



Planning Commission

AGENDA

REGULAR MEETING OF THE PLANNING COMMISSION

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Wednesday, October 6, 2021
7:00 PM

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

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us06web.zoom.us/j/83000710811>. 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: **830 0071 0811**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.

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

See "**MEETING PROCEDURES**" below.

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

PRELIMINARY MATTERS

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

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

2. **Order of Agenda:** The Commission may rearrange the agenda or place items on the Consent Calendar.
3. **Public Comment:** Comments on subjects not included on the agenda. Speakers may comment on agenda items when the Commission hears those items. (See “*Public Testimony Guidelines*” below):
4. **Planning Staff Report:** 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 **September 1, 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. **Action:** **Public Hearing: Business Support Zoning Amendment Referrals – Research and Development (R&D) Definition**
Recommendation: Hold a public hearing, receive public testimony, and make a recommendation to City Council about the proposed land use R&D definition.
Written Materials: Attached
Presentation: Linked
10. **Action:** **Gentrification and Displacement Referral**
Recommendation: Discuss how to approach to the Gentrification and Displacement referral, including appointment of a subcommittee.
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:

- September 28 – City Council: Item 32 Baseline Zoning Ordinance (BZO)
 - Zoning Ordinance Revision Project – BZO Document ([Link](#))

Communications:

- BART Communications

Late Communications: (Received after the packet deadline):

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

ADJOURNMENT

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

Public Testimony Guidelines:

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

Procedures for Correspondence to the Commissioners:

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

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

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

- Correspondence received by **12 noon two days** before this public meeting, will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication and emailed to Commissioners one day before the public meeting.

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

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

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

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

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

I hereby certify that the agenda for this regular meeting of the Planning Commission was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on **October 1, 2021**.

Alene Pearson
Planning Commission Secretary



Planning Commission

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

3 The meeting was called to order at 7:03 p.m.

4 **Location:** Virtual meeting via Zoom

5 **1. ROLL CALL:**

6 **Commissioners Present:** Savlan Hauser, Robb Kapla, Elisa Mikiten, Chip Moore, Christina
7 Oatfield, Alfred Twu, Jeff Vincent, Brad Wiblin, and Sofia Zander (temporary appointee)

8 **Commissioners Absent:** Barnali Ghosh.

9 **Staff Present:** Secretary Alene Pearson, Katrina Lapira, Alisa Shen and Grace Wu.

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

11 **3. PUBLIC COMMENT PERIOD:** 2

12 **4. PLANNING STAFF REPORT:**

- 13
- 14 • Welcome new and temporary commissioners!
- 15 • City Council Meetings
 - 16 ○ September 14
 - 17 ▪ ZORP - Adoption of baseline zoning ordinance (BZO)
 - 18 ▪ JSISHL – Recommendation and discussion
 - 19 ○ September 21
 - 20 ▪ Housing Element Work Session
 - 21 ○ September 28
 - 22 ▪ Local ADU Ordinance
- 23 • Brown Act Suspension– awaiting State action to see if this will be extended past
24 September 30, 2021

25 **Information Items:**

- 26 • None.

27

28 **Communications:**

- 29 • Walk Bike Berkeley – BART

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

- 31 • Supplemental Packet One
- 32 • Supplemental Packet Two
- 33 • Supplemental Packet Three

34 **5. CHAIR REPORT:**

- 35 • Introduction of new Planning Commissioners

36

37 **6. COMMITTEE REPORT:** Reports by Commission committees or liaisons. In addition to the

38 items below, additional matters may be reported at the meeting.

- 39
- 40 • None.

41 **7. APPROVAL OF MINUTES:**

42 Motion/Second/Carried (Twu/Moore) to approve the Planning Commission Meeting Minutes

43 from June 2, 2021

44

45 Ayes: Hauser, Kapla, Mikiten, Moore, Twu, Vincent, and Wiblin. Noes: None. Abstain: Oatfield

46 and Zander. Absent: None. (7-0-2-0)

47

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

- 49 • Planning Commission
 - 50 ○ October 6
 - 51 ▪ Tentative Tract Map (Public Hearing)
 - 52 ○ October 20
 - 53 ▪ Bayer Development Agreement (Public Hearing)

54 **AGENDA ITEMS**

55 **9. Discussion: Draft Zoning and General Plan Amendments and City-BART Joint Vision**

56 **and Priorities for the Ashby and North Berkeley BART Station Areas**

57 Staff provided an overview of the planning process, the City-BART Joint Vision and Priorities

58 (JVP) document, draft zoning and General Plan amendments, and other outstanding issues

59 related to the project. After staff's presentation, the Planning Commission received public

60 comment and provided input related to housing, affordability, and potential project densities

61 proposed at the respective sites.

62 **Public Comments:** 45

63 **10. Discussion: Overview of the Upcoming Housing Element Update and Request to**

64 **Identify a Member to Participate in the Public Outreach Effort**

65 Staff provided an overview of the Housing Element Update (6th Cycle, 2023-2031) that is
66 underway, explaining the project's role in the context of the City's General Plan and meeting
67 our Regional Housing Needs Allocation (RHNA). Staff asked the Commission to identify any
68 community partners to be included on the outreach / stakeholder list. The Commission asked
69 staff to send a reminder email the week of September 6th requesting contacts. The
70 Commission selected Commissioner Twu as the Housing Element liaison to the Planning
71 Commission – this entails attending workshops and being on the Housing Element email list.
72 Commissioner Vincent will serve as an alternate.

73 **Public Comments: 0**

74 Motion/Second/Carried (Vincent/Mikiten) to adjourn the Planning Commission meeting at
75 10:37pm.

76
77 Ayes: Hauser, Kapla, Mikiten, Moore, Oatfield, Twu, Vincent, Wiblin, and Zander. Noes: None.
78 Abstain: None. Absent: None. (9-0-0-0)
79

80 **Members in the public in attendance: 105**

81 **Public Speakers: 47**

82 **Length of the meeting: 3hr 34minutes**



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: October 6, 2021

TO: Members of the Planning Commission

FROM: Katrina Lapira, Assistant Planner

SUBJECT: Business Support Zoning Amendment Referrals – Research and Development (R&D) Definition

BACKGROUND

On March 10, 2020, the City Council referred to the Planning Commission an update to the definition of “Research and Development” (Attachments 2 and 3). The referral was intended to remedy a disconnect between how Research and Development (R&D) is defined in the zoning ordinance (and hence, what types of businesses could take advantage of certain opportunities for occupying existing “protected” space) and what types of activities today’s businesses actually include. The current definition in Berkeley Municipal Code (BMC) Section 23F.04.010 - Definitions is as follows:

Research and Development: *A Research and Development facility is an establishment comprised of laboratory or other non-office space, which is engaged in one or more of the following activities: industrial, biological or scientific research; product design; development and testing; and limited manufacturing necessary for the production of prototypes.*

This definition restricts businesses by not allowing office space. The referral requests that the Planning Commission research and make a recommendation concerning the definition, which could be modified to: 1) allow R&D establishments to include office space, and 2) include technological research as a component of R&D.

Planning Commission discussed iterations of the proposed R&D definition on July 1, 2020, December 16, 2020, and June 2, 2021. At its June 2, 2021 meeting, the Planning Commission also discussed the protections of industrial space expressed in the West Berkeley Plan, the R&D business sector in Berkeley, and the proposed R&D definition (Attachment 2). After reviewing the proposed definition, the Planning Commission requested that amendments be incorporated to enhance legibility of the definition and further safeguard against the conversion of protected space into office space. Based on the feedback provided, this report proposes a revised definition of R&D for Planning Commission’s consideration.

DISCUSSION

The revised definition incorporates minor modifications for the review and consideration of the Planning Commission. The following section explains how the proposed definition in Table 1 responds to the Planning Commission’s comments, as well as the requests in the Council referral. To view the draft redlines of the proposed definition, see Attachment 1.

Table 1. R&D Definitions: Proposed vs. June 2

Proposed Definition	June 2 Definition
<p><i>An establishment engaged in the following activities:</i></p> <ul style="list-style-type: none"> • <i>Industrial, biological or scientific research</i> • <i>Product or process</i> <ul style="list-style-type: none"> ▪ <i>Design</i> ▪ <i>Development</i> ▪ <i>Prototyping and</i> ▪ <i>Testing</i> <p><i>This may include ancillary uses, such as labs, offices, warehousing, and light manufacturing as part of the Research and Development use.</i></p> <p><i>This classification does not include computer software development firms.</i></p>	<p><i>An establishment engaged in the following activities:</i></p> <ul style="list-style-type: none"> • <i>Industrial, biological or scientific research; and</i> • <i>product or process design, development, prototyping and testing.</i> <p><i>This may include labs, offices, warehousing, and light manufacturing functions as part of the overall Research and Development use.</i></p>

In addition to addressing the referral requests to create a more flexible definition, the modifications state which activities are required for the R&D land use classification in a simpler format, names several ancillary uses, including office, and addresses ongoing concerns about software development firms occupying limited industrial space. How these objectives are accomplished in the definition are described in the following bullets:

- Clearly states what land use activities are required for R&D:
 As discussed at prior Planning Commission meetings, R&D requires a continuum of activities - research, development, prototyping, and testing. The proposed definition provides a bulleted list of these activities, making it clear that an R&D establishment must include on-going production that results in the design, development, prototyping, or testing of a product, prototype, or process. Several conjunctions and punctuation marks were removed from the list, leaving less room for interpretation and confusion. The proposed definition continues to reflect the interrelated functions of an R&D establishment while creating a distinction between R&D establishments and standalone labs, offices, or light manufacturing uses.

- Allows offices as an ancillary use:
The current definition of R&D prohibits office space. As described previously, this is problematic because modern R&D establishments conduct research in laboratory settings -- that may include clean rooms, hoods, work benches, or machinery -- and in office space that may include desks and small-scale computer equipment. The proposed definition allows for offices, labs, warehousing, and light manufacturing functions as ancillary uses. Defined in the Berkeley Municipal Code, an ancillary use is both dependent on and commonly associated with the principal permitted use of a lot and/or building and does not result in different or greater impacts than the principal use. This modifier allows for office space to be part of an R&D establishment while ensuring that such uses remain secondary to and part of the primary R&D use. This solution addresses the referral request to allow for office space and reserves limited industrial space for R&D facilities and other similar uses.
- Addresses concerns about software-development firms:
Although “technologic research” was not included in the revised definition shared on June 2, the Planning Commission raised concerns about software development firms being misclassified as R&D establishments under the proposed definition. To address this concern directly, the last sentence of the proposed definition includes explicit language that prohibits software development firms. This modification responds to concerns about software companies occupying prime industrial space without precluding the use of technology and innovative tools as part of the R&D use classification.

