⁵ [https://www.cityofberkeley.info/Clerk/City_Council/2021/04_Apr/Documents/2021-04-](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)

[27_Item_31_City_Affordable_Housing_Funds_Ashby_and_North_Berkeley_BART_Station_Areas_and_Future_Housing_Funding_Notices_of_Funding_Availabilit_.aspx](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)

IV. DRAFT CITY AND BART JOINT VISION AND PRIORITIES

The 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 for the Ashby and North Berkeley BART station areas. 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 areas. As such, it will provide important information to potential developers about the type of expertise, experience and financial resources (available and needed) as they assess whether they are well-suited to apply. The City-BART JVP will help guide the process from developer selection through project construction.

The City-BART JVP builds on the framework provided by the City and BART's adopted plans, policies and regulations, and the additional land use, site planning and financial feasibility studies undertaken as part of this planning process. The draft City-BART JVP is organized around five key topics: Affordable Housing, Public and Civic Space, Land Use, Building Form, and Station Access. Each topic includes an overall vision statement, followed by "shared priorities" for both station areas, and additional priorities specific to one station, if applicable (**Attachment 1**).

Each of the five topic areas is briefly summarized below:

- **Affordable Housing.** The Draft JVP includes a vision statement and 11 shared priorities that apply to both station areas, and three priorities specific to the Ashby BART site. The JVP establishes baseline requirements as well as some aspirational goals for housing development, including the total amount, income levels, 10-year time horizon to deliver units, sequencing of affordable housing units, unit-type, and type of developers desired. This section was informed by financial feasibility analyses that estimated the City subsidy required to achieve varying levels of affordable housing (**Attachment 5**). The Ashby-specific priorities include: the Adeline Corridor Specific Plan goal of striving for 100% housing and development that prioritizes inclusion of residents with disabilities and a preference for those who live or have been displaced from South Berkeley. See Section VI. below for additional issues for discussion.
- **Public and Civic Space.** The Draft JVP includes a vision statement and three shared priorities, five priorities specific to the Ashby BART site and three priorities specific to the North Berkeley site. The shared priorities consist of designing new public and civic space to minimize maintenance costs, supporting new public and civic space and station access goals while maximizing space for affordable housing.
 - For Ashby: Key priorities identified included design and programming for public and civic space to reinforce South Berkeley's role as the historic hub for African American/Black life in the Bay Area; providing a permanent and improved space for the Berkeley Flea Market on a prominent location

- (on Adeline Street and/or the Ashby site); and the specific need to increase parks and usable green spaces.
- For North Berkeley: Creating a connection to the Ohlone Greenway is identified as a priority. Many community members from the surrounding area have stressed the abundance of nearby parks and a desire not to create a “destination” park.
 - **Land Use.** The Draft JVP includes a vision statement and two shared priorities, three priorities specific to the Ashby BART site and four priorities specific to the North Berkeley site.
 - For Ashby: Most comments focused on uses that would support adjacent uses such as the Flea Market, the Ed Roberts Campus and existing theater and other businesses. There was also a strong desire for green space and parks, and a strong desire to carefully plan for and not negatively impact businesses south of the Ashby BART station along Adeline Street.
 - For North Berkeley: Many community members from the surrounding neighborhood emphasized that the uses in future development at North Berkeley should not create new “major destinations” in commercial/retail or public open space, citing the need to support and not compete with nearby University Avenue business, and the abundance of existing parks nearby.
 - **Building Form.** The Draft JVP includes a vision statement and 14 shared priorities, three priorities specific to the Ashby BART site and three priorities specific to the North Berkeley site. The shared priorities aim to provide high-level guidance about overall site and building design such as: building height, location and orientation, scale, architectural variety, ground-floor non-residential frontages. The station-specific priorities provide additional guidance about building massing and their relationship to existing surrounding development. See Section VI. below for additional issues for discussion.
 - **Station Access.** The Draft JVP includes a vision statement and nine shared priorities, plus three priorities specific to the Ashby BART site and three priorities specific to the North Berkeley site. See Section VI. below for additional issues for discussion.
 - For Ashby: Station-specific priorities relate to pedestrian and bicycle connections to and through the site, and to reconfiguring Adeline Street to create safer space for all modes of transportation.
 - For North Berkeley: Station-specific priorities relate to considering the role of adjacent streets in multi-modal access planning for the station and to prioritize any parking for commuters over parking for residential and/or potential community or non-profit retail uses.

V. DRAFT ZONING AND GENERAL PLAN TEXT AND MAP AMENDMENTS

As noted above, zoning for the Ashby and North Berkeley BART station areas must be amended to be consistent with AB2923. The proposed zoning amendments will create a

new Residential - BART Mixed Use (R-BMU) zoning district and amend the Zoning Map to apply the new R-BMU zoning district to the Ashby and North Berkeley BART sites. General Plan amendments are needed to ensure consistency between the Zoning Ordinance and the General Plan.²⁶ The General Plan changes will add a new land use classification (the Ashby/North Berkeley BART Transit Oriented Development) and the General Plan map will be updated to apply a new land use classification to the Ashby and North Berkeley BART sites (**Attachment 2**). The key features of the proposed zoning for these BART sites are summarized below. See Section VI. below for additional issues for discussion.

A. Purpose of the BART Mixed Use Residential District (R-BMU)

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. The draft zoning follows the format of the new “Baseline Zoning Ordinance” that is intended to improve the existing Zoning Ordinance’s organization, format, and writing style.²⁷ The zoning standards governing development and allowed uses for the Ashby and North Berkeley BART stations consists primarily of the new Residential – BART Mixed Use District, Chapter 23.202.150, and the addition of this zoning district to Section 23.202.020 Allowed Uses.

B. Basic Development Standards and Definitions

The R-BMU zoning sets forth regulations for development standards and related definitions (if different from those already included in the Berkeley Municipal Code or because they do not exist).

1. **New Definitions.** Terms that are defined in the proposed zoning include: Lot Area, Floor Area Ratio, Dwelling Units Per Acre, Private Usable Open Space and Public Open Space. New definitions are required because BART will maintain ownership and control over areas of the site that include critical station infrastructure, as well as retain ownership of the rest of the land and enter into long-term ground leases with future developers. This modifies the context of “private” and “public” areas.
2. **Basic Development Standards.** Development standards for Minimum Lot Area, Floor Area Ratio, Building Height, Minimum Residential Density, Parking (Vehicle and Bicycle) and Open Space (Private and Public) are included in Table 23.202.150-2. These standards are consistent with the requirements of AB2923.

²⁶ In addition, applicable references to the Ashby BART site will need to be updated in the C-AC zoning district, the Adeline Corridor Mixed Use General Plan land use classification and policy, and in the Adeline Corridor Specific Plan.

²⁷ The Baseline Zoning Ordinance (BZO) was reviewed by the Planning Commission in December 2020 and will go to the City Council for review and adoption. A draft of the BZO is available online at:

[https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Zoning_Ordinance_Revision_Project_\(ZORP\).aspx](https://www.cityofberkeley.info/Planning_and_Development/Land_Use_Division/Zoning_Ordinance_Revision_Project_(ZORP).aspx)

C. Allowed Uses

Following the format of the Baseline Zoning Ordinance, allowed and prohibited uses are specified in Section 23.202.020 of the Berkeley Municipal Code and also in Table 23.202.150-1, related to Street-Facing Ground Floor Uses:

- The approval process for the initial establishment of a land use in a new building will follow the R-BMU Master Development Permit process outlined in Section 23.202.150D (see description below), and any use not listed in Table 23.202-1 for the R-BMU District can be approved through this process.
- After the initial establishment of a land use, any 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.
- Table 23.202.150-1, and Figure 23.202.150-1 include requirements for active ground-floor uses or residential uses depending on whether a building fronts on a larger arterial street or a smaller, primarily residential street.

D. Other Development Standards

The proposed zoning also includes some limited requirements relating to shaping the volume and massing of future development. Greater detail related to building form is anticipated to be addressed during the process to prepare objective design standards for each station area (described in more detail below). These development standards address the following:

- Street-Facing Ground Floor Frontages
- Open Space
- Setbacks and Step-backs
- Frontage Improvements, Ground Floor Residential and Non-Residential Frontage
- On-Site Pedestrian Access
- Transparency
- Building Entrances
- Parking Design and Access

E. Approval Process

The BART Stations are large sites which will require additional technical analysis and multiple phases to complete. In order to address the long-term implementation of the development at the BART sites, the proposed zoning outlines an approval process governed by a “Master Development Permit” (MDP). The MDP includes two types of approvals/submittals, which are summarized below.

1. **Preliminary Development Plan.** At a minimum, the PDP must demonstrate that the plan meets the development standards set forth in Section 202.23.150C and the other requirements of the R-BMU District, as well as demonstrate compliance with any established Objective Design Standards. It must include maps, drawings and information for the site and surrounding area relating to:
 - Streets, driveways, sidewalks and pedestrian ways, and off-street parking and loading areas;
 - Location and approximate dimensions of structures;
 - Utilization of structures, including land uses 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;
 - Drawings and elevations (establishing the scale, character, and relationship of buildings, streets, and open spaces); and
 - A development phasing plan describing the order in which various portions of the development will be built, along with a proposed schedule for such phases.
2. **Final Development Plan.** The FDP can be for one or more phases identified in the PDP. It needs to demonstrate compliance with the PDP and with any established Objective Design Standards. At a minimum, it must include more detailed information related to:
- Location of utility facilities;
 - Detailed building and landscaping plans and elevations;
 - Character and location of signs;
 - Plans for street improvements; and
 - Grading or earth-moving plans.
3. **Public Review Process.** The public notice and hearing process for a Master Development Permit 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. PDPs and FDPs shall be reviewed by the Zoning Adjustments Board, the decisions of which are appealable to the City Council. As noted above and further discussed below under “Outstanding Issues for Discussion”, the approval process set forth in the proposed zoning would be significantly changed if a developer is eligible for and decides to use the streamlined approach pursuant to SB35, as specified in AB2923.