The proposed modifications to the R&D definition provide clarity and reflect existing practices within the sector and regulatory practices in other cities. The definition also provides more flexibility to existing and prospective operations in Berkeley. Overall, the changes in the R&D definition are consistent with the West Berkeley Plan as they do not imbalance the economic mix of the Plan Area and advance the goal of supporting the growth of an evolving industry that is creating local jobs.

NEXT STEPS

Staff recommends that the Planning Commission hold a public hearing, receive public testimony, and make a recommendation to City Council about the proposed R&D definition.

ATTACHMENTS

1. Draft Redlines - R&D Definition
2. Planning Commission Staff Report December 16, 2020
3. City Council Referral – March 10, 2020
4. Public Hearing Notice

23F.04.010 Definitions

Research and Development: ~~A Research and Development facility is a~~An establishment ~~comprised of laboratory or other non-office space, which is~~ engaged in ~~one or more of~~ the following activities:

- ~~i~~Industrial, biological or scientific research ~~;~~;
- ~~p~~Product or process
 - ~~e~~Design;
 - ~~e~~Development
 - Prototyping and
 - ~~t~~Testing; ~~and limited manufacturing necessary for the production of~~ prototypes.

This may include ancillary uses, such as labs, offices, warehousing, and light manufacturing as part of the Research and Development use.

This classification does not include computer software development firms.



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: June 2, 2021

TO: Members of the Planning Commission

FROM: Katrina Lapira, Assistant Planner
Alene Pearson, Principal Planner

SUBJECT: Business Support Zoning Amendment Referrals – Research and Development

BACKGROUND

On March 10, 2020, the City Council referred to the Planning Commission an update to the definition of “Research and Development” (see Attachments 1 and 2). The referral aimed to remedy a disconnect between how R&D is defined and what types of land use activities R&D businesses need to conduct for operation. The current definition in Berkeley Municipal Code (BMC) Section 23F.04.010 [Definitions] is provided below:

Research and Development: *A Research and Development facility is an establishment comprised of laboratory or other non-office space, which is engaged in one or more of the following activities: industrial, biological or scientific research; product design; development and testing; and limited manufacturing necessary for the production of prototypes.*

The goal of zoning is to regulate land use and the definitions describe allowable activities for businesses that operate under a given land use category. The current definition for Research and Development (R&D) restricts businesses by requiring a laboratory space and not allowing office space. The referral recognizes that R&D businesses have evolved from standard laboratory and fabrication facilities to multi-faceted businesses that engage in research, design, development, prototyping, and testing in advance of large-scale manufacturing and production. The City Council referral suggests language to remedy this issue.

Research and Development: *A ~~Research and Development facility is a~~ An establishment comprised of laboratory ~~or and~~ and other associated and ancillary space ~~non-office space, which is,~~ engaged in one or more of the following activities: industrial, technological, biological or scientific research; product design; development and testing; and limited fabrication*

and/or manufacturing necessary for the production and assemblage of prototypes prototypical products.

A comparison of the current definition to proposed referral definition highlights two primary modifications: 1) allow R&D establishments to include office space and 2) consider technological research to fall under R&D.

Land Use Planning staff approached this referral as it does with all land use policy referrals, by reviewing existing conditions, examining regulations in neighboring jurisdictions for context and comparison, and recommending an approach to the referral. In addition, Planning staff consulted with Berkeley's Office of Economic Development (OED).

Planning Commission previously discussed this item on July 1, 2020 and December 16, 2020. Staff recommended a three phased approach to the referral on December 16, 2020 that included:

- 1) updating the R&D definition;
- 2) resolving undefined terms related to R&D definition; and
- 3) reviewing permitting thresholds and protected uses in the M districts for land uses related to R&D.

Planning Commission's discussion of this item on December 16, 2020 was substantial and resulted in requests for additional research into existing conditions within Berkeley's manufacturing districts, background on the West Berkeley Plan, and information on R&D businesses and the R&D industry as a whole. There was also a request for additional outreach and a Planning Commission meeting to discuss findings before a public hearing was to be scheduled. This report provides requested information and proposes a revised definition of R&D for Planning Commission's consideration.

Defining R&D

In researching this referral and discussing R&D with stakeholders, staff recognized that the way a business describes the activities it undertakes and how land use planners define R&D for the purposes of land use regulation are not always the same. For example, a business that bakes bread for wholesale distribution may call themselves a "bakery" but a land use planner at the City of Berkeley would call this business a "manufacturer." In the context of R&D, a business that solely works out of an office environment (e.g. in cubicles and on computers) may call themselves an "R&D" company, whereas a planner would classify this business as an "office" for land use regulation.

Examples of companies in Berkeley that are doing R&D include Sensys Networks and Clarity Movement (designing and developing sensors), Bayer or Libby Labs (developing drug and skincare products), Squishy Robotics or Peanut Robotics (designing and building robots), PolyPlus Battery or Form Energy (designing and developing next generation energy storage), and Upside Foods or Perfect Day (creating alternatives to traditional, animal-based meat and dairy). In terms of land use regulations – which

determine how building space is used and the types of allowable on-site activities – these companies may or may not be classified within an “R&D” land use category.

Land use planners review site plans and project descriptions to interpret appropriate land use classification for zoning compliance. This analysis is important, as the Zoning Ordinance allows businesses to locate in different areas of the city based on their activities in order to ensure compatibility within zoning districts and reduce impacts to neighbors.

R&D, as a land use category, includes combined research, experimental development, design, production, prototyping, and testing activities. R&D is conducted by different industries, including, but not limited to, biotechnology (aka life sciences), robotics, renewable energy and electronics. R&D activities take place at various intensities and frequencies and in different forms as a *precursor to* manufacturing and also as a *component of* manufacturing (as businesses research, iterate and improve products).

These ideas are supported by a survey of R&D definitions utilized by Bay Area jurisdictions (see Attachment 3). In general, jurisdictions focused more on naming the continuum of activities as part of the R&D process, rather than the type of facilities in which R&D activities occur. That said, a number of cities, like Benicia, Emeryville, Oakland, and Palo Alto, include examples of typical facilities, like testing facilities, laboratories, and offices in their definitions of R&D. Through this review and comparison of other R&D definitions, staff found the following:

- In Berkeley, R&D is currently defined as an activity that occurs in a laboratory and other non-office space. Other cities focus on the objectives and processes of the sector, rather than the operative location where activities occur. All of the cities surveyed allow accessory office and storage space that supports the primary permitted land use.
- In Berkeley, terms like high-technology electronics are not included in the existing R&D definition. These terms are used in Oakland, Richmond, and San Leandro’s R&D definitions to reflect the growing role of technology in development of prototypes or innovative processes.

This analysis supports the statement in the City Council referral that Berkeley’s definition has not kept up with contemporary R&D activities and is more restrictive than definitions utilized by neighboring jurisdictions.

Understanding West Berkeley

R&D is explicitly stated as an allowable use in two zoning districts in West Berkeley – the Mixed-Use Manufacturing (MM) district and the Mixed-Use Light Industrial (MULI) district. Land use regulations in this area are guided by the West Berkeley Plan (“the Plan”), adopted in 1993. The Plan area encompasses the area between San Pablo Avenue to the east and the Eastshore Freeway to the west, Albany to the north, and Emeryville to the South. West Berkeley includes a number of major, large-floor-plate retailers, a dense cluster of home supplies and construction businesses, and non-retail

commercial businesses including manufacturers, warehouses, biotechnology and R&D companies. The greatest share of R&D activities take place west of San Pablo Avenue between Bancroft Way and Ashby Avenue, in hubs such as the Wareham Development Aquatic Park campus, which includes the QB3 East Bay Innovation Center, and Bonneville Labs.

The West Berkeley Plan seeks to guide the evolution of the area, rather than reshape it, by encouraging a unique mix of industrial, light manufacturing, residential, and retail uses. Although there are several references made throughout the Plan to increase advanced technology services, R&D was not defined as a land use category in the original Plan. It was adopted and added to the zoning code through a West Berkeley Plan amendment in 2011.

The development of Berkeley's R&D land use definition occurred within the context of the West Berkeley Plan, which prioritizes the expansion and protection of job-creating sectors associated with these four land use categories:

- Manufacturing;
- Wholesale trade;
- Warehousing; and
- Material recovery enterprise.

These four protected uses were the industry focus in the early 1990s when the Plan was adopted. The Plan specifically regulated conversion of physical space from protected uses to non-protected uses in the Manufacturing (M), MM and MULI districts. In 2006, the City Council instructed staff to explore options for changing regulations in West Berkeley to ease obstacles for growing businesses and to facilitate the use of underutilized building stock. This referral resulted in a project known as the 2010 West Berkeley Project ("the Project")¹. Through the planning process, a set of Zoning Ordinance amendments were drafted to accommodate the evolution of industry practices in West Berkeley. These amendments focused on reducing permitting and size thresholds for different uses in the M, MM, MULI, and MUR districts, adding new use designations, clarifying incidental and ancillary uses, creating a Master Use Permit process, extending protections to arts uses, and addressing issues related to the replacement of protected space. See Attachment 4 for a comparison of protected uses adopted in the 1993 West Berkeley Plan and in amendments associated with the West Berkeley Project.

R&D, as a land use, was not included in the 1993 West Berkeley Plan. The definition was introduced as part of the West Berkeley Project and was initially introduced as two land use categories: R&D and R&D Office. R&D Office was proposed to avoid "office only" spaces from locating in the manufacturing districts. Despite discussions to create two use classifications for R&D, the existing singular definition was established. Although not explicitly connected, zoning amendments were adopted during this time to permit ancillary office space in the M, MM, and MULI zoning districts. Ancillary space is defined in the BMC as *"a use that is both dependent on and commonly associated with the principal*

¹ The West Berkeley Project resulted in a series of amendments that were adopted between 2010 and 2012.

permitted use of a lot and/or building and that does not result in different or greater impacts than the principal use.” In other words, office use would be allowed if needed to support the primary land use, subject to applicable permit thresholds.

In addition to the definition, the regulatory provisions for R&D that exist today were established through the West Berkeley Project. As a land use category, R&D is only allowed in two of the four manufacturing districts in Berkeley: the MM and the MULI districts. R&D is limited intentionally to preserve limited space in the M district for heavier industrial uses and to protect residential uses in the MUR district from displacement, and to preserve space for protected uses. Attachment 5 shows how R&D is regulated compared to other permitted uses in the manufacturing districts.

As referenced earlier, the Project also clarified guidance on how conversions of protected space were regulated and manufacturing, warehousing, and wholesale trade were regulated/protected. The West Berkeley Project modifications intentionally encourage R&D in only the MM and MULI zoning districts. Subject to permit requirements, warehouse and wholesale trade protected space may be converted into R&D. The Project also created land use designations to provide additional support to artisans and craftspeople in order to ensure that this valued sector, primarily located in West Berkeley, was not “pushed out” or burdened by additional land use regulations. Amendments created “art” land uses, such as arts/craft studio and fine arts performance and allowed them to move into and out of protected space, without that space becoming re-designated as protected artist space.

TABLE 1. Protected Space Conversion to R&D: Permit Requirements

Zoning	Permit Requirements	
	20,000 SF	>20,000 SF
M and MUR	Prohibited	
MM	AUP ²	UP(PH) ³
MULI		

The Project included safeguards that limit the rapid conversion of protected space, as shown in Attachment 6. Some requirements, which expired in 2016, capped the cumulative amount of protected space that could have been converted in the MM and MULI districts at 270,000 square feet. Other requirements mandated that for every 50,000 square feet of space converted, a report was to be provided to Council sharing the status of protected space in the Plan area. A report was never submitted to Council, since, as of today, less than 30,000 square feet of space has been converted. It was anticipated that in 2016 this threshold would be revisited, but since converted space was much less than expected, no modifications have been introduced. In addition, specific findings were adopted requiring that loss of protected space would be offset with either replacement of comparable protected space within Berkeley or payment of mitigation fees as part of permit approval. No fee was ever established.

² Administrative Use Permit

³ Use Permit with a Public Hearing

R&D as an Economic Driver

At the December 16, 2020 Planning Commission meeting, Commissioners had questions pertaining to Berkeley's business environment and R&D industry characteristics. The following report section, researched and prepared by OED, provides findings that address some of these questions and offers a fuller picture of how R&D firms and related industries contribute to the city's economic vitality.

Employment

At the December 16, 2020 meeting, Planning Commission requested more information about the types of R&D firms that were operating in Berkeley, especially in West Berkeley. In response to that question, OED researched economic data from a variety of sources:

- the State of California Employment Development Department (EDD) data, which uses the North American Industry Classification System (NAICS) for industry categorization and records employment data by month and quarterly payroll (based on Unemployment Insurance);
- Business Licenses filed with the City of Berkeley Finance Department, which asks employers annually to self-report number of employees and their industry for taxation and permitting purposes;
- Research assembled by groups representing local industries --in this case Biocom for life sciences and the Bay Area Urban Manufacturers (BAUM) for manufacturing; and
- Direct meetings with businesses.

While there are minor discrepancies between classifications in these data sources and in the way that businesses classify themselves (based on criteria that don't always match land use classifications), OED used relevant NAICS codes to answer questions Planning Commission had about the R&D industry in Berkeley. OED focused on firms labeled as "Scientific Research and Development Services"⁴ and the subset of manufacturing industries that most often have a significant R&D component (sometimes referred to as "advanced manufacturing").⁵ OED's analysis refers to these combined NAICS categories as Berkeley's "R&D-intensive industries." These R&D-intensive industries provide roughly 3,000 jobs in the City of Berkeley, or approximately 7-8% of the total number of private sector jobs in Berkeley. Of these jobs, nearly 80% (more than 2,000) can be found in West Berkeley. See Attachment 7 for the full breakdown.

OED's data analysis also provides a glimpse into the job creation potential offered by R&D-intensive industries, using the NAICS codes explained above. As compared to the

⁴ NAICS codes starting with the 4-digits 5417.

⁵ Manufacturing industries with a significant R&D component were determined to be: NAICS 325 (chemicals), NAICS 326 (plastics and rubber products), NAICS 327 (nonmetallic mineral products), NAICS 333 (machinery), NAICS 334 (Computer and Electronic Products), NAICS 335 (Electrical Equipment, Appliance, and Component), and NAICS 336 (Transportation Equipment).

job creation rate of 11 jobs per firm in Berkeley for “traditional manufacturers⁶” in Q4 2019, the rate for R&D-intensive industries overall was 15 (with even more -- an average of 22 jobs per firm -- in companies labeled as “Scientific Research and Development Services” by NAICS).⁷

As Berkeley is one of only a few cities nationally with both a top-ranked research university and a national laboratory (and the only one in the East Bay), it should come as no surprise that R&D activities are generating significant local employment opportunities. Given the high concentration of R&D employers in West Berkeley, it is fair to assume that if more R&D firms were able to locate in West Berkeley, we would see a higher rate of job creation per firm than we have in recent years.

Moreover, Berkeley is particularly strong in one of the R&D-intensive industries that is growing most: life sciences⁸. In their 2020 Economic Impact Report, Biocom shows that companies in the life sciences industry in Alameda County employed nearly 35,000 people (nearly a quarter of Bay Area life science jobs) and calls out the employment opportunities associated with R&D activities within the overall biotech industry:

“There was impressive growth in the Biopharmaceuticals, Medical Devices and Research & Lab Services industry clusters between 2014 and 2019. The Research & Lab Services sector alone added over 17,000 new jobs [in the Bay Area] over the five year period. The largest growth was in Alameda, San Francisco and San Mateo counties.”

The report shows that sixty-one percent of the people employed in life sciences in Alameda County are in “Research & Lab Services” (with an even greater percentage undertaking R&D activities since work in biopharmaceuticals and medical devices is R&D-intensive.)

Wages

OED’s data analysis showed that the average wages found in R&D-intensive industries are higher than in many other industries. As Attachment 8 shows, 11% of *all* private sector payroll in Berkeley in the fourth quarter 2019 was attributed to R&D-intensive industries, and nearly a third (31%) of Q4 2019 West Berkeley quarterly payroll overall came from R&D-intensive industries.

In that quarter, average quarterly payroll per employee translated into more than \$126,000 average annual wages in R&D-intensive industries and nearly \$136,000 specifically for companies labeled as “Scientific Research and Development Services”

⁶ For the purpose of this analysis, “traditional manufacturers” are the subset of firms classified under NAICS manufacturing codes 31-33 that didn’t fall in the R&D-intensive industries definition described above. Traditional manufacturers are comprised of more than one-third in Food & Beverage manufacturing.

⁷ Jobs/firm numbers exclude Bayer as the company’s 1000+ employees skew the analysis.

⁸ Biocom’s 2020 Economic Impact report shows the life sciences (aka “biotech”) industry generated \$372 billion in annual economic activity statewide in 2019—and generates over \$90 billion of gross regional product.

(NAICS 5417). (These annual salaries are more than double the \$59,000 average annual wages for traditional manufacturing industries.)

Among *all* types of Berkeley manufacturers, wages in R&D-intensive segments are the highest: \$133,000 annually for chemicals and more than \$82,000 per year for "hard tech" (machinery, computer, electronic products, electrical equipment, etc.) In the life sciences industry countywide, average earnings in 2019 were over \$127,000 per year. See Attachment 9 for a snapshot of countywide wages in the biotechnology industry by sub-sector (from Biocom's 2020 Economic Impact report).

In addition to providing high-wage jobs, R&D-intensive industries can be an engine for economic recovery by attracting investment to the region. According to PitchBook's 2020 university rankings, UC Berkeley ranks first in the nation and second in the world overall for undergraduate programs that produce entrepreneurs who obtain venture funding. Even during the 2020 COVID-19 pandemic-related economic crisis, Berkeley innovation-oriented startups raised more than \$700 million from venture capital, and ten Berkeley companies received nearly \$6 million in federal Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) grants for R&D.

Some estimates show that venture capital funding in life sciences has increased more than four times since 2013.⁹ With more than a third of Berkeley innovation companies in the biotechnology and healthcare industries, and a lab on UC Berkeley's campus run by 2020 Nobel-prize winner Jennifer Doudna located a few miles away from West Berkeley, the area is well positioned to accommodate R&D life sciences activities.

Challenges Today

To better understand the challenges that R&D businesses face when either growing in or relocating to Berkeley, OED consulted more than two dozen stakeholders, including R&D company leaders, real estate brokers, property developers, industry advocates, academics, and other cities' economic development department staff. Though not all of the problems relate to the R&D definition itself, OED found:

- Many stakeholders find the City of Berkeley's current definition of R&D to be confusing, i.e. they cannot determine from reading it whether they will get a zoning permit or business license for R&D uses in West Berkeley.
- Neighboring cities are competing for R&D companies and the high-wage jobs they create. Over 70 R&D companies have left Berkeley in the last 3 years to places where they can easily build their teams and find facilities that will accommodate their growth. The most common destinations for expanding R&D firms with Berkeley roots include Emeryville, Oakland, Alameda, and San Leandro.
- Many firms, despite their preference for a Berkeley headquarters or facility, choose to expand elsewhere because: move-in ready sites are available that don't require the tenant to have to wait for an AUP and subsequent custom build, they'll have greater certainty that their proposed R&D use will be accepted, they

⁹ *Life Sciences Real Estate – State of the Market Q4'20*, Capital Brain, January 18, 2021.
<https://capitalbrain.co/blog/life-sciences-real-estate-state-of-the-market-q420/>

know they'll be able to expand as they grow (i.e. have adjacent or nearby office, manufacturing, and warehousing space), or the cost is lower.

- Highly visible, large floor-plate properties in West Berkeley that are vacant (or appear vacant) bring other challenges to the neighborhood and don't create *any* jobs.

The Opportunity for Berkeley

Although companies often wish they could locate closer to UC Berkeley's campus or BART, R&D companies desire a Berkeley address and locate in West Berkeley because:

- They seek facilities in close proximity to talent, resources, and assets (e.g. clean rooms, supercomputers, particle accelerator, etc.) at UC Berkeley, the Berkeley Lab and the broader Bay Area,
- It's one of the only places in the city where R&D is currently spelled out as an approved use in the zoning code (where higher levels of noise, odor or vibrations are permitted),
- Prices per square foot are cheaper (than in Downtown Berkeley, San Francisco or other comparable locations), and
- Historically there have been more large floor plate vacancies than can be found in other parts of the city.

The tremendous demand for West Berkeley real estate by growing R&D companies thus provides the City of Berkeley and its residents with an opportunity to embrace R&D land uses that provide high quality local jobs.

DISCUSSION

Planning Commission is asked to consider the following revised definition. The bullets that follow explain how it accommodates innovation in the R&D business sector and is more consistent with regulatory practices observed in other local jurisdictions.

Research and Development: A Research and Development facility is a*An establishment comprised of laboratory or other non-office space, which is engaged in ~~one or more of~~ the following activities:*

- *Industrial, biological or scientific research; and*
- *product or process design, development, prototyping and testing; and limited manufacturing necessary for the production of prototypes.*

This may include labs, offices, warehousing, and light manufacturing functions as part of the overall Research and Development use.

This definition accomplishes the following:

- Clearly states what land use activities are required for R&D.