VI. OUTSTANDING ISSUES FOR DISCUSSION

There has been a robust CAG and community discussion over the past year with many areas of agreement and a few key areas of divergent views related to affordable housing, building form/density and station access/parking. Some areas of disagreement are constrained by AB2923 and others will be further addressed by next steps in the planning process such as the effort to develop objective design standards, information forthcoming from additional studies including the Berkeley-El Cerrito Corridor Access Plan and the Adeline Roadway Reconfiguration Feasibility Study (described above), among others.

Staff has outlined the following outstanding issues for discussion pertaining to the draft zoning and General Plan amendments and the City-BART Joint Vision and Priorities for the Ashby and North Berkeley BART stations:

- **Affordable Housing.** While there was broad consensus among the CAG and community around the idea of maximizing the amount of affordable housing, there were differing views about the total amount or percent of affordable housing at each station. Some felt strongly that both stations should “strive” or “commit” to 100% affordable housing; others expressed that both stations should strive for the greatest possible number of affordable units regardless of percentages and/or the time it took to achieve them, while others expressed that there should be equal amounts or percentages of affordable housing at each station and that a mix of affordable and market rate housing, depending on the availability of funding available to subsidize affordable housing, is acceptable. The Draft JVP establishes a minimum of at least 35% affordable housing at each station area, which can be achieved with the City’s existing reservation of City affordable housing funds; states that it is anticipated that each site could achieve 50% affordable housing “subject to the timely availability of financing”; provides guidance about how any additional funds identified would be allocated between Ashby and North Berkeley; and establishes a goal of “striving” for 100% affordable housing at Ashby (as stated in the Adeline Corridor Specific Plan).

- **Building Form/Development Standards.** The topic of building form and development standards related to both the City-BART JVP and the draft zoning, particularly regarding how development should relate to surrounding existing development and about specific height and density standards in the proposed zoning.
 - Context: Community members expressed varying views regarding what type of development is “contextual” relative to the surrounding existing residential development at North Berkeley. Some community members feel strongly that contextually sensitive development must mirror the development across the street from the North Berkeley BART site. Comments ranged from one, two, to three stories at the adjacent perimeter to up to four to five stories away from the perimeter. Others held that a priority for both BART sites was to maximize the amount of housing that was economically feasible (i.e., higher building heights) and employ design strategies, such as step downs of building height towards the perimeter of the site, that could effectively result in contextually sensitive development.

 - Building Height. The latest draft of the City-BART Joint Vision and Priorities document that is being discussed by the CAG and the community expressly acknowledges that the City and BART supports variation in height (see p. 6): “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.”

AB2923 requires that zoning for the Ashby and North Berkeley BART sites allow buildings to be at least 7 stories tall. The draft zoning sets the maximum building height at 7 stories and 80 feet (with the allowance of an additional 5 feet from roof height to the top of parapet). Some comments have stated that the maximum height should be 8 stories and 85 feet, or to only include a height limit quantified by a maximum number of feet, in order to maximize what can be built under current construction technology. As noted above, it is likely that developers will be eligible for the State Density Bonus, which allows for additional building height over and above the maximum permitted in the zoning in order to achieve the additional density under the Density Bonus law, if specified levels of affordable housing are provided on-site.

- Density. The proposed zoning includes a minimum density of 75 dwelling units per acre. Some community members recommended that the zoning should instead include a *maximum* limit of 75 dwelling units per acre. Others recommended that the zoning should establish a higher maximum density in addition to the minimum density requirement of 75 dwelling units per acre. Development that achieves the minimum height and Floor Area Ratio (FAR) under BART's minimum TOD development standards (7 stories and an FAR of 4.2) would generally exceed a density of 75 dwelling units/acre. The application of BART's TOD development standards combined with 75 du/acre applied as a maximum rather than minimum density would yield very large units (likely 1,600 to 2,000 square feet). It is notable that BART's TOD development standards set the same minimum density for all BART station types, despite significant differences in height and FAR, which indicates to staff that it was not meant as a limiting factor but instead as a rough approximation.²⁸
- Station Access. The Draft JVP includes a vision statement and nine shared priorities, plus three priorities specific to the Ashby BART site and three priorities specific to the North Berkeley site. During the CAG and community discussion on the topic of station access, there was a divergence in views of what amount of parking would be provided for the residents and tenants of the future development, as well as what amount of BART rider parking should be provided as part of the redevelopment of the two BART sites. Some community members felt that the space and available funding for housing should be prioritized over space for parking. Others who live in the surrounding area and the farther commute areas emphasized that higher levels of BART rider parking were needed unless other transit/shuttle options were available, especially at night. Zoning regulations pertain to parking requirements for the mixed-use development. They do not govern BART's decisions about parking for BART riders. BART's grant-funded study for the Berkeley-El Cerrito Corridor Access Plan is expected to set an upper limit for BART rider replacement parking for the

²⁸ See p.16 BART TOD Guidelines, Table for BART TOD Place Types, Parking Maximums and Development Targets: https://www.bart.gov/sites/default/files/docs/BART_TODGuidelinesFinal2017_compressed.pdf

Ashby and North Berkeley BART stations in the fall of 2021. The BECCAP will result in a menu of strategies by the summer of 2022. Each station developer will need to do station-specific access plans that relate to more detailed site planning.

- Maintaining Meaningful City Participation. The draft proposed zoning is not very detailed in terms of standards related to building form or design. In general, AB2923 does not allow zoning or design standards that would preclude achieving the specified height, FAR, density and parking requirements, but it does require BART and its developer teams to follow local design standards “insofar as those standards do not prohibit the minimum height, minimum density, minimum floor area ratio, and maximum parking allowances required by the TOD zoning standards.”²⁹

Furthermore, AB2923 provides streamlined review for projects that meet specific criteria, as described above. This means that they could be exempt from some elements of the development permit review process outlined in the proposed zoning for the BART sites. In acknowledgement of this, the City and BART have been working to develop a process that includes City participation in the developer(s) selection process and in the preparation of the objective design standards for both sites that will be outlined in the updated City-BART MOU that the City Council (and BART) will need to approve.

The City and BART are working together to utilize a grant secured by BART to develop objective design standards for the Ashby and North Berkeley BART station areas. That process will entail community engagement, input from the eventual selected developer(s), and City Council review. That effort will overlap with pending work to develop citywide objective standards for density and design, which is also anticipated to occur over the next year. These objective standards would be used to review of the master development plans for the BART sites.

VII. NEXT STEPS

At a subsequent meeting (date to be confirmed), the Planning Commission will hold a public hearing on the Draft EIR on the draft R-BMU zoning and associated General Plan amendments, and provide comments on these documents, as well as the draft City-BART Joint Vision and Priorities. The Draft EIR will be published and staff will provide additional information regarding the DEIR prior to this meeting.

The City Council is anticipated to consider the draft R-BMU zoning and associated General Plan amendments, the Final EIR on these documents, the City-BART Joint Vision and Priorities, as well as an updated Memorandum of Understanding between the City and BART in early 2022.

²⁹ PUC 29010.7(d)(2)

Attachments:

1. Draft City and BART Joint Vision and Priorities for the Ashby and North Berkeley BART Station Areas
2. Draft Zoning and General Plan Amendments for the Ashby and North Berkeley BART Station Areas
3. Summary of Documents Guiding Development at the Ashby and North Berkeley BART Station Areas
4. Estimated City Subsidy Needed for Varying Levels of Affordable Housing – Excerpt from Street Level Advisors Memorandum (January 2021)
5. Summary of Overall Community Engagement

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

DRAFT - AUGUST 2021

1. Affordable housing may be developed in multiple phases over a number of years.
2. The amount of affordable housing which can be provided at each site within the 10-year time frame will depend on many outside factors including the availability of state and federal housing resources.
3. At a minimum, at least 35% of the new units at each site will be restricted affordable housing. It is anticipated that each site could achieve at least 50% affordable housing, subject to the timely availability of financing.
4. The City and BART will work together to support selected developers in proactively assembling affordable housing subsidies in order to exceed the minimum.
5. If both sites are able to provide at least 50% affordable housing in a way that is financially feasible, and if additional funding becomes available, the priority for that additional funding would be to maximize the number of affordable units at Ashby station in recognition of the ongoing threat of displacement to the historic community of South Berkeley.

D. Income Targets: At least 35% of new housing at each site must be affordable to households earning less than 60% of Area Median Income (AMI). Of that, at least 20% (or 7% of total units at each site) must be affordable to Extremely Low-income households, those earning up to 30% of AMI. Additional affordable units should prioritize Very Low Income (up to 50% of AMI) households and Low Income (up to 80%) households but may include some housing restricted with households with incomes up to 120% of AMI.

E. Sequencing. Affordable housing should be built prior to, or along with, any market rate housing.

F. Displacement Prevention. Affordable housing should provide a preference for residents of Berkeley who are facing displacement, or who have been displaced from Berkeley in the past due to economic or discriminatory reasons.

G. Developer Selection. In the developer selection process, prioritize a nonprofit master developer or a partnership between a private developer and one or more community-based organizations who have experience showing accountability towards equity goals in the City of Berkeley.

H. Developer Accountability. The selected developers must have a demonstrated commitment and feasible plans to produce affordable housing and be willing to be held accountable for making affordability the first priority. Selecting a developer who merely pledges a best effort to provide affordable units would not be sufficient.

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.

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- 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.
- 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.

DRAFT - AUGUST 2021

Priorities for Ashby

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

Priorities for North Berkeley

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

Land Use

VISION

Land uses at Ashby and North Berkeley Stations will serve community needs; provide significant amounts of new housing; complement neighborhood businesses, services, and institutions; create a welcoming environment for all; support BART ridership; and

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improve quality of life for current and future residents. Ground-floor uses should be pedestrian-oriented and contribute positively to public space and the pedestrian experience.

Shared Priorities

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

Priorities for Ashby

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

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

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Priorities for North Berkeley

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

Building Form

VISION

New buildings at Ashby and North Berkeley Stations will be beautiful, creatively designed, well-proportioned, create visual and physical connections with the neighborhood through its architectural design and contribute positively to the physical fabric and long-term quality of life of the neighborhood. They will provide elements that neighborhood residents currently enjoy – such as natural light, air, direct outdoor access, variety, quirkiness, 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.