The existing definition describes R&D as an establishment that is engaged in *one or more* distinct activities. This is problematic, because if a business is engaged in just *one* of these R&D activities (e.g. testing or research), that activity could be regulated under either R&D or under that singular land use category (e.g. Testing Laboratory

or Office). This redundancy creates confusion, especially when regulations differ between land use categories. For the same reason, the proposed definition intentionally uses “and” between activities and bullets instead of “or”.

Reviewing other jurisdiction regulations, like the City of Richmond, Cupertino, and Oakland, R&D establishments are defined to include *all* of the following activities: research, design/development, and light manufacturing. Berkeley’s proposed definition is consistent with these examples. Furthermore, the last sentence of Berkeley’s existing definition “...*and limited manufacturing necessary for the production of prototypes*” ensures that R&D activities result in development of a prototype or process, not manufacturing of products for sale. The proposed definition removes that last sentence but adds “prototyping” to the second bullet:

- *product or process design, development, prototyping and testing;*

This emphasizes that R&D requires a continuum of activities. The proposed definition ensures that research, development, and prototyping, the process by which a product or process is created for evaluation and testing, is allowed and reflects the interrelated functions of an R&D establishment. Moreover, this modification creates a distinction between R&D establishments and standalone research, development, or light manufacturing activities, all of which exist as separate land use classifications.

- Removes prohibition on office space: The current definition of R&D prohibits office space. This is problematic because modern R&D establishments conduct research in laboratory settings -- that may include clean rooms, hoods, work benches, and machinery -- and in office space that may include desks and small-scale computer equipment. As explained in the background section, the current definition intentionally prohibited office space in order to avoid office land uses from encroaching on limited industrial space in West Berkeley. While this makes sense, the full prohibition of office space is problematic and inconsistent with the allowance of ancillary office space and with the multi-faceted activities required of an R&D firm. The proposed definition allows for office space to be part of an R&D establishment. This is consistent with sectoral practices, R&D regulations in other cities and with the allowance of ancillary uses.
- Addresses concerns about software-development firms: The referral requested the addition of “technological” research to emphasize the need for computer-intensive activities associated with R&D businesses. The proposed definition achieves this goal by allowing industrial, biological or scientific research *and* design, development, prototyping and testing in laboratories and offices. This modification would allow for technological research but directs office-based types of R&D to locate in other commercial districts where lower impact office uses are allowed. This solution reserves limited industrial space for R&D facilities where larger experimental space may be needed for the purposes of research, design, and prototyping or where activities generate noise, odor or vibrations.

- Does not encroach on protected space: During the Planning Commission meeting in December, several concerns were raised regarding the possible encroachment of R&D facilities on space designated for protected uses. Staff's proposed modifications do not remove or modify existing protections for the conversion of protected space. Since the adoption of the protected space conversion provisions noted above, no more than 30,000 square feet of protected space has been converted for the purposes of R&D. Therefore, it is apparent that that the existing regulations for the conversion of protected space are robust. Staff's proposed modifications to this definition will not alter how R&D uses permitted in the MULI and MM districts interact with protected space and will maintain all existing protective regulations developed in the West Berkeley Plan.

The proposed modifications to the definition of R&D seek to reflect existing practices within the sector, regulatory practices in other cities. The definition also provides more flexibility to existing and prospective operations in Berkeley. Overall, the changes in the R&D definition are consistent with the West Berkeley Plan as they do not imbalance the economic mix of the Plan Area and advance the goal of supporting the growth of an evolving industry that is creating local jobs.

NEXT STEPS

Staff recommends that the Planning Commission provide feedback on the proposed R&D definition and set a public hearing at their July meeting. Research and discussions at previous meetings have highlighted the complex planning history that guided development of the existing regulations. Substantive zoning amendments that respond to broader challenges will require a more comprehensive planning process that City Council may refer to the City Manager at a future date.

ATTACHMENTS

1. Planning Commission Staff Report December 16, 2020
2. City Council Referral March 10, 2020
3. City Comparison – R&D Definitions
4. West Berkeley Plan Protected Uses Comparison
5. Regulating Uses in the Manufacturing Districts
6. Protected Space Conversion Protections (R&D)
7. R&D Jobs in Berkeley (Employment Analysis by NAICS)
8. 2020 Biocom Economic Impact Report - East Bay Summary
9. R&D Wages in Berkeley

STAFF REPORT

DATE: December 16, 2020

TO: Members of the Planning Commission

FROM: Katrina Lapira, Assistant Planner

SUBJECT: Business Support Zoning Amendment Referrals – Research and Development

SUMMARY

City Council has referred to the Planning Commission five referrals intended to support Berkeley business development. At the Planning Commission meeting on July 7, 2020, these five referrals were briefly introduced and discussed. Planning Commission requested that staff continue working on the Research and Development Definition Referral (see Attachment 1) in order to develop a response. This report provides background, analysis, and recommendations for Planning Commission's consideration.

BACKGROUND

The North American Industrial Classification System¹ (NAICS) identifies several types of R&D classifications² including, but not limited to, research and experimental development in the fields of:

- Physical, engineering, and life sciences such as agriculture, electronics, environmental, biology, botany, computers, chemistry, food, fisheries, forests, geology, health, mathematics, medicine, oceanography, pharmacy, physics, veterinary and other allied subjects.
- Biotechnology, which involves the study of the use of microorganisms and cellular and biomolecular processes to develop or alter living or non-living materials.
- Nanotechnology, which involves the study of matter at the nanoscale (i.e., a scale of about 1 to 100 nanometers).

¹ The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

² NAICS [classification types](#) for R&D.

The Berkeley Municipal Code (BMC) currently defines the R&D land use category as follows:

An establishment comprised of laboratory or other non-office space, which is engaged in one or more of the following activities: industrial, biological or scientific research; product design; development and testing; and limited manufacturing necessary for the production of prototypes.

The referral is based on the following consideration: “Research and Development has evolved to take on many new forms, such that it can be performed in spaces that may, at first glance, appear to be an office or light industrial environment rather than a traditional ‘laboratory’ with, for example, benches and sinks.”

The referral suggests the Planning Commission consider amending the existing R&D definition as follows:

An establishment comprised of laboratory ~~or~~ and other associated and ancillary space non-office space, which is, engaged in one or more of the following activities: industrial, technological, biological or scientific research; product design; development and testing; and limited fabrication and/or manufacturing necessary for the production and assemblage of prototypes prototypical products.

As described in the referral, R&D has evolved to take on many new activities that are not captured in the BMC definition. To evaluate the proposed amendment in the context of the referral goals, staff reviewed the existing definition, the proposed definition, definitions from neighboring cities and cities that are included in the East Bay Corridor Partnership, and the NAICS definitions. Planning staff also consulted with Berkeley’s Office of Economic Development (OED) for feedback. Summaries of other local definitions are provided in Table 1.

Table 1. R&D Definitions in Other Local Cities

City	R&D Definition
Emeryville	Research of an industrial or scientific nature, including associated office space. Typical uses include indoor laboratories and testing facilities. This use type may include fabrication and small scale-up facilities as part of the research function, but excludes Manufacturing use types.
Oakland	Include scientific research for the design, development, engineering, and testing of high technology electronic, industrial, or scientific products in advance of full-scale manufacturing of final products. The only manufacturing uses in this classification consist of the creation of prototype products, plans, or designs for the primary purpose of research, development, or evaluation, rather than sale. This classification also includes certain activities accessory to the above [office]...This classification includes, but is not limited to, biotechnology firms, "clean-tech"/energy, environmental, electronic research firms, or pharmaceutical research laboratories.
Richmond	Refers to establishments primarily engaged in the research, development, and controlled production of high-technology electronic, industrial or scientific products or commodities for sale, but excludes uses which, in the opinion of the planning commission, may be objectionable by reason of production of offensive odor, dust, noise, bright lights, vibration or the storage of hazardous material or products, or uses which in the opinion of the commission threaten public safety. Typical uses include biotechnology firms. [Ancillary office space is permitted.]
San Leandro	Establishments primarily engaged in the research, development, and controlled production of high-technology electronic, industrial or scientific products or commodities for sale, but excludes uses that may be objectionable as determined by the Zoning Enforcement Official, by reason of production of offensive odor, dust, noise, vibration, or storage of or risk associated with hazardous materials. Uses include biotechnology firms, metallurgy, optical, pharmaceutical and X-ray research, data processing, and non-toxic computer component manufacturers. [Accessory office space is permitted.]

To better understand how land use regulations of R&D compare with other related land uses, staff reviewed zoning regulations for manufacturing uses in Berkeley and in neighboring cities and found the following:

- In Berkeley, R&D is defined as an activity that occurs in a laboratory and other non-office space. Other cities focus on the objectives and processes of the sector, rather than the operative location where activities occur. All of the cities referenced above allow accessory office and storage space that supports the primary permitted land use.
- In Berkeley, terms like high-technology electronics are not included in the existing R&D definition. These terms are used in Oakland, Richmond, and San Leandro's

R&D definitions to reflect the growing role of technology in development of prototypes or innovative processes.

Therefore, it seems that Berkeley's definition has not kept up with contemporary R&D activities and is more restrictive than definitions in neighboring jurisdictions. Staff suggests that it is important that the code be flexible enough to accommodate innovative practices within the overall system of land use categories.

DISCUSSION

In the following section, staff presents three proposals for Planning Commission's consideration.

1. Modify the Existing R&D Definition

Berkeley's existing definition for R&D is not flexible enough to incorporate new processes utilized by the sector. For example, Berkeley's definition does not explicitly permit R&D establishments to maintain accessory office space.

Staff proposes the edits below to accommodate innovation and to be more consistent with regulatory practices observed in other local jurisdictions.

An establishment ~~comprised of laboratory or other non-office space, which is~~ engaged in one or more of the following activities: ~~industrial, biological or~~ scientific research ~~for ; product design; ,~~ development, ~~engineering, and~~ testing; and limited manufacturing leading to the development of a ~~necessary for the~~ production of prototypes or process for the primary purpose of research, development or evaluation rather than sale. This classification includes, but is not limited to, biotechnology, renewable energy, environmental, physical, life sciences, engineering, pharmaceutical, and high technology electronics. This classification also includes ancillary activities and spaces for office and storage.

Rationale is provided below, one sentence at a time:

Sentence 1: *An establishment ~~comprised of laboratory or other non-office space, which is~~ engaged in one or more of the following activities: ~~industrial, biological or~~ scientific research ~~for ; product design; ,~~ development, ~~engineering, and~~ testing; and limited manufacturing leading to the development of a ~~necessary for the~~ production of prototypes or process for the primary purpose of research, development or evaluation rather than sale.*

The existing definition limits R&D activities to laboratory and other non-office space. It separately describes the types of activities allowed. Proposed language focuses on the activities – but does not limit the environment where the activities occur. Today's R&D operations occur in traditional labs as well as office spaces utilizing computer equipment such as 3-D printers and other technologies. The proposed definition removes the limitation on the type of space allowed and focuses on R&D activities.