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

- C. **Location and Orientation.** Locate and design new buildings to enhance public spaces while mitigating impacts on existing neighbors through site orientation, setbacks, lines of sight between buildings, landscape and topography.
- D. **Equitable Design Quality.** Design affordable housing units in a way that integrates with the larger project and shares the same design standards and quality.
- E. **Small Blocks.** Prioritize site designs with smaller blocks and building footprints instead of larger blocks.
- F. **Architectural Variety.** Design buildings to provide visual interest with variation in height, scale, massing, rooflines, materials, and architectural styles.
- G. **Building Scale.** Provide regular breaks in building forms, as well as both horizontal and vertical detail to respond to the existing neighborhood context and character, particularly at the edges of the site.
- H. **Unit Diversity.** Encourage building forms that allow a diversity of unit sizes, types, and configurations.
- I. **Sunlight.** Seek to configure buildings and include design strategies that allow sunlight to reach public spaces, and design outdoor spaces, outdoor seating and active retail frontages, if provided, to maximize southern, western, and/or eastern exposure.
- J. **Outward-facing Entrances.** For ground-floor housing units, encourage outward-facing entrances with a range of design treatments and access strategies. These could include stoops, front doors, courtyard and forecourt entrances, ramped or at-grade universally accessible entries, outward-facing and visually permeable lobby entrances, and transition spaces from private frontages to public spaces.
- K. **Ground-floor Non-residential Frontages.** For ground-floor non-residential uses, provide frequent windows and doors, visual connection between indoors and outdoors, frontage onto public space, direct access to the pedestrian circulation network, and activation strategies such as outdoor seating, dining, display spaces, public art, and architectural detailing.
- L. **Universal Accessibility.** Preference building designs with universally accessible units and elevator redundancy to promote accessibility for seniors and those with disabilities.
- M. **BART Entrances.** Ensure that BART entrances are featured prominently and integrated into the overall site plan.
- N. **Integrated Green Space.** Integrate gardens, courtyards, roof terraces, trees, native landscaping, and other green spaces into building architecture and site design.

Priorities for Ashby

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

Priorities for North Berkeley

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

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improvements in the surrounding neighborhoods and within the station areas that offer safe, comfortable, affordable, cost-effective alternatives for all BART customers, particularly those with mobility challenges. Future access planning should consider the rapid evolution for mobility trends and technologies and consider the adaptability of the station access plans to future foreseeable and unforeseeable mobility patterns and their ability to handle ridership growth without running into capacity constraints.

- C. **Equitable Access.** Provide safe and secure station access options for people of all ages, abilities, races and ethnicities, genders, and income levels.
- D. **Parking Options.** Minimize the need for new structured on-site BART customer parking by maximizing the use of available parking capacity along the corridor (such as Center Street parking garage, shared parking with the TOD or with other sites, and on-street parking management).
- E. **Transportation Demand Management.** Any future development must include aggressive and innovative Transportation Demand Management strategies to reduce the vehicle miles traveled (VMT) and greenhouse gas (GHG) emissions by residents, visitors, and employees by 20% by complying with BART's Transportation Demand Management program.
- F. **Parking and Traffic Impacts.** Limit the impacts of parking and driving on residents of the developments and surrounding neighborhoods (such as noise, air quality, GHG, and collisions) through transportation demand management, multi-modal circulation and access planning, infrastructure improvements, parking management, and other best practices.
- G. **Market Rate Pricing for Parking.** Explore parking pricing that is better aligned with market demand as a possible strategy to promote BART rider and on-street parking availability, with consideration of the impacts of parking pricing on low income residents and BART riders.
- H. **Prioritize Curb Space.** Buses and shuttles will be located to prioritize people with disabilities, active loading of passengers (over waiting vehicles), services available to the public, and the number of people transferring to BART. Different types of passenger loading zones will be incorporated for quick pick-ups and drop-offs, those that need to wait for their passenger, accessible loading areas, ride apps and taxis.
- I. **Wayfinding and Signage.** Provide clear, accessible, adaptable station access signage and wayfinding to facilitate how people get to/from and through the station area consistent with the Metropolitan Transportation Commission's standards.

Priorities for Ashby

- A. **Pedestrian & Bicycle Connections.** Provide high-quality, safe pedestrian and bicycle connections to and through the site, including an off-street protected bicycle facility extending along Adeline Street, at least between

Ashby Avenue and the intersection with MLK Way, with the potential to extend further through related Adeline improvement efforts.

- B. **Adeline Design.** Reconfigure Adeline Street to transform a four-lane arterial into a safer space for all modes of transportation, creating a more walkable, vibrant place..

Priorities for North Berkeley

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

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Attachment 2: Draft Zoning and General Plan Amendments

Summary of Existing and Proposed Zoning and General Plan for the Ashby and North Berkeley BART Station Areas				
BART Sites	Zoning		General Plan	
	<u>Existing</u>	<u>Proposed</u>	<u>Existing</u>	<u>Proposed</u>
Ashby BART (east and west parcels)	C-Adeline Corridor ¹	R-BART Mixed Use	Adeline Mixed Use Corridor	Ashby/North Berkeley BART Transit Oriented Development (TOD)
North Berkeley • Main Site	Unclassified ²		Institutional	
• Auxiliary Lots	R-1 Single Family Residential ³ R-2 Restricted Two Family Residential ⁴		Low Density Residential Institutional	

This document includes the following:

1. Zoning

- Chapter 23.202.150 Residential – BART Mixed Use District
- Table 23.202.020-1: ALLOWED LAND USES IN RESIDENTIAL DISTRICTS
- Zoning Maps:
 - Ashby BART Site: Existing and Proposed
 - North Berkeley BART Site: Existing and Proposed

2. General Plan

- Draft Ashby/North Berkeley BART General Plan Land Use Classification
- General Plan Maps
 - Ashby BART Site: Existing and Proposed
 - North Berkeley BART Site: Existing and Proposed

¹ BMC Section 23E.70.

² BMC Section 23E.92.

³ BMC Section 23C.16.

⁴ BMC Section 23D.28.

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R-BMU Residential BART Mixed-Use District Provisions

- A. **District Purpose.** The purpose of the BART Mixed-Use (R-BMU) district is to address City of Berkeley priorities such as affordable housing, civic and public space, multi-modal transportation and site access, high-quality building design and architecture, and a mix of land uses that contributes positively to the community, and to establish zoning standards in compliance with AB 2923.a
- B. **Definitions.** For the purpose of this Chapter, the following definitions apply:
1. **Lot Area.** The total horizontal area within a lot's boundary lines, minus the square footage of any buildings, facilities or equipment that are, or shall be, under the control of the San Francisco Bay Area Rapid Transit District (BART).
 2. **Floor Area Ratio (FAR).** The quotient resulting from division of the Gross Floor Area of all buildings on a lot by the Lot Area. In a single integrated development on contiguous lots, the permitted Floor Area Ratio shall be computed upon the basis of the total area of all such lots.
 3. **Dwelling Units per Acre.** The quotient resulting from the total number of dwelling units on a site by the Lot Area.
- C. **Allowed Land Uses. General.** See Section 23.202.020 (Allowed Land Uses), which indicates identifies allowed land uses and which are prohibited.
1. The initial establishment of a land use in a new building will follow the R-BMU Master Development Plan process outlined in Section 23.202.150D. below.
 2. The change of use of an existing building or portion of a building will require the permits indicated in Section 23.202.020 and Table 23.202-1 for the R-BMU District.
 3. Any use not listed in Table 23.202-1 for the R-BMU District can be approved through the Master Development Plan process outlined in Section 23.202.150D below for the initial establishment of a land use in a new building.
 4. Uses subject to supplemental regulations are shown in in Table 23.202-1 with an asterisk (*) following the permit requirement (e.g., ZC*). The Use-Specific Regulations column in Table 23.204-1 identifies the location of these regulations in the Zoning Ordinance.

CHAPTER 23.202.150 – BART MIXED-USE (R-BMU)

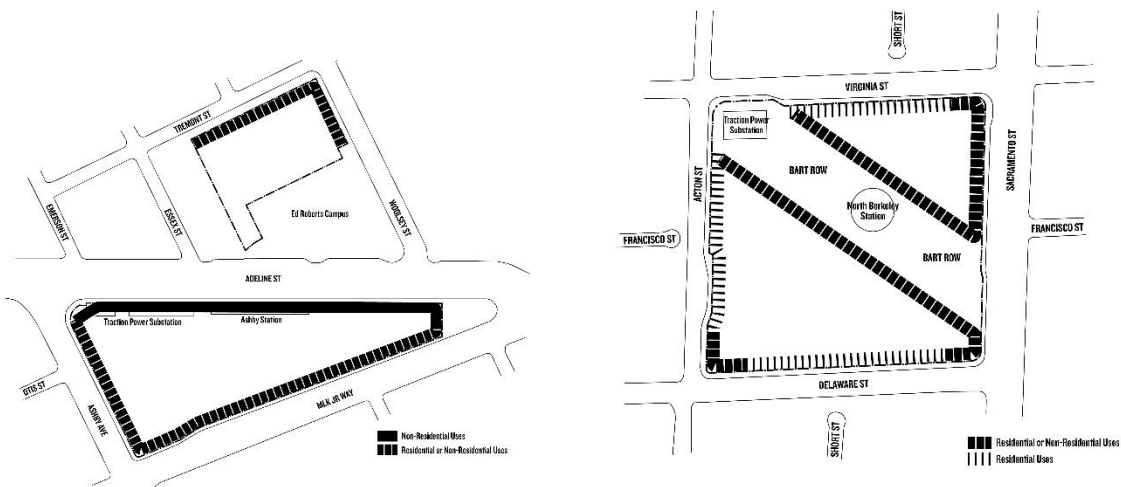
D. Ground-floor Uses. See Table 23.202.150-1.

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



1. Ashby BART Station Site

b. North Berkeley BART Station Site

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

F. **Development Standards.**

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

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

TABLE 23.202.150-2: R-BMU DEVELOPMENT STANDARDS

		Supplemental Standards
Lot Area, Minimum	No minimum	23.304.020
Floor Area Ratio (FAR), Maximum	4.2	
Main Building Height, Maximum ¹	80 ft. and 7 stories	23.304.050
Residential Density, Minimum	75 dwelling units per acre	
Residential Parking	None required Maximum of 0.5 spaces per dwelling unit	
Non-residential Parking (new construction)	None required 1.5 spaces per 1,000 sf maximum	
Bicycle Parking	Minimum of 1 space per unit, 50% of which shall be covered and secure and 1 space per 1000 sf of commercial use.	
Private Usable Open Space, Minimum 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	

¹ 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.