Berkeley’s existing definition, when compared to that of other jurisdictions, is very broad and does not define the goal of R&D operations – prototype development. Following Oakland’s example, the proposed definition includes language that limits R&D activities to prototype development and production for limited use.

Sentence 2: *This classification includes, but is not limited to biotechnology, renewable energy, environmental, **pharmaceutical**, and **high technology electronics**. This classification also includes **ancillary activities and spaces for office and storage**.*

This proposed second sentence of the definition includes three new concepts that are shown in bold. Table 3 outlines the significance of this new language in the R&D definition.

Table 2. Significance of Proposed New Language

Proposed New Language	Significance
<u><i>Pharmaceuticals (Research)</i></u>	Pharmaceutical research is a type of R&D activity, whereas pharmaceutical production is a type of manufacturing. Staff proposes to add pharmaceutical to the R&D definition, but then also define the terms in Title 23F (the Definition Section of the Zoning Ordinance) to clarify the distinction between research and production. (The proposed definition will be described in the next section.)
<u><i>High technology electronics</i></u>	Staff proposes to add this phrase to the R&D definition to allow businesses to leverage new technology, such as software development, in their research and development business. High technology electronics will be allowed as an accessory use that compliments traditional research conducted in laboratories. Common uses for such technology include, but are not limited to, managing research operations and data analysis. Such language would still preclude the use of an R&D space as solely technology/ software development firm, a land use categorized as an office use activity.
<u><i>This classification also includes ancillary activities and spaces for office and warehouse.</i></u>	While reviewing R&D definitions adopted by local jurisdictions, staff found that all comparable cities permit office space ancillary to more traditional testing facilities, like laboratories. Some jurisdictions allow ancillary office space in their R&D definitions explicitly. Other cities, like Richmond and San Leandro, include accessory use provisions applicable to all industrial districts that allow for office space and other related activities that support the primary use. Staff proposes to add

	this sentence to allow ancillary use for limited purposes – office space and warehousing of materials.
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2. Resolve Undefined Terms: Laboratory and Pharmaceuticals (production and research)

Although regulated in Berkeley's manufacturing districts and listed in the Uses Permitted tables, there are no definitions for laboratories (testing) and pharmaceuticals in the BMC. As a result, testing laboratories and uses that have pharmaceutical components are often conflated with R&D uses, which have traditionally conducted research in laboratory settings. Planning Commission is asked to consider the following three proposals to help reduce confusion:

a. Define Laboratory

Staff proposes that Laboratories be defined separately to provide clarity amongst similar use categories. According to the NAICS Code, testing laboratories are primarily engaged in performing physical, chemical, and other analytical services. Such testing may involve the evaluation of acoustics, biological organisms, and geotechnical samples, and electronics, among other things. Unlike R&D activities, this type of testing does not result in a new prototype or an improved process.

An establishment primarily engaged in performing physical, chemical, and other analytical testing services, such as acoustics or vibration testing, assaying, biological testing, calibration testing, electrical and electronic testing, geotechnical testing, mechanical testing, nondestructive testing, or thermal testing.

b. Incorporate Pharmaceutical Activities into Definitions for R&D (for research) and Light Manufacturing (for manufacturing) Definitions.

Staff proposes to regulate pharmaceutical businesses by incorporating them into both the R&D and Light Manufacturing land uses, depending on the purpose and outcome of the activity. In general, the pharmaceutical industry develops and produces medicinal products for mass consumption. Neighboring cities, like Oakland, Richmond, and San Leandro, regulate pharmaceuticals as two uses, related to the ultimate purpose of the activity: research or manufacturing. The proposed modification would classify pharmaceutical research activities under the R&D land use and pharmaceutical production under the Light Manufacturing land use category.

c. Remove Pharmaceuticals from the Manufacturing Districts Use Tables

Staff proposes to remove Pharmaceuticals as a stand-alone use from the Uses Permitted tables in the manufacturing districts if the proposal above (incorporate pharmaceutical activities into R&D and Light Manufacturing definitions) is accepted.

3. Request City Council Referral for Additional Work

Staff identified opportunities to clarify and improve zoning regulations in the manufacturing districts during research into the R&D referral and in discussions with OED staff. These opportunities are summarized below. Because these issues go beyond the scope of the R&D definition referral, staff is not proposing recommendations related to these issues in this referral response. Instead, Planning Commission may request a referral from City Council if this work is desired.

a. Review and Modify Permitting Thresholds

As described in the context of pharmaceutical uses, there is overlap between R&D and Light Manufacturing activities, with one important distinction: R&D results in prototypes whereas Light Manufacturing produces goods for sale. Despite a similarity in activities, BMC regulations for these two uses differ by operation size and by district (see Table 2). If desired, Planning Commission may request a referral from City Council to review permitting thresholds in order to bring R&D and Light Manufacturing thresholds and regulations into alignment.

Table 3. R&D and Light Manufacturing Permit Thresholds³

Zoning District	R&D	Light Manufacturing
M	Prohibited	<20K - ZC
MM	< 20K - ZC 20K - 40K - AUP > 40K - AUP	< 20K - ZC 20K - 40K - ZC > 40K - UP(PH)
MU-LI	< 20K - ZC 20K - 40K - AUP > 40K - AUP	< 20K - ZC 20K - 30K - AUP > 30K - UP(PH)
MU-R	Prohibited	AUP if 5,000 or less; UP(PH) if more than 5,000

b. Protected Uses

The West Berkeley Plan’s regulation of “conversions” or “changes of use” from manufacturing and wholesale trade (among others) to other uses is a central element of the Plan’s land use concept. The conversion of this “protected space” is subject to

³ Zoning Certificate | **AUP** – Administrative Use Permit | **UP(PH)** – Use Permit (Public Hearing)
 For more information on permit requirements, please refer to the [COB Planning webpage](#).

a Use Permit, which requires that several findings be made, depending on the zoning district. Such findings were instituted to deter widespread displacement of manufacturing uses, but they may also act as a barrier to the redevelopment of dilapidated legacy sites that were once used as large manufacturing establishments. If desired, Planning Commission may request a referral from City Council to review protected use regulations in the manufacturing districts to evaluate their effectiveness and explore policy alternatives for preserving and promoting spaces for manufacturing firms of various types.

NEXT STEPS

Planning Commission is asked to review the three proposals in the Discussion section and provide feedback and direction to staff. Based on the Planning Commission's direction, staff will draft Zoning Ordinance amendments for Planning Commission's consideration. If the Planning Commission would like to request a referral to study levels of discretion and/or the regulation of protected uses, that can be included as part of the recommendation to City Council.

ATTACHMENTS

1. Planning Commission Staff Report (without attachments) - July 1, 2020
2. Planning Commission Meeting Minutes - July 1, 2020

LINKS

1. Referral: Update the definition of Research and Development (Mayor Arreguin and Councilmember Wengraf, 3/10/2020) - https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2020-09-02_PC_INFO_7_03-10-20_%20Item%2017%20Referral%20Update%20the%20definition.pdf
2. West Berkeley Plan [https://www.cityofberkeley.info/Planning_and_Development/Redevelopment_Agency/West_Berkeley_Plan_\(The\).aspx](https://www.cityofberkeley.info/Planning_and_Development/Redevelopment_Agency/West_Berkeley_Plan_(The).aspx)



CONSENT CALENDAR
March 10, 2020

TO: Honorable Members of the City Council

FROM: Mayor Arreguín and Councilmember Wengraf

SUBJECT: Referral: Update the definition of “Research and Development”

RECOMMENDATION

Refer to the Planning Commission to update the definition of “Research and Development.”

BACKGROUND

In the 21st century, Research and Development has evolved to take on many new forms, such that it can be performed in spaces that may, at first glance, appear to be an office or light industrial environment rather than a traditional “laboratory” with, for example, benches and sinks.

The Planning Commission is encouraged to update the definition of “Research and Development”¹ to reflect evolving business practices and consider language such as:

Research and Development: An establishment comprised of laboratory or other associated and ancillary space, engaged in one or more of the following activities: industrial, technological, biological or scientific research; product design; associated software development; development and testing; and limited fabrication and/or manufacturing necessary for the production and assemblage of prototypical products.”

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

No environmental impact.

CONTACT

Mayor Jesse Arreguín
mayor@cityofberkeley.info | 510-981-7100

¹ BMC — 23F.04.010 Definitions



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FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

No environmental impact.

CONTACT

Mayor Jesse Arreguín
mayor@cityofberkeley.info | 510-981-7100

¹ BMC — 23F.04.010 Definitions

City	R&D Definition
Benicia	Establishments primarily engaged in industrial or scientific research, including limited product testing. This classification includes electronic research firms or pharmaceutical research laboratories, but excludes manufacturing, medical testing and analysis, and activities related to cannabis or cannabis products.
Cupertino	Means a use engaged in study, design, analysis and experimental development of products, processes or services, including incidental manufacturing of products or provisions of services to others.
Emeryville	Research of an industrial or scientific nature, including associated office space. Typical uses include indoor laboratories and testing facilities. This use type may include fabrication and small scale-up facilities as part of the research function, but excludes Manufacturing use types.
Oakland	Include scientific research for the design, development, engineering, and testing of high technology electronic, industrial, or scientific products in advance of full-scale manufacturing of final products. The only manufacturing uses in this classification consist of the creation of prototype products, plans, or designs for the primary purpose of research, development, or evaluation, rather than sale. This classification also includes certain activities accessory to the above [office]... This classification includes, but is not limited to, biotechnology firms, "clean-tech"/energy, environmental, electronic research firms, or pharmaceutical research laboratories.
Palo Alto	Means a use engaged in the study, testing, engineering, product design, analysis and development of devices, products, processes, or services related to current or new technologies. Research and development may include limited manufacturing, fabricating, processing, assembling or storage of prototypes, devices, compounds, products or materials, or similar related activities, where such activities are incidental to research, development or evaluation. Examples of "research and development" uses include, but are not limited to, computer software and hardware firms, computer peripherals and related products, electronic research firms, biotechnical and biomedical firms, instrument analysis, genomics, robotics and pharmaceutical research laboratories, and related educational development. Research and development may include the storage or use of hazardous materials in excess of the exempt quantities listed in Title 15 of the Municipal Code, or etiological (biological) agents up to and including Risk Group 3 or Bio Safety Level 3 classifications as defined by the National Institute of Health (NIH) or the Center for Disease Control (CDC). Higher classification levels of etiological (biological) agents are not allowed without express permission of the City Manager, Fire Chief, and Police Chief.
Richmond	Refers to establishments primarily engaged in the research, development, and controlled production of high-technology electronic, industrial or scientific products or commodities for sale, but excludes uses which, in the opinion of the planning commission, may be objectionable by reason of production of offensive odor, dust, noise, bright lights, vibration or the storage of hazardous material or products, or uses which in the opinion of the commission threaten public safety. Typical uses include biotechnology firms.
San Leandro	Establishments primarily engaged in the research, development, and controlled production of high-technology electronic, industrial or scientific products or commodities for sale, but excludes uses that may be objectionable as determined by the Zoning Enforcement Official, by reason of production of offensive odor, dust, noise, vibration, or storage of or risk associated with hazardous materials. Uses include biotechnology firms, metallurgy, optical, pharmaceutical and X-ray research, data processing, and non-toxic computer component manufacturers.
South San Francisco	A facility for scientific research and the design, development, and testing of electrical, electronic, magnetic, optical, pharmaceutical, chemical, and biotechnology components and products in advance of product manufacturing. Includes assembly of related products from parts produced off-site where the manufacturing activity is secondary to the research and development activities.