² Private Usable Open Space may be provided as any combination of personal and common private space.

³ Additional public space may substitute for up to 50% of required Private Usable Open Space.

3. Additional Open Space Requirements.**a. Definitions**

- i. **Private Usable Open Space:** Outdoor space, including natural and landscaped ground areas, pools, patios, decks and balconies designed for active or passive recreational use and which is accessible to the occupants of a building on the same lot. See also 23.304.090 (Usable Open Space) for standards.
- ii. **Public Open Space:** Outdoor space, including natural and landscaped ground areas, pools, patios, decks designed for active or passive recreational use and which is accessible to the general public. Minimum dimensions for Public Open Spaces shall be 20' in any direction and 400 square feet minimum.

b. Public Space Design.

- i. Land area made available for public access to and through the station, and on-site public amenities, may be offered as dedication to the City or may be owned and maintained by another party with dedication of a public access easement. Public Open Space must be accessible to the public during daylight hours and include signage indicating public access.
- ii. Public spaces shall include site furnishings and design elements to encourage active or passive use.
- iii. Public spaces shall have a direct, accessible connection to the public circulation network.
- iv. Adjacent publicly owned space may contribute to the minimum public space requirement for the project, if it is designed, integrated and maintained as part of the project and complies with all other requirements for public space design identified in this section (23.202.150(D)3(b)).

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

4. Front Setbacks.

- a. Setbacks are not required at Martin Luther King Jr. Way, Adeline Street, Sacramento Street.
 - b. Setbacks along all other frontages along public rights-of-way and internal publicly accessible pathways shall range from 5 feet (minimum) to 15 feet (maximum) for at least 50 percent of any building's linear street frontage, including all frontages within 50 lineal feet of an intersecting corner. See Section 23.304.030 (Setbacks) for supplemental standards.
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 front 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 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 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. **Objective Design Standards.** Objective design standards, including, but not limited to, BART station functionality, public realm, building form and massing (e.g. vertical and horizontal articulation) building facade design, and open space shall be developed prior to

the acceptance of any Preliminary Development Plan or Final Development Plan.

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

1. Purpose of the R-BART Mixed Use District Master Development Permit (MDP) process. The purpose of these provisions is to prescribe the procedure for the review of development on parcels in the R-BART Mixed Use District, in order to allow for the predictable buildout of the sites over time and achieve a high standard of site and building design that fulfills the City and BART Joint Vision and Priorities for the Ashby and North Berkeley BART Station Areas relating to:
 - Affordable Housing
 - Public and Civic Space
 - Land Use
 - Building Form and;
 - Station Access.
2. Applicability of the Ashby and North Berkeley BART Master Development Permit (MDP). These provisions shall apply to all land within the R-BART Mixed Use District.
3. Preliminary Development Plan. The preliminary development plan shall include, at a minimum, the following:
 - a. A plan of the entire development, defined as either the North Berkeley BART Station Area or Ashby BART Station Area, showing the items listed below. Such development plan shall include maps and information on the surrounding area within one hundred (100) feet of the development. All elements listed in this paragraph shall be characterized as existing or proposed, and sufficiently detailed to indicate intent and impact.
 - Streets, driveways, sidewalks and pedestrian ways, and off-street parking and loading areas;
 - Location and approximate dimensions of structures;
 - Utilization of structures, including activities and the number of living units;
 - Estimated population;
 - Reservations for public uses, including schools, parks, playgrounds, and other open spaces;
 - Major landscaping features;
 - Relevant operational data; and
 - Drawings and elevations clearly establishing the scale, character, and relationship of buildings, streets, and open spaces.
 - b. A table demonstrating that the plan meets the development standards set forth in Section 202.23.150C and the other requirements of this Chapter, including compliance with any Objective Development Standards.
 - c. A development phasing plan describing the order in which various portions of the development will be built, along with a proposed schedule for such phases.
4. Notice of Application and Public Hearing for Preliminary Development Plan.
 - a. Preliminary Development Plans shall be reviewed by the Zoning Adjustments Board, the decisions of which are appealable to the City Council.
 - The public notice and hearing process for a Master Development Plan shall be the same as

- for Use Permits as defined in BMC Section 23B.32, except that notice shall be mailed or delivered to all businesses, residents and owners of property located within five hundred (500) feet of the subject property.
- c. The Board shall determine whether the proposal conforms to the permit criteria set forth in Section 23.202.150.D8, and may approve or disapprove the application and the accompanying Preliminary Development Plan or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria and regulations. In so doing, the Board may, in its discretion, authorize submission of the Final Development Plan in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the Preliminary Development Plan and staged development schedule.
5. Final Development Plan
- The applicant shall file with the Planning and Development Department a Final Development Plan for one or more of the phases identified in the Preliminary Development Plan.
- a. The Final Development Plan shall conform in all major respects with the approved Preliminary Development Plan and shall include the following additional information:
- Location of water, sewerage, and drainage facilities;
 - Detailed building and landscaping plans and elevations;
 - Character and location of signs;
 - Plans for street improvements; and
 - Grading or earth-moving plans.
- The Final Development Plan shall be sufficiently detailed to indicate the ultimate operation and appearance of the development, including compliance with the Objective Development Standards. Final Development Plans shall be reviewed by the Zoning Adjustments Board.
- b. The public notice and hearing process for a Final Development Plan shall be the same as for Use Permits as defined in BMC Section 23B.32, except that notice shall be mailed or delivered to all businesses, residents and owners of property located within five hundred (500) feet of the subject property.
6. City Engineer's Report
- Within thirty (30) days after the filing of the Final Development Plan, the Zoning Officer shall forward it to the City Engineer for review of public improvements, including streets, sewers, and drainage. The Zoning Adjustments Board shall not act on a Final Development Plan until it has first received a report from the City Engineer or until more than thirty (30) days have elapsed since the plan and application were sent to the City Engineer, whichever is the shorter period.
7. Appeal to Council
- The process for appeal to Council for a Master Development Plan, Preliminary Development Plan and/or Final Development Plan shall be the same as for Use Permits as defined in BMC Section 23B.32.

1. 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.

2. Adherence to the Approved Plan and Modification.

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

3. 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.

TABLE 23.202.020-1: ALLOWED LAND USES IN RESIDENTIAL DISTRICTS

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit – = Prohibited Use * Use-Specific Regulations Apply ** Required permits for specific uses are set forth in the R- BART Mixed Use District Master Development Permit.(MDP) See B.M.C. Section 23.202.150.A and 23.202.150.D.	Residential Districts											Use-Specific Regulations Applies to uses with an asterisk following the permit requirement (e.g., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**		
Residential Uses													
Accessory Dwelling Unit	See 23.306		–	See 23.306									
Dwellings													
Single-Family	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	–	
Two-Family	–	UP(PH)	–	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	–	
Multi-Family	–	–	–	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	<u>UP(PH)</u>	
Group Living Accommodation	–	–	–	–	–	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	<u>UP(PH)</u>	
Mixed Use Residential	–	–	–	–	–	–	–	–	–	UP(PH)	UP(PH)	<u>UP(PH)</u>	
Senior Congregate Housing	–	–	–	–	See 23.302.070.H								
Public and Quasi-Public Uses													
Child Care Center	UP(PH)	UP(PH)	–	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	<u>UP(PH)</u>	
Club/Lodge	UP(PH)	UP(PH)	–	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	<u>UP(PH)</u>	
Columbaria	AUP*	AUP*	–	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	=	23.302.070.C
Community Care Facility	See 23.202.040.A												
Community Center	UP(PH)	UP(PH)	–	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	<u>UP(PH)</u>	
Emergency Shelter	–	–	–	–	–	–	See 23.308						
Family Day Care Home, Large	AUP	AUP	–	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	<u>AUP</u>	
Family Day Care Home, Small	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	<u>ZC</u>	
Hospital	–	–	–	–	–	UP(PH)	UP(PH)	UP(PH)	–	UP(PH)	UP(PH)	=	
Library	UP(PH)	UP(PH)	–	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	<u>UP(PH)</u>	
Nursing Home	–	–	–	–	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	=	
Park/Playground	ZC	ZC	UP	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	<u>ZC</u>	
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	<u>UP(PH)</u>	
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)	<u>UP(PH)</u>	
Religious Assembly	UP(PH)	UP(PH)	–	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	<u>UP(PH)</u>	

TABLE 23.202.020-1: ALLOWED LAND USES IN RESIDENTIAL DISTRICTS

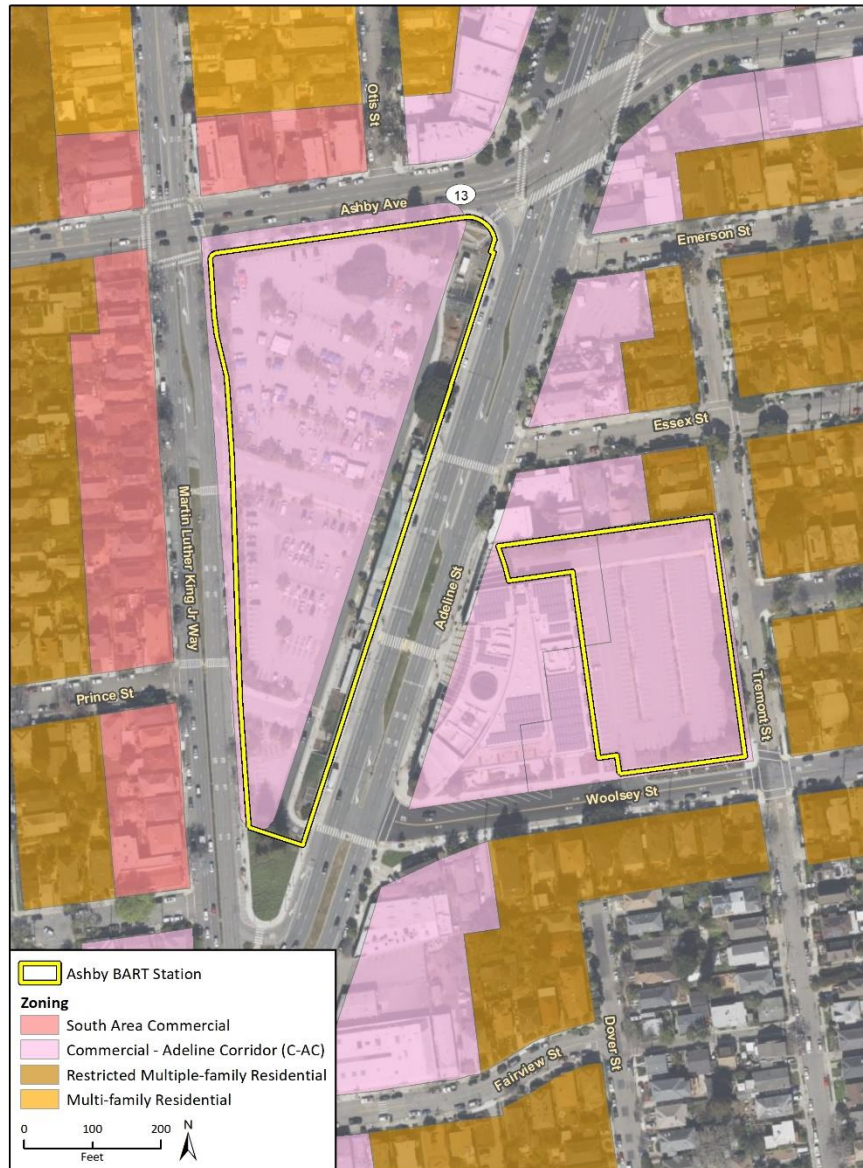
ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit - = Prohibited Use * Use-Specific Regulations Apply ** Required permits for specific uses are set forth in the R- BART Mixed Use District Master Development Plan permit.(MDP) See B.M.C. Section 23.202.150.A and 23.202.150.D.	Residential Districts											Use-Specific Regulations Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**	
School	UP(PH)	UP(PH)	-	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Commercial Uses												
Alcoholic Beverage Service	-	-	-	-	-	-	-	-	-	UP(PH)*	UP(PH)*	23.310
Food Products Store	-	-	-	-	-	-	-	-	-	UP(PH)*	UP(PH)*	23.202.140.B.3
Food Service Establishment	-	-	-	-	-	-	-	-	-	UP(PH)*	UP(PH)*	23.302.070.E
Group Class Instruction	-	-	-	-	-	-	-	-	-	-	UP(PH)	
Gym/Health Club	-	-	-	-	-	-	-	-	-	-	UP(PH)	
Hotel, Tourist	-	-	-	-	-	-	UP(PH)	UP(PH)	UP(PH)	UP(PH)	-	
Laundromat and Cleaner	-	-	-	-	-	-	-	-	-	UP(PH)	UP(PH)	
Office	-	-	-	-	-	-	UP(PH)	UP(PH)	-	UP(PH)	UP(PH)	
Parking Lot/Structure	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	23.302.070.G 23.322.100
Personal and Household Service, General	-	-	-	-	-	-	-	-	-	ZC*	ZC*	23.202.140.B.2
Retail, General	-	-	-	-	-	-	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH)*	UP(PH)*	23.202.040.B
Theater	-	-	-	-	-	-	-	-	-	-	UP(PH)	
Veterinary Clinic	-	-	-	-	-	-	-	-	-	UP(PH)	UP(PH)	
Video Tape/Disk Rental	-	-	-	-	-	-	-	-	-	UP(PH)	-	
Industrial and Heavy Commercial Uses												
Commercial Excavation	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Other Uses												
Accessory Uses	See 23.302.020.A											
Art/Craft Studio	-	-	-	-	-	-	-	-	-	-	ZC	
ATM: Exterior and Attached to Bank or Interior or Exterior and Not With Bank	-	-	-	-	-	-	-	-	-	-	AUP	

TABLE 23.202.020-1: ALLOWED LAND USES IN RESIDENTIAL DISTRICTS

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit — = Prohibited Use * Use-Specific Regulations Apply ** Required permits for specific uses are set forth in the R- BART Mixed Use District Master Development Plan permit.(MDP) See B.M.C. Section 23.202.150.A and 23.202.150.D.	Residential Districts											Use-Specific Regulations Applies to uses with an asterisk following the permit requirement (e.g., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**		
Home Occupations	See 23.302.040												
Live/Work	-	-	-	-	-	-	-	-	-	-	-	UP(PH)*	
Public Market, Open Air	-	-	-	-	-	-	-	-	-	-	-	AUP	
Public Market, Enclosed	-	-	-	-	-	-	-	-	-	-	-	AUP	
Short-Term Rental	ZC*	ZC*	-	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.314
Temporary Uses	See 23.302.030												
Urban Agriculture, Low-Impact	ZC*	ZC*	-	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.318
Urban Agriculture, High-Impact	AUP*	AUP*	-	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	23.318
Wireless Telecommunication Facility	See 23.332												