ATTACHMENT 4 . Protected Uses in the Manufacturing Districts Comparison

Zoning	Protected Uses 1993	Existing Protected Uses 2010
M	<ul style="list-style-type: none"> • Manufacturing • Wholesale trade • Warehousing • Material Recovery Enterprise 	<ul style="list-style-type: none"> • Manufacturing • Wholesale trade • Warehousing • Material Recovery Enterprise
MM	<ul style="list-style-type: none"> • Manufacturing • Wholesale trade • Warehousing • Material Recovery Enterprise 	<ul style="list-style-type: none"> • Manufacturing • Wholesale trade • Warehousing • Material Recovery Enterprise
MU-LI	<ul style="list-style-type: none"> • Manufacturing • Wholesale trade • Warehousing • Material Recovery Enterprise 	<ul style="list-style-type: none"> • Manufacturing • Wholesale Trade • Warehousing • Material Recovery Enterprise • <u>Arts/ craft studio</u> • <u>Art galleries</u> • <u>Child care facilities</u> • <u>Family daycare home</u> • <u>Fine arts performance</u> • <u>Theaters stage performance</u>
MU-R	<ul style="list-style-type: none"> • Manufacturing • Wholesale trade • Warehousing • Material Recovery Enterprise 	<ul style="list-style-type: none"> • Manufacturing • Wholesale Trade • Warehousing • Material Recovery Enterprise • <u>Arts/ craft studio</u> • <u>Art galleries</u> • <u>Child care facilities</u> • <u>Family daycare home</u> • <u>Fine arts performance</u> • <u>Theaters stage performance</u>

ATTACHMENT 5. Regulating Uses in the Manufacturing Districts

Zoning	R&D			Light Manufacturing			Warehouse			Labs			Pharmaceuticals			All Office Uses ¹		
	<20K	20K- 40K	>40K	<20K	20K- 40K	>40K	20K- 40K	>40K	>40K	<20K	20K- 40K	>40K	<20K	20K- 40K	>40K	<20K	20K- 40K	>40K
Manufacturing (M)	Prohibited			ZC	ZC	ZC	AUP	AUP	UP(PH)	UP(PH)			AUP	UP(PH)	UP(PH)	Prohibited		
Mixed Manufacturing MM	ZC	AUP	ZC	ZC	ZC	AUP	UP(PH)	UP(PH)	UP(PH)	AUP	UP	UP(PH)	AUP	UP(PH)	UP(PH)	Prohibited on 1 st Floor		
																2 nd Floor: ZC	2 nd Floor: UP(PH)	
Mixed-Use Light Industrial (MU-LI)	ZC	AUP	AUP	ZC	ZC	AUP	UP(PH)	UP(PH)	UP(PH)	Class 1-2: UP(PH) Class 3: Prohibited <small>*Must be located at least 500 ft. from MUR district.</small>			AUP	UP(PH)	UP(PH)	AUP	UP(PH)	UP(PH)
Mixed Use Residential (MU-R)²	Prohibited			UP if 5K or less; UP(PH) if greater than 5K			UP(PH)			Prohibited			Prohibited			AUP	UP(PH)	UP(PH)

¹ Does not include Business Support Services, Medical Practitioners, including Holistic Health and Mental Health Practitioners, or other uses ancillary to a permitted use.

² Size thresholds for MUR: Under 20K, 20-30K, and more than 30K.

	MM (Mixed Manufacturing)	MULI (Mixed Use- Light Industrial)
% of existing space to be maintained as Protected Use	25%	33%
R&D Conversion Limit	No more than 270K gross square feet of protected space may be changed to R&D within the MM and MULI districts.	
R&D Reporting Requirements	Once a cumulative total of 50K square feet of protected Warehousing and/or Wholesale Trade have been converted to Research and Development Use (or at the end of one year, whichever occurs first), with additional reports to be provided in the same increments thereafter. The reports are to include the gross square footage of building space converted and the number and type of jobs expected to be created.	

Zoning	Use Permit Findings (R&D)
M and MUR MM ¹ and MULI	N/A
	<p>1) Provide comparable quality replacement manufacturing, wholesale trade and/or warehousing space in Berkeley at a comparable rent and that such replacement space will be available before the demolition or change of use of the space; or</p> <p>2) There are exceptional physical circumstances (exclusive of the presence of hazardous materials in the building(s), soil or groundwater) found at the building not generally found in industrial buildings in the District which make it financially infeasible to reuse the building for any of the range of manufacturing, wholesale trade or warehouse uses permitted in the District; and</p> <p>3) Appropriate mitigation pursuant to a payment schedule adopted by resolution has been made for loss of the manufacturing space through providing such space elsewhere in Berkeley, through payment into the West Berkeley Building Acquisition Fund, or by other appropriate means as determined by the Zoning Officer or the Board.</p>

¹ [MM Use Permit Findings reference relevant findings in Section 23E.80.090](#)

Attachment 7: R&D Jobs in Berkeley (Employment Analysis by NAICS)

	Dataset	
	State of CA Employment Development Department (EDD) Q4 2019, <i>based on Unemployment Insurance</i>	May 2021 City of Berkeley Business Licenses (<i>self reported</i>)
Citywide		
Firms	5,401	5,511
Jobs	45,230	34,366
Manufacturing Jobs (NAICS 31-33)	3,195	2,640
Manufacturing Firms (NAICS 31-33)	163	173
Jobs/Firm in Manufacturing (NAICS 31-33)	20	15
Traditional Manufacturing* Firms	132	123
Traditional Manufacturing* Jobs	1,434	1,062
Jobs/Firm (Traditional Manufacturing*)	11	9
R&D-Intensive Manufacturing Firms (NAICS 325-27; 333-336)	52	52
R&D-Intensive Manufacturing Jobs (NAICS 325-27; 333-336)	1,761	1,590
Jobs/Firm (R&D-Intensive Manufacturing Industries)	34	31
Jobs/Firm (R&D-Intensive Manufacturing Industries)- <i>w/out Bayer</i>	23	19
R&D Firms (NAICS 5417 only)	88	74
R&D Jobs (NAICS 5417 only)	1,295	1,084
Jobs/Firm in R&D (NAICS 5417)	15	15
R&D-Intensive Firms combined (325-27, 333-336, 5417)	140	121
R&D-Intensive Jobs combined (325-27, 333-336, 5417)	3,056	2,642
Jobs/Firm (R&D-Intensive Industries combined)	22	22
Jobs/Firm (R&D-Intensive Industries combined)- <i>w/out Bayer</i>	15	14
all manufacturing (31-33) + R&D (NAICS 5417) jobs	4,490	3,724
all manufacturing (31-33) + R&D (NAICS 5417) firms	251	121

Notes:

- 1- The above analysis, while showing data from two different years (2019 & 2021) *does not show changes over time, but rather differences in the datasets*. State of California Employment Development Department (EDD) data records employment data by month and quarterly payroll based on Unemployment Insurance and is reported to OED with a significant lag (thus the most recent data available at this time was from Q4 2019). Business License data is collected by the City of Berkeley Finance Department, which asks employers to self-report their number of employees and industry at the time of filing both for taxation and zoning certificate purposes. The latter information is updated regularly on the City's open data portal but is not always consistent with the former.
- 2- Both data sets use the North American Industry Classification System (NAICS) for industry categorization. An analysis by OED, which compared the two, showed that firms are often listed with different NAICS codes in each.

	Dataset	
	State of CA Employment Development Department (EDD) Q4 2019, <i>based on Unemployment Insurance</i>	May 2021 City of Berkeley Business Licenses (<i>self reported</i>)
West Berkeley (WB)		
Jobs in WB	14,250	12,085
Manufacturing Jobs (NAICS 31-33) in WB	2,750	2,303
% Manufacturing jobs in WB	86%	87%
R&D-Intensive Manufacturing Jobs (NAICS 325-27; 333-336) in WB	1,622	1,371
% R&D-Intensive Manufacturing Jobs (325-27; 333-336) in WB	92%	86%
R&D Jobs (NAICS 5417) in WB	707	808
% R&D (NAICS 5417) jobs in WB	55%	75%
R&D-Intensive jobs combined in WB (NAICS 325-27, 333-336, 5417)	2,329	2,182
R&D-Intensive Firms combined in WB (NAICS 325-27, 333-336, 5417)	63	71
% R&D-Intensive jobs in WB	76%	83%



THE IMPACT OF LIFE SCIENCE IN ALAMEDA COUNTY AND CONTRA COSTA COUNTY

The East Bay includes the two counties of Alameda and Contra Costa. East Bay companies in the Life Science Industry directly employed 40,197 people in 2019 with average annual earnings of \$127,173 per year in Alameda and \$98,688 per year in Contra Costa. The industry supported 98,204 jobs in the region (direct/indirect/induced) in 2019 & generated \$26B in economic activity. The largest sector in the two counties by employment and establishments was Research & Lab Services, more than all the other sectors combined.

Annual Economic Impact

	ALAMEDA	CONTRA COSTA
Economic Activity	\$23.4B	\$2.6B
Market Value of Goods & Services	\$13.7B	\$1.4B
Total Jobs (direct/indirect/induced)	87,242	10,962
Labor Income (salaries/wages/benefits paid)	\$7.7B	\$0.8B

NIH Funding

California received more than \$4.59B in NIH funding in fiscal year 2019 with \$323.4M flowing to the East Bay. Alameda County garnered close to \$316.9M and Contra Costa County received \$6.5M.