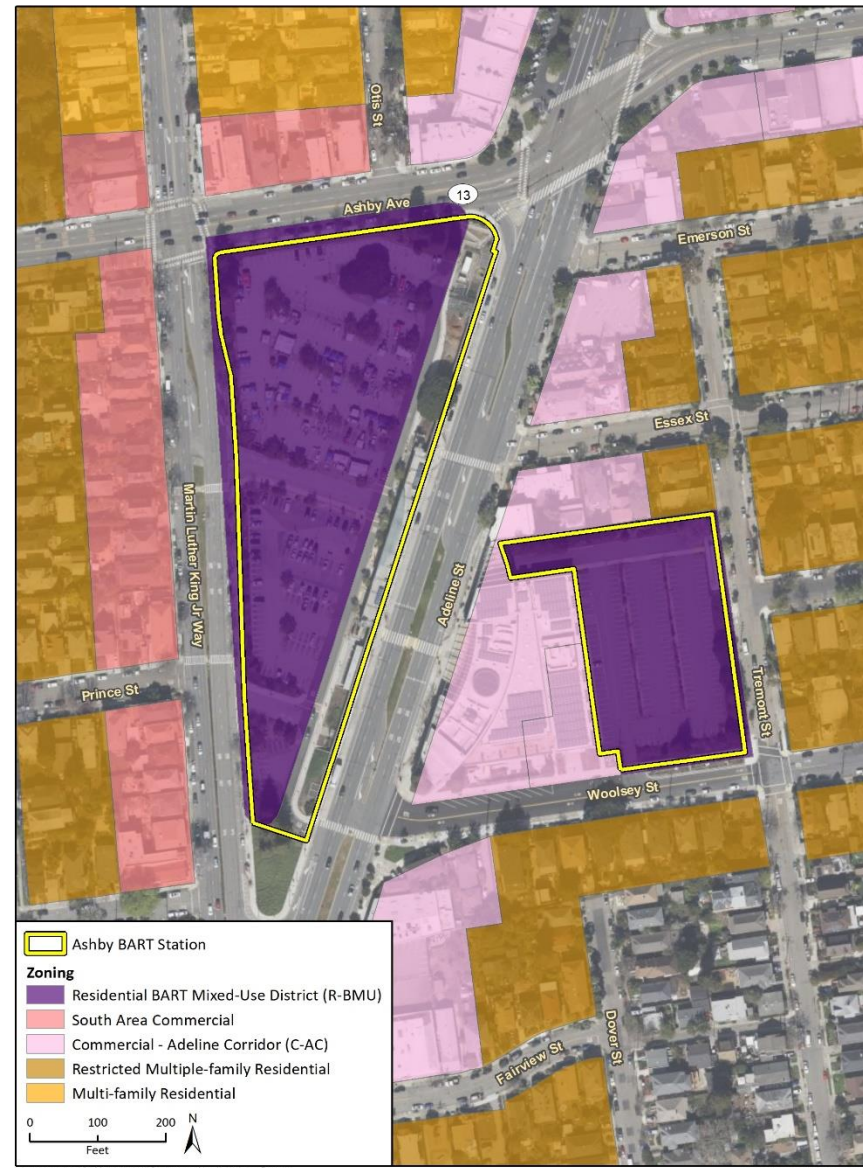
Zoning Maps: Ashby BART Station Area

Existing Zoning: C-Adeline Corridor



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

Proposed Zoning: R-BART Mixed Use

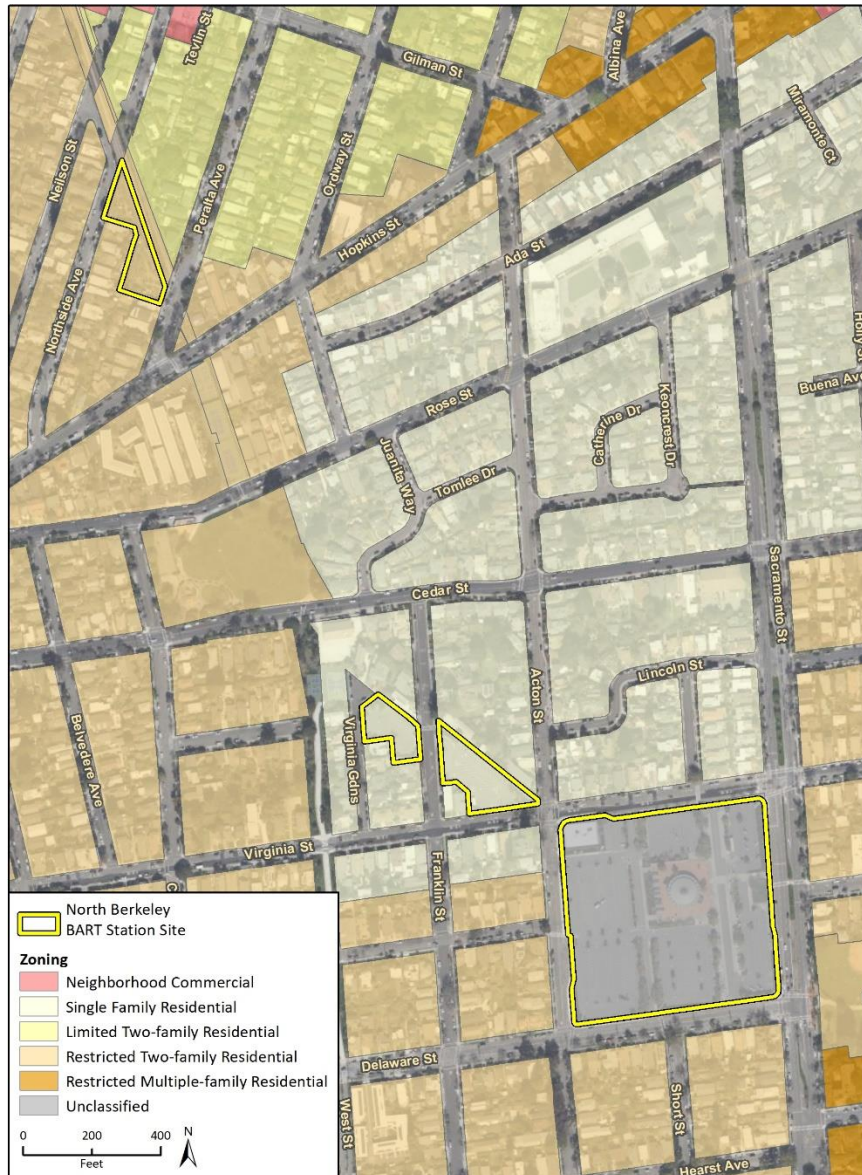


Imagery provided by Microsoft Bing and its licensors © 2021.
 Land use data provided by City of Berkeley, 2019.

- DRAFT ZONING -

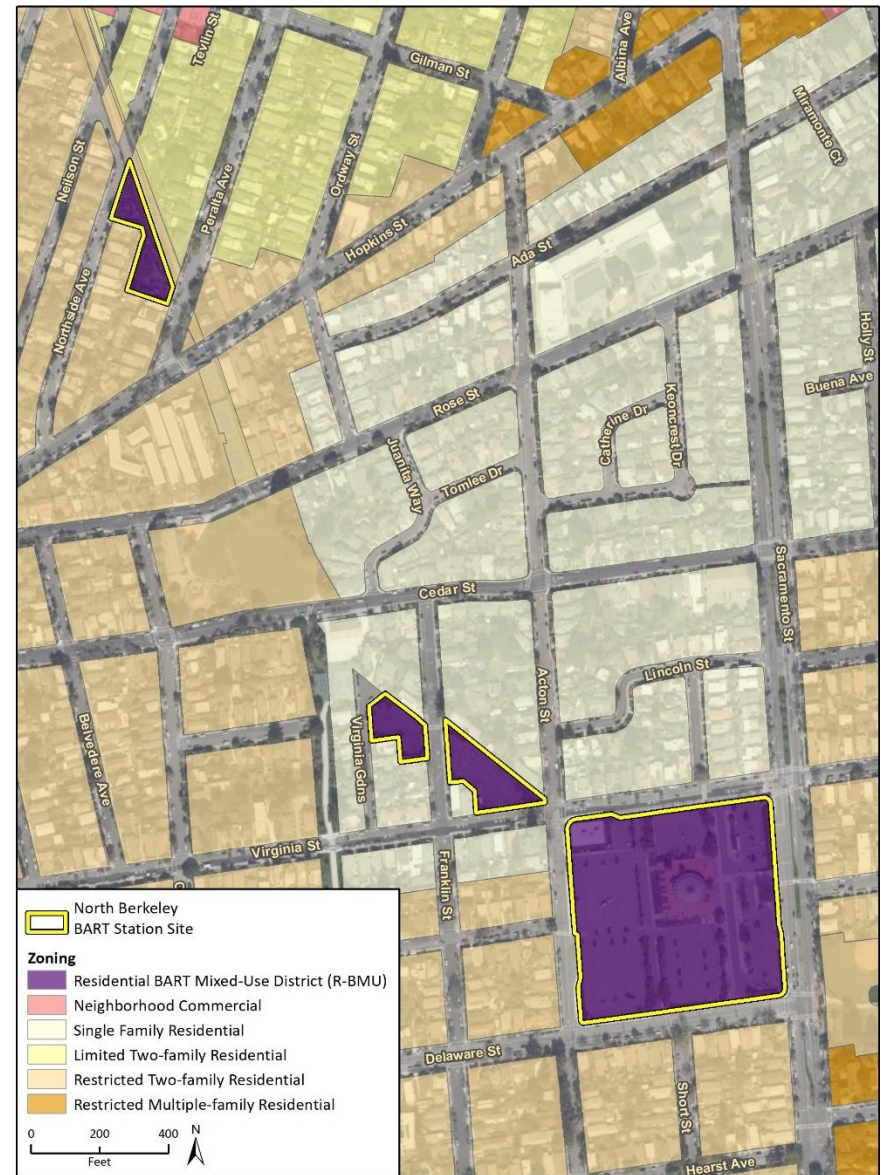
Zoning Maps: North Berkeley BART Site

Existing Zoning: Unclassified, R-1 and R-2



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

Proposed Zoning: R-BART Mixed Use



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

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.