Source: NIH (4/2020)

Subsector Employment & Establishments

	Employment in 2019		Establishments	
	ALAMEDA	CONTRA COSTA	ALAMEDA	CONTRA COSTA
BioRenewables Includes biofuels, specialty enzymes and chemicals, algae research, and key elements of agriculture.	247	117	9	10
Biopharmaceutical Manufacturing The production of medicines, botanicals, pharmaceuticals, in-vitro diagnostic substances, and biological products.	3,328	701	49	8
Medical Devices & Diagnostic Equip Laboratory equipment and supplies, optical instruments, electromedical apparatus, surgical and medical instruments, dental equipment and dental product producing laboratories.	8,199	1,277	148	55
Life Science Wholesale Wholesaling and distributing medical equipment and supplies, and the wholesaling of pharmaceuticals and related products.	1,762	475	121	70
Research & Lab Services R&D in biotechnology, related areas of nanotechnology, medical laboratories, and portions of industries representing testing laboratories, other R&D services, and higher education.	21,372	2,719	372	117
TOTAL	34,908	5,289	699	260

*'Establishment' refers to an individual facility/physical location. Some firms have multiple locations, which would each be counted separately.

For full report visit: www.biocom.org/eir

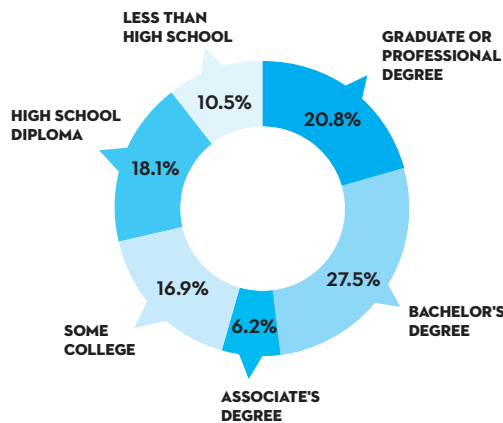
BIOCOM'S 2020 CALIFORNIA ECONOMIC IMPACT REPORT: EAST BAY

Subsector Average Wage (Wages by Sector & County)

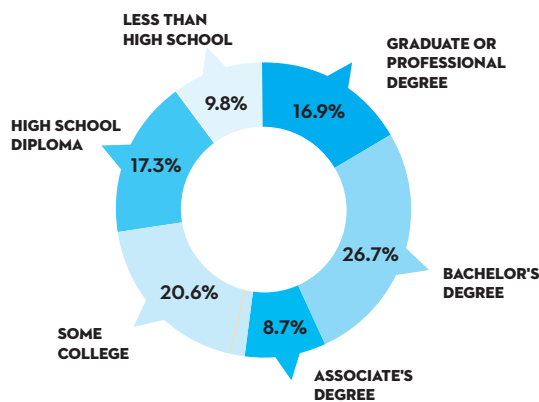
	BIORENEWABLES	BIOPHARMACEUTICAL MANUFACTURING	MEDICAL DEVICES & DIAGNOSTIC EQUIP	LIFE SCIENCE WHOLESALE	RESEARCH & LAB SERVICES	ALL LIFE SCIENCES
Alameda	\$94,936	\$178,266	\$168,290	\$98,985	\$106,139	\$127,173
Contra Costa	\$56,534	\$155,675	\$103,475	\$111,639	\$81,299	\$98,688

Educational Attainment

ALAMEDA



CONTRA COSTA



East Bay Policy Priorities

The East Bay is home to the Berkeley/Emeryville life science cluster, which includes many small, early stage companies that spin out of UC Berkeley. These companies can benefit from concierge assistance through city economic development departments as they navigate permitting processes involved in scale-up following incubator graduation. We have heard from members that they share concerns around affordable housing and connected transit systems; challenges that are evident throughout the Bay Area. Finally, physical security concerns in downtown areas and near Caltrans rights-of-way are important for members located in this area.

Alameda County is also home to a large concentration of companies in Hayward, Fremont and Newark - companies that are typically four times the average size of Bay Area life science companies. Mostly engaged in medical device and biopharmaceutical manufacturing, these companies have benefitted from streamlined permitting services available through city departments. We have heard from members in this area that workforce development programs to ensure a steady skilled pool of workers for manufacturing settings is a top concern.

For full report visit: www.biocom.org/eir

Biocom is the leader and advocate for California's life science sector. We work on behalf of more than 1,300 members to drive public policy, build an enviable network of industry leaders, create access to capital, introduce cutting-edge STEM education programs, and create robust value-driven purchasing programs.

This is a condensed summary of Biocom's 2020 California Economic Impact Report produced by Biocom and Clower & Associates. For the full report please visit our website: www.biocom.org/eir

The 2020 Databook used the same industry and cluster categories as the 2019 Databook, however, comparisons with data from years before 2019 should be made with caution due to changes in industries definitions, analytical assumptions, and data sources. At the time this data is being prepared, the impact of the global pandemic of COVID-19 is unknown and we must caution readers to consider how current and near-term economic conditions may influence future industry growth.

Attachment 9: R&D Wages in Berkeley

Citywide	
Quarterly payroll	\$ 841,207,436
Quarterly payroll manufacturing (NAICS 31-33)	\$ 73,527,570
% Quarterly payroll from manufacturing (31-33)	9%
Traditional Manufacturing* Quarterly payroll	\$ 21,289,956
R&D Quarterly payroll (NAICS 5417)	\$ 44,115,517
R&D-Intensive Quarterly payroll combined (325-27, 333-336, 5417)	\$ 96,353,131
% Quarterly payroll from R&D-Intensive combined (325-27, 333-336, 5417)	11%
all manufacturing (31-33) + R&D (NAICS 5417) quarterly payroll	\$ 117,643,087
% Quarterly payroll from R&D-intensive industries (out of combined manufacturing and R&D industries by NAICS)	82%
avg annual salary (combined R&D-intensive jobs)	\$ 126,117
avg annual salary R&D only (NAICS 5417)	\$ 136,264
avg annual salary (traditional manufacturing)	\$ 59,386
avg annual salary (all manufacturing NAICS)	\$ 92,053

West Berkeley (WB)	
Quarterly payroll	\$ 312,080,753
R&D-Intensive Quarterly payroll combined (325-27, 333-336, 5417)	\$ 76,401,379
% Quarterly payroll (in WB) from combined R&D-intensive industries	24%

Source: State of CA Employment Development Department (EDD), Q4 2019

Notes:

- 1- The above wage data draws on quarterly payroll data collected by the State of California Employment Development Department (EDD) based on Unemployment Insurance. Q4 2019 data is the most recent data available to OED at this time. Annual wages for an industry are determined by dividing quarterly payroll for that sector by the number of people employed in that sector and multiplying by four.
- 2- "R&D only" refers to NAICS codes starting with the 4-digits 5417. "R&D-Intensive industries" include NAICS 5417 and the following R&D-intensive manufacturing sectors: NAICS 325 (Chemicals), NAICS 326 (Plastics and Rubber Products), NAICS 327 (Nonmetallic Mineral Products), NAICS 333 (Machinery), NAICS 334 (Computer and Electronic Products), NAICS 335 (Electrical Equipment, Appliance, and Component), and NAICS 336 (Transportation Equipment).
- 3- For the purpose of this analysis, "traditional manufacturers" are the subset of firms classified under NAICS manufacturing codes 31-33 that didn't fall in the R&D-intensive industries definition described above.



CONSENT CALENDAR
March 10, 2020

TO: Honorable Members of the City Council

FROM: Mayor Arreguín and Councilmember Wengraf

SUBJECT: Referral: Update the definition of “Research and Development”

RECOMMENDATION

Refer to the Planning Commission to update the definition of “Research and Development.”

BACKGROUND

In the 21st century, Research and Development has evolved to take on many new forms, such that it can be performed in spaces that may, at first glance, appear to be an office or light industrial environment rather than a traditional “laboratory” with, for example, benches and sinks.

The Planning Commission is encouraged to update the definition of “Research and Development”¹ to reflect evolving business practices and consider language such as:

Research and Development: An establishment comprised of laboratory or other associated and ancillary space, engaged in one or more of the following activities: industrial, technological, biological or scientific research; product design; associated software development; development and testing; and limited fabrication and/or manufacturing necessary for the production and assemblage of prototypical products.”

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

No environmental impact.

CONTACT

Mayor Jesse Arreguín
mayor@cityofberkeley.info | 510-981-7100

¹ BMC — 23F.04.010 Definitions



PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

WEDNESDAY, OCTOBER 6, 2021, 7PM

Amendments to BMC Chapter 23F.04.010 Updating the Research and Development (R&D) Definition and Corresponding References in the Zoning Ordinance

The Planning Commission of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23F.04.010, on **Wednesday, October 6, 2021, beginning at 7:00 PM. The hearing will be conducted via Zoom** - see the Agenda for details, which can be found online at: <https://www.cityofberkeley.info/PC/>

PUBLIC ADVISORY: This meeting will be conducted exclusively through videoconference and teleconference. Pursuant to AB 361 (Rivas), signed into law by Governor Newsom on September 16, 2021, this meeting is being held during a proclaimed state of emergency, and state and local officials have imposed or recommended measures to promote social distancing. In order to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

PROJECT DESCRIPTION: Amend the Research and Development (R&D) definition of the Berkeley Municipal Code (BMC) in response to the City Council referral to clarify provisions of the definition and to accommodate innovation in the R&D business sector, consistent with regulations in other local jurisdictions.

Full text of the draft Zoning Ordinance amendments can be found on the Planning Commission's homepage: <https://www.cityofberkeley.info/PC/> by 5pm on Friday, October 1, 2021.

LOCATION: West Berkeley Specific Plan Area; Manufacturing Districts: M(Manufacturing), MM (Mixed Manufacturing), MU-LI (Mixed Use – Light Industrial), MU-R (Mixed Use - Residential)

ENVIRONMENTAL REVIEW STATUS: Pursuant to CEQA Guidelines Section 15378(a) and 15060(c)(2), environmental review is not required because the proposed Zoning Ordinance amendment does not meet the definition of a Project under CEQA Guidelines Section 15378(a), nor does it constitute an activity covered by CEQA under CEQA Guidelines Section 15060(c)(2) because passage of amendments do not constitute a direct physical impact on the environment, nor would it result in an indirect, reasonably foreseeable physical impact on the environment. The proposed amendment does not include any provisions that would exempt or otherwise reduce environmental review required under CEQA for individual development projects.

PUBLIC COMMENT

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

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

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

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

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

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

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

COMMUNICATION ACCESS

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

FURTHER INFORMATION

Questions should be directed to **Katrina Lapira**, at klapira@cityofberkeley.info.

Past and future agendas are also available on the Internet at: <https://www.cityofberkeley.info/PC/>



Planning and Development Department
Land Use Planning Division

STAFF MEMORANDUM

DATE: October 6, 2021
TO: Members of the Planning Commission
FROM: Planning Staff
SUBJECT: Gentrification and Displacement Referral

RECOMMENDATION

Discuss how to approach to the Gentrification and Displacement referral. This may include the appointment of a subcommittee.