General Plan Land Use Maps: Ashby BART Site

Existing: Adeline Corridor Mixed Use



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

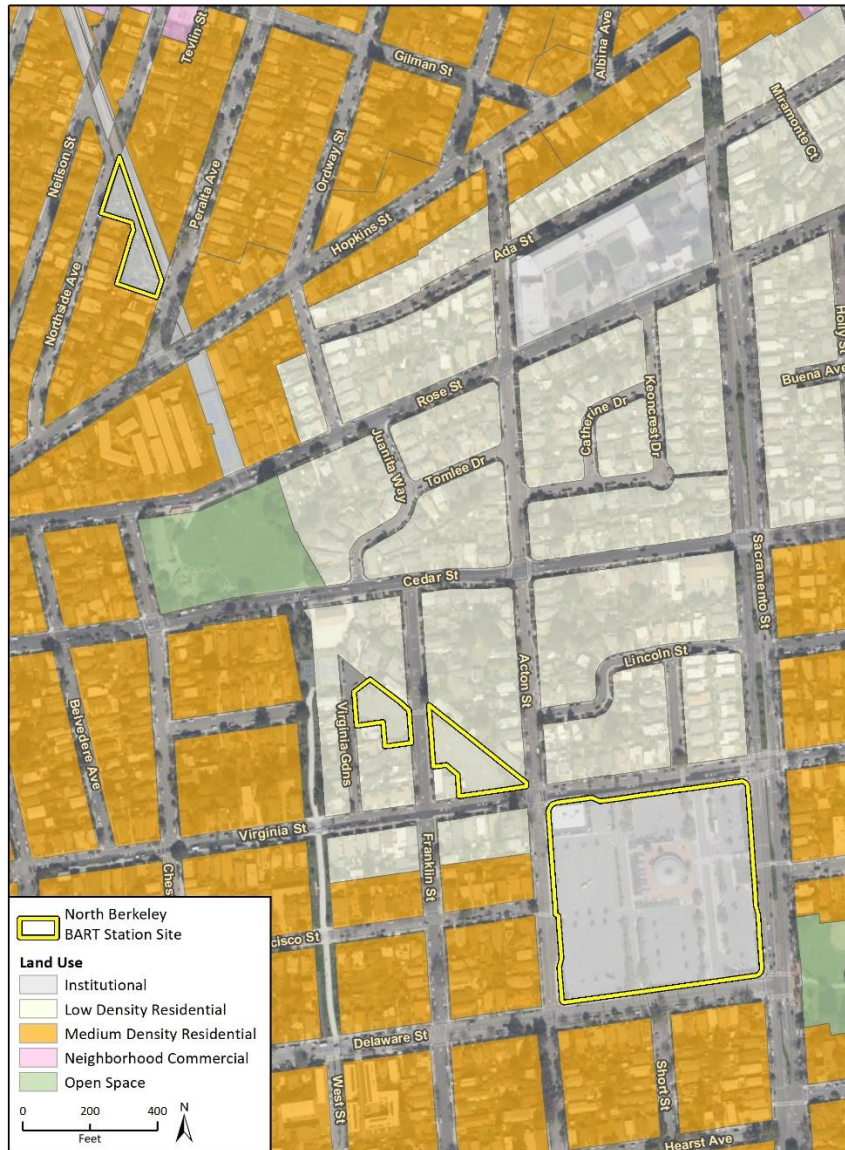
Proposed: Ashby/North Berkeley-BART TOD



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

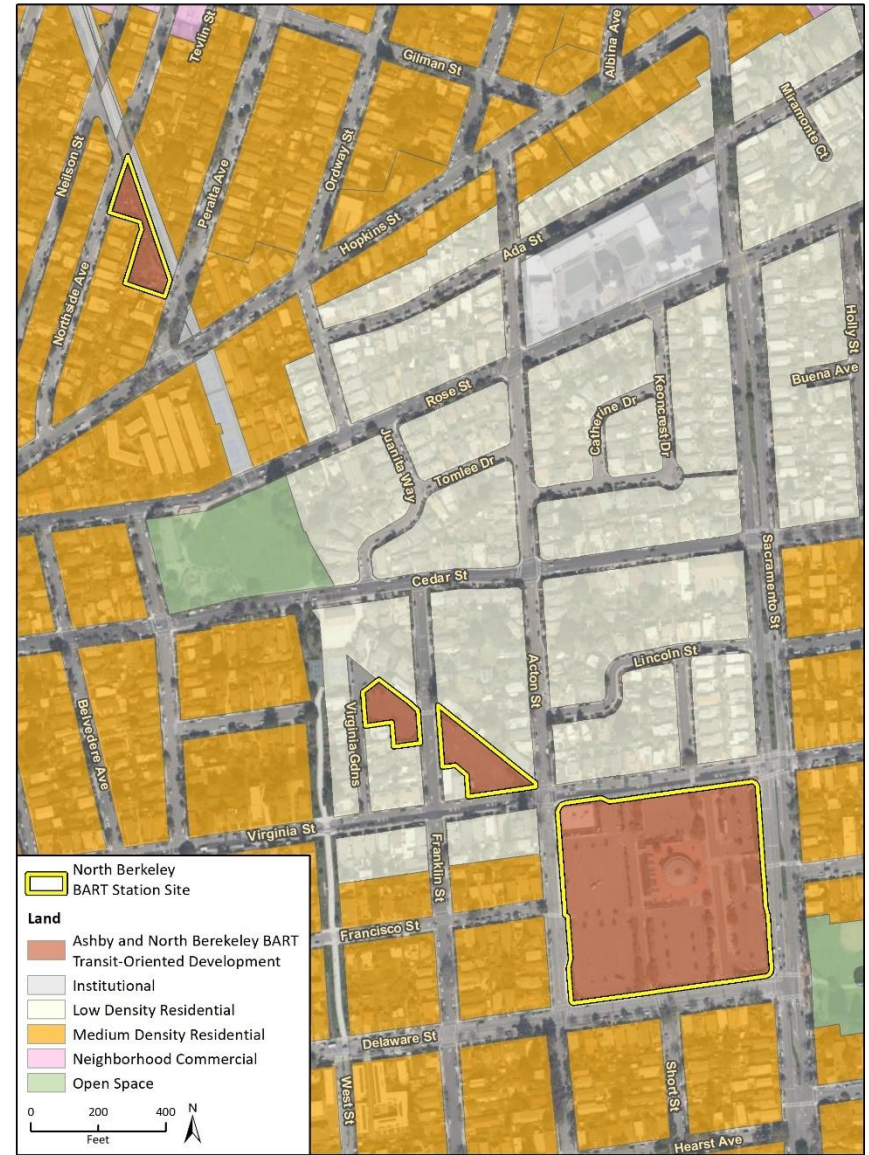
General Plan Land Use Maps: North Berkeley BART Site

Existing: Institutional, Low Density Residential



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

Proposed: Ashby/North Berkeley-BART TOD



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

Attachment 3: Summary Table of Key Documents Guiding Development

The following table briefly summarizes key documents that will guide future development at the Ashby and North Berkeley BART Station Areas.

Document	Purpose
Zoning	Sets rules for allowed land uses and standards for development such as building height, floor area ratio (FAR), density and parking. It also outlines the approval process. Must be consistent with AB 2923.
City – BART Joint Vision and Priorities (JVP)	Describes City and BART’s shared high-level expectations for development with a more qualitative vision which is incorporated into and enforceable through RFQ and BART approvals.
Environmental Impact Report (EIR)	An EIR is a document required under the California Environmental Quality Act (CEQA) that identifies potential physical impacts from the proposed project, in this case, the proposed zoning and associated land use regulations, and ways to mitigate those impacts, as well as alternatives to the project.
Updated Memorandum of Understanding (MOU)	Builds on the existing MOU between BART and the City to further outline how the two agencies will work together. Topics will include, but not be limited to: the process for allocating City affordable housing funds and the City and BART’s roles in developer selection and project(s) approval process.
Requests for Qualifications (RFQ)	Solicits statements of interest from developers or teams of developers and tells them what the City and BART require of the project. It echoes the zoning and JVP.
Objective Design Standards (ODS)	These standards will build on the Zoning and JVP to create an enforceable set of design standards that the City will rely on when asked to approve a development application submitted by the selected developer(s), and may be part of any RFQ.
Master Development Permit (MDP)	City’s application/approval process for future projects outlined in the zoning (see above). It includes a detailed site plan, showing buildings, permitted uses, open spaces, streets and parking as the project is built over time. It would specify building heights, step-backs and basic form but not specific architectural design, as well as an overall enforceable affordable housing plan for the site, consistent with the JVP and ODS.

Attachment 4: 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 June 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

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.

City, the consultant team and BART were available to answer questions. All office hour sessions were open to the public.

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

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.

One final CAG meeting will be scheduled in fall 2021 after the Planning Commission meetings (described below) in order to provide information and solicit feedback on the next steps of the planning process (e.g. developer selection).

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

Additional meetings of the Planning Commission will be held in the fall of 2021 to review and consider the draft zoning and General Plan amendments and associated Draft Environmental Impact Report, as well as the City – BART Joint Vision and Priorities for the Ashby and North Berkeley BART station areas.

The City Council will also review and consider these documents as well as the Final EIR and an updated City-BART Memorandum of Understanding (MOU) related to how the City and BART will continue to work together on planning for these two BART station areas.

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

Attachment 5: Estimate of City Subsidy Needed for Affordable Housing

The following information was excerpted from a memorandum prepared by Street Level Advisors to assist City decision-makers in reserving existing City affordable housing funds for the Ashby and the North Berkeley BART sites.¹

Estimate of City Subsidy Needed

Ashby		North Berkeley		TOTAL
% Affordable	City Cost	% Affordable	City Cost	
35%	27,760,208	35%	\$ 25,018,016	\$ 52,778,224
50%	\$ 58,207,950	35%	\$ 25,018,016	\$ 83,225,966
60%	\$ 78,586,360	35%	\$ 25,018,016	\$ 103,604,376
70%	\$ 98,964,770	35%	\$ 25,018,016	\$ 123,982,786
75%	\$ 109,273,848	35%	\$ 25,018,016	\$ 134,291,864
80%	\$ 119,343,180	35%	\$ 25,018,016	\$ 144,361,196
85%	\$ 129,652,258	35%	\$ 25,018,016	\$ 154,670,274
90%	\$ 139,721,590	35%	\$ 25,018,016	\$ 164,739,606
95%	\$ 150,030,668	35%	\$ 25,018,016	\$ 175,048,684
100%	\$ 160,100,000	35%	\$ 25,018,016	\$ 185,118,016
50%	\$ 58,207,950	50%	\$ 49,967,475	\$ 108,175,425
75%	\$ 109,273,848	75%	\$ 96,418,263	\$ 205,692,111
100%	\$ 160,100,000	100%	\$ 142,869,050	\$ 302,969,050

The table above estimates the City subsidy needed to achieve higher amounts of affordable housing in the following two scenarios:

- Increasing amounts ranging from 50% to 100% affordable housing at Ashby BART and 35% at North Berkeley BART;
- The same amount of affordable housing at both BART sites at the following levels: 50%, 75% and 100%.

As the share of affordable housing increases and the number of market rate units decreases, the amount of developer contribution from market rate buildings will decline. This means that the required level of City subsidy per unit will increase at the same time that the number of funded units rises, resulting in large increases in the amount of funding needed from the City. The table above only shows City subsidy needed based on the amount of subsidy the City has invested in recent affordable housing developments. The total project subsidy would be much greater, including state and federal sources. Because of the limitations of the amount of non-City (e.g. federal, State and other funding sources) and City subsidy available and maximum project size (constrained by funding, City staff, BART staff and developer capacity), increasing the percentage/ amount of affordable housing will also increase the amount of time it takes to complete construction of all of the units.

For discussion purposes only, Street Level Advisors also prepared one example scenario of potential timing and phasing for varying levels of affordable housing. Due to constraints of project size and availability of different types of funding, Street Level Advisors estimates that producing the minimum City-BART Memorandum of Understanding (MOU) threshold of 35% affordable housing at both stations would require at least five separate projects and would not be completed until 11 years after developer(s) selection. For comparison purposes, scenarios with increasingly higher percentages of affordable housing at Ashby plus 35% at North Berkeley are also provided, which increases the overall timeframe. For example, building 100% affordable at Ashby is estimated to require roughly nine separate phases and at least 17 years. Exceeding 35% affordable housing at either site would require a new source of funding, possibly one which will require approval by Berkeley voters.

¹ For the complete memorandum, see Council Meeting 4/27/21 Item 31, Attachment 2: 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_Availability.aspx



Planning and Development Department
Land Use Planning Division

STAFF MEMORANDUM

DATE: September 1, 2021

TO: Members of the Planning Commission

FROM: Grace Wu, Senior Planner
Alene Pearson, Principal Planner

SUBJECT: Overview of the Upcoming Housing Element Update and Request to Identify a Member to Participate in the Public Outreach Effort

RECOMMENDATION

Receive information about the update to the Housing Element of the General Plan, discuss potential community partners to be included on the stakeholder list, and identify a commissioner to participate in public outreach efforts related to the Housing Element Update who will report back to the Planning Commission at future meetings.

BACKGROUND

The Housing Element Update will serve as the City of Berkeley's housing plan for the next eight-year cycle (the 6th cycle, 2023-2031), consistent with mandates of State law and regional planning efforts. It is an important opportunity for Berkeley's residents and community members to come together on assessing housing needs, identifying policy and resource priorities, and finding solutions to implement a wide range of housing choices. The plan contains goals, policies, and programs that will guide the City's decision-making around the development and rehabilitation of housing and necessary zoning amendments to accommodate a substantial increase in the amount of housing, including affordable housing, in the city.

Racial and social equity, and protections for vulnerable and historically impacted communities, are key factors in this Housing Element Update. State law also requires that the Housing Element affirmatively furthers fair housing and examines its policies and programs to ensure they prevent poverty concentration and segregation.

As part of the outreach effort for the Housing Element Update, 10 boards and commissions were identified as having a role in the outreach and policy preparation process because their recommendations may have direct implications on the City's housing policies, programs, and residential development standards¹. Each Board or

¹ Commission on Aging; Children, Youth, and Recreation Commission; Commission on Disability; Energy Commission; Housing Advisory Commission; Homeless Services Panel of Experts; Homeless Commission; Landmarks Planning Commission; Planning Commission; Zoning Adjustments Board.

Commission is being asked to identify a member to participate in the public outreach efforts by joining the email list, attending three public workshops over the course of 18 months, and providing project updates at their respective board or commission meetings.

Key Components of a Housing Element

The content of the Housing Element and the methodologies used for analyzing constraints and sites inventory are dictated by State law and guided by the California Department of Housing and Community Development (HCD). The Housing Element includes the following components:

1. *Housing Needs Assessment*: Examine demographic, employment and housing trends and conditions and identify existing and projected housing needs of the community, with attention paid to special housing needs (e.g., large families, persons with disabilities).
2. *Evaluation of Past Performance*: Review the prior Housing Element to measure progress in implementing policies and programs.
3. *Housing Sites Inventory*: Identify available sites for housing development to ensure there is enough land zoned to meet the future need at all income levels.
4. *Community Engagement*: Implement a robust community engagement program, reaching out to all economic segments of the community, and especially underrepresented groups.
5. *Constraints Analysis*: Analyze and recommend remedies for existing and potential governmental and nongovernmental barriers to housing development.
6. *Policies and Programs*: Establish policies and programs to be carried out during the 2023-2031 planning period to fulfill the identified housing needs.

State law does not require that jurisdictions *build* or *finance* new housing, but cities are required to identify and zone sufficient sites to accommodate the anticipated growth over the next eight-year period.

Regional Housing Needs Allocation (RHNA)

Overall, the Bay Area must plan for 441,176 new housing units during the 6th cycle, compared with 187,990 for the 5th cycle (2015-2023). Each jurisdiction in California receives a target number of units across income levels, called the Regional Housing Needs Allocation (RHNA)², that must be planned for in the Housing Element Update. Berkeley's draft RHNA is 8,934 residential units. The City did not appeal its draft RHNA allocation, recognizing that the allowable circumstances for appeals outlined in Government Code Section 65584.05 were not applicable to the City of Berkeley³. The

² May 20, 2021. *Final Regional Housing Needs Allocation (RHNA) Methodology and Draft Allocations*. ABAG. https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG_2023-2031_Draft_RHNA_Plan.pdf

³ 2023-2031 RHNA Appeals Process. ABAG. <https://abag.ca.gov/our-work/housing/rhna-regional-housing-needs-allocation/2023-2031-rhna-appeals-process>

final target RHNA will be issued by the Association of Bay Area Governments (ABAG) in December 2021.

Table 1 provides a comparison of Berkeley’s RHNA numbers at all income levels during the 5th cycle, the number of new units that have been issued building permits between 2015 and 2020, and the draft RHNA for the upcoming 6th cycle. While the total units issued building permits over the last five years are in line with the 5th cycle RHNA, challenges remain for meeting lower and moderate income housing targets.

Table 1: Berkeley RHNA Allocation, 5th & 6th Cycles

Income Level ⁴	5 th Cycle RHNA Units	Units Permitted 2015-2020 ⁵	6 th Cycle DRAFT RHNA Units
Very Low (< 50% AMI)	532	232	2,446
Low (50 – 80% AMI)	442	41	1,408
Moderate (80 – 120% AMI)	584	91	1,416
Above Moderate (> 120% AMI)	1,401	2,579	3,664
Total	2,959	2,943	8,934

Timeline

Due to strict deadlines imposed by the State and severe penalties for missed deadlines⁶, it is critical that the Housing Element Update stay on schedule and is approved by City Council and certified by HCD by January 31, 2023. This means that the majority of the housing needs analysis and assessment, sites inventory, and rezoning will be *identified* within the first six months of the 18-month project in order to allow for sufficient time to conduct a thorough and legally defensible environmental review (see Figure 1: Housing Element Project Timeline).

Figure 1: Housing Element Project Timeline



⁴ 2021 income levels by family size are available at <https://www.acgov.org/cda/hcd/documents/2021IncomeandRentLimits.pdf>

⁵ Based on revised 2015-2020 APR unit counts, accepted by HCD on July 14, 2021

⁶ Failure to comply would impact Berkeley’s eligibility and competitiveness for federal, state, and regional affordable housing and infrastructure funding sources. Many state and regional grant and loan programs require a compliant Housing Element, including the Affordable Housing and Sustainable Communities Program (AHSC), the Local Housing Trust Fund Program (LHTF), and Metropolitan Transportation Commission’s (MTC) One Bay Area Grant transportation funding.

Outreach and Engagement

Outreach and engagement are integral parts of this project from initiation to adoption. The overall plan for outreach and engagement includes 20 stakeholder interviews, a community-wide survey, 20 small format meetings, three work sessions with the City Council, and three public workshops. Based in part on the feedback received from the 10 boards and commissions, City staff—working with an outreach consultant—will invite community partners and stakeholders to participate in the interviews and small format meetings.

DISCUSSION

1. Which community partners should be included on the stakeholder list, with the goal to further fair housing and engage racially and socially disadvantaged communities?
2. Which member of the Planning Commission is interested and able to participate in the Housing Element Update public outreach effort? Participation includes joining the email list, attending three public workshops over the course of 18 months, and providing project updates at future commission meetings.

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LINKS

1. April 30, 2021. *Housing Element Off-Agenda Memo*. Berkeley City Council. https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Housing%20Element%20Update%20042821.pdf
2. April 28, 2015. *Adopted 2015-2023 5th Cycle Housing Element*. https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2015-2023%20Berkeley%20Housing%20Element_FINAL.pdf

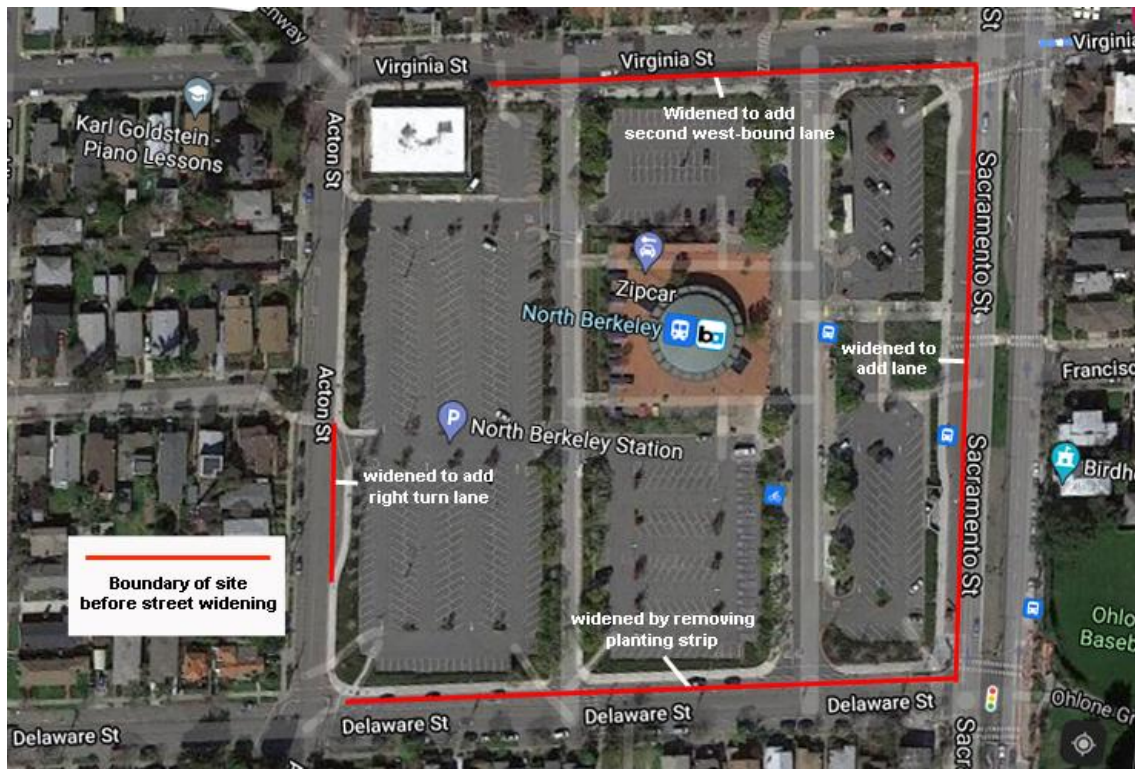


Walk Bike Berkeley

August 17, 2021

Undo Street Widening at North Berkeley BART

When the North Berkeley BART station was built, surrounding streets were widened, as shown in this drawing.



With housing there, the wider streets will not be needed and will be less safe for pedestrians. Because major developments like the one planned for this site must rebuild the sidewalks and repave the streets after they complete utility work, the development will be able to restore the streets to their original width at little or no extra cost and to use the space gained from the roadway narrowing for safety improvements, landscaping and other public realm improvements.

We recommend that the RFQ require developers to narrow the roadways and improve the public rights of way surrounding the site by including a statement similar to the following:

The roadways surrounding the North Berkeley BART station shall be restored to their original 1960s era width wherever feasible. The roadways shall be the same width as the roadways on adjacent blocks, and the curbs shall be aligned with curbs on adjacent blocks. There may also be sidewalk bulb-outs at intersections, with a narrower roadway to make crossing safer. Streets may be wider when there is some functional use for the extra width. The space regained from narrowing the roadway may be used for improvements that improve pedestrian and cyclist safety or the pedestrian

and transit rider experience of the site. Improvements shall include some or all of the following: sidewalk widening including bulbouts, raised crosswalks and bus boarding islands where warranted; protected separated cycle tracks; landscaping improvements including street trees and stormwater management improvements; pedestrian oriented lighting; and integrated site furnishings.

This sort of change has been done (on a smaller scale) in two places in Berkeley: Shattuck/Rose and Hearst between Milvia and Henry. In both cases, the developers were enthusiastic about the suggestion, because it increased the value of the site, and they were glad to move the curb and sidewalk and to add landscaping to the right of way at no cost to the city.

The picture below shows one of these, on Hearst. The landscaping looks like it is part of the project, but the property line is actually at the fence, and the landscaping is legally public right of way. Originally, this block of Hearst had four lanes for cars. After this development, it had two lanes for cars, two bike lanes, and this added landscaping, making it a much more livable and safer neighborhood street.



On a larger scale, this change could look like the improvements installed along San Pablo Avenue in Albany in front of and between Belmont Village Senior Living and Sprouts Farmers Market where sidewalks were widened, a sidewalk level cycle track added, and new landscaping strips and public facing artwork installed.

We can have similar changes on the streets surrounding North Berkeley BART, on a larger scale. Narrowing roadways, widening sidewalks, and adding landscaping will provide safer and more livable neighborhood streets there.

Thanks for considering this suggestion,
Charles Siegel, Jackie Erbe
For Walk Bike Berkeley

[Walk Bike Berkeley](#), an all-volunteer group founded by Berkeley residents, advocates to make walking and biking in Berkeley safe, low-stress, and fun for people of all ages and abilities. We want a healthy, just, and sustainable transportation system in Berkeley.