BACKGROUND

On April 30, 2019, the City Council adopted the following referral for the Planning Commission: *Refer to the Planning Commission and Housing Advisory Commission to research and recommend policies to prevent displacement and gentrification of Berkeley Residents of Color and African Americans* (Link 1). On January 6, 2021, the Planning Commission discussed several approaches to this referral, which resulted in the establishment of a subcommittee. Later that month, a special concurrent meeting of both the Planning Commission and the Housing Advisory Commission was held to discuss desired outcomes of the referral and to invite members of the public to provide feedback to help the Planning Commission make a recommendation to City Council.

With several changes to the Planning Commission body in recent months, the Planning Commission must now revisit how to approach this referral once more.

LINKS

1. January 6, 2021. *Item 12: Gentrification and Displacement Referral*. Planning Commission
https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-01-06%20PC_Item%2012.pdf
2. January 20, 2021. *Item 8: Gentrification and Displacement Referral*. Planning Commission and Housing Advisory Commission.
https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-01-20_PC_Item%208.pdf



Office of the City Manager

PUBLIC HEARING
September 28, 2021
(Continued from September 14, 2021)

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Jordan Klein, Director, Planning and Development Department
Subject: Adoption of the Baseline Zoning Ordinance (BZO)

RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt the first reading of an Ordinance rescinding the current Berkeley Municipal Code (BMC) Title 23 and adopting the new Baseline Zoning Ordinance (BZO) as BMC Title 23 with an effective date of December 1, 2021.

SUMMARY

The Zoning Ordinance Revision Project (ZORP) originated from a 2016 City Council referral which asked the Planning Department to undertake structural revisions of the Zoning Ordinance. The goals of the referral included making the ordinance more straightforward to use, reducing the types of projects requiring extensive discretionary review, and adding graphic illustrations of terms, regulations and processes. The project has been divided into two phases. The first is a new Baseline Zoning Ordinance (BZO), which is reworded and formatted to make land use regulations easier to read, understand and administer. The BZO contains all the regulatory elements of the existing Zoning Ordinance and contains no major substantive policy changes. The second phase, yet to begin, will include substantive amendments intended to reduce the complexity of the City's zoning regulations and address the streamlining recommended in the referral.

A fully-formatted and more readable PDF of the Baseline Zoning Ordinance can be found at this link:

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Land_Use_Division/Att%201%20Exhibit%20A%20-%20Baseline%20Zoning%20Ordinance.pdf

FISCAL IMPACTS OF RECOMMENDATION

Revising the Zoning Ordinance is a staff-intensive effort with a robust public input process and significant time dedicated to drafting language and reviewing for accuracy. Staffing costs are covered utilizing the existing Land Use Policy team and project

consultants. Consultant work for development of the BZO cost approximately half of the ZORP's \$300,000 project budget.

It will cost \$15,000 for the City's ordinance publisher to replace the existing online-version of the BMC Title 23 with the BZO. This will include hyperlinked cross-referencing and quality assurance check of presentation on the City website.

CURRENT SITUATION AND ITS EFFECTS

The BZO is a Strategic Plan Priority Project, advancing the City's goal to be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community. This project was initiated by a January 26, 2016 City Council referral that focused on customer service enhancements and the need to provide a Zoning Ordinance that was written clearly and concisely and laid out in an intuitive manner (see Attachment 2). Requested revisions would clarify rules and procedures, provide informative tables and figures, and ensure internal consistency with the rest of the BMC. The 2017 City-commissioned Zucker report on Planning Department customer service also recommended that the City revise the Ordinance to correct grammatical and technical errors, reduce complexity, eliminate possible conflicts or contradictions, and align with current policies and practices.

Project Approach

In 2017, staff released a Request for Proposals and selected a consultant team with technical zoning expertise (Ben Noble and Clarion Associates) to support the ZORP project. ZORP began with a baseline evaluation of the existing Zoning Ordinance that involved a thorough review of the existing zoning code, prior zoning interpretations, and staff-suggested technical edits. The project team also interviewed Planning Department staff to understand challenges implementing the code and to compile a summary of issues raised by members of the public. Based on this evaluation and a survey of Zoning Ordinances from cities of similar size and character, the project team proposed a two-phased approach to ZORP.

Phase 1: Prepare a new Baseline Zoning Ordinance (BZO). This phase will result in a newly written, newly formatted Zoning Ordinance that is easy to read, understand and administer. Phase 1 also provides the opportunity to systematically review the regulations to identify code sections that could benefit from substantive changes to be addressed in Phase 2.

Phase 2: Undertake selected major substantive changes, identified in Phase 1, that could be implemented to bolster customer service or improve the permitting process. Phase 2 revisions will be aligned with other Planning Division initiatives and outstanding referrals from City Council.

Meetings and Engagement

The Planning Commission and the Zoning Adjustments Board have been actively involved in this project. Planning Commission supported the two-phase approach, and appointed three members to a ZORP Subcommittee. The Zoning Adjustments Board (ZAB) also formed a ZORP Subcommittee that met concurrently with Planning Commission's subcommittee to provide guidance, input and review of draft BZO chapters. The full Planning Commission and ZAB received regular updates from subcommittee members at their meetings, and the project team provided project updates annually to the full commission/board when subcommittees were re-established¹, providing an opportunity for feedback from the parent commission/board and public comment from the community.

On July 7, 2020 the ZORP Subcommittees recommended that the draft BZO move forward for public review and public hearings. The BZO then went through a final round of drafting and returned to the Planning Commission on December 16, 2020 for a public hearing. At that meeting, Planning Commission voted to recommend that City Council adopt the BZO (Moved: Vincent; Seconded: Wiblin. Vote 8-0-1; Ayes: Beach, Hauser, Kapla, Krpata, Lacey, Schildt, Vincent and Wiblin. Noes: none. Abstain: Ghosh; see Attachment 3).

Public Outreach and Feedback

In addition to receiving feedback at public meetings, the project team designed a Community Outreach Plan to solicit input on the draft BZO, which included:

- The creation of the Zoning Ordinance Revision Project website (see Link 1);
- Targeted outreach to over 35 frequent project applicants;
- Internal outreach to Planning Department staff;
- Office hours to meet with members of the public via Zoom, to introduce the BZO and receive questions and comments; and
- A Berkeley Considers survey, which received 194 visitors and 24 responses.

Summary of BZO

The BZO rewrites and reformats the Zoning Ordinance without making any substantive changes in regulations. The BZO addresses a portion of the Council referral and provides a better customer experience with the following improvements:

- **Provides Easy to Follow Format and Writing Style.** The current Zoning Ordinance has been criticized for containing technical jargon, wordy phrases, inconsistent formatting, and a repetitive structure. The BZO addresses these concerns by providing clear explanations, updated formatting, and an intuitive

¹ The Commissioners Handbook requires parent commissions to re-elect subcommittee members on an annual basis.

outline structure. In addition, the BZO is written in accessible language and presents regulations in tables or lists when appropriate, to provide a better user experience. See Attachment 4 for an example of this improved writing format and style.

- **Consolidates Land Use Tables.** In the current Zoning Ordinance, each of the 25 zoning districts contains a unique land use table that lists permitted uses and permit requirements. Having 25 separate land use tables has resulted in different lists of uses and disparate treatment of similar uses across zoning districts. These inconsistencies raise questions about whether these differences are intentional or not. The BZO instead provides three comprehensive Land Use Tables (Residential, Commercial and Industrial) that consolidate land uses, applies naming conventions, and allows for easy comparisons among districts.
- **Introduces New Maps and Figures.** The current Zoning Ordinance includes only narrative descriptions of certain important geographic areas and subzones, such as the University Strategic Plan Area, the Car-Free Housing Overlay, or the Downtown Arts District Overlay. The BZO uses maps to illustrate important districts, subzones and areas, eliminating long, narrative descriptions and references to other adopted plans. The BZO also includes updated figures and diagrams to illustrate important land use regulations, such as Floor Area Ratio, setbacks, and measurement methods.
- **Eliminates Repetitive Language.** The current Zoning Ordinance is repetitive. Each of the 25 districts lists special land use regulations, development standards, and permit requirements separately. Sometimes these are unique to one district, but often they apply to multiple districts. Similarly, administrative procedures that apply to various types of permits are often repeated in various sections. This repetition creates an opportunity for technical errors and discrepancies when word choice or punctuation differs from district to district, or when amendments are made to some but not all sections. These inadvertent errors result in inconsistent application of regulations. The BZO eliminates this unnecessary repetition by collecting these special land use regulations, development standards or permit requirements and stating them in a single section.
- **Introduces a List of “Consent Changes.”** Developing the BZO has provided the opportunity to make a number of minor, but important, changes to the Zoning Ordinance. These changes are not substantive. They clarify ambiguous terms, reflect updated legal requirements, and codify existing interpretations and practice. Including these changes in the BZO makes it a clearer, more comprehensive document. These consent changes are summarized in a Consent Changes Matrix (see Attachment 5), which includes an explanation for each change.

The recommendation for adoption of the BZO requests an effective date of December 1, 2021. This time allows staff to work with the City's code publisher after the second reading of the Ordinance to ensure a timely and accurate version of the BZO is uploaded to the City's website, including hyperlinks and graphics.

BACKGROUND

The current Zoning Ordinance was adopted in 1999. It constituted the first comprehensive revision of the Zoning Ordinance since its original adoption in 1949, and still carries many of the original provisions. It is codified in Title 23 of the BMC and includes six sub-titles:

- Title 23A, Ordinance Applicability, which includes the official title of the Ordinance and the Zoning Ordinance's purpose.
- Title 23B, Ordinance Administration, which includes all of the processes for permit approval and review, application requirements, regulations for abating nuisances, as well as defining the roles of the Zoning Adjustments Board, the Design Review Committee and the Zoning Officer.
- Title 23C, General Provisions Applicable to All Districts, which includes citywide regulations, such as Inclusionary Zoning, Short-Term Rentals and Cannabis Uses.
- Title 23D, Provisions Applicable in All Residential Districts, which includes the regulations for all of the Residential (R) zoning districts;
- Title 23E, Provisions Applicable in All Non-Residential Districts, which includes the regulations for all of the Commercial (C) and Manufacturing (M) zoning districts, as well as the Hillside Overlay (H) zone; and
- Title 23F, Definitions, which includes definitions of many of the terms and most of the uses included in the Zoning Ordinance.

The Zoning Maps are also included as part of Title 23.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental and climate impacts or opportunities associated with the BZO.

RATIONALE FOR RECOMMENDATION

Preparation of the BZO has been a thorough and detail-oriented process. The involvement of the Planning Commission and ZAB has meant that the draft BZO was

Adoption of the Baseline Zoning Ordinance (BZO)

PUBLIC HEARING

reviewed for consistency of land use policy and for usability when reviewing project proposals. The BZO has also been reviewed by Planning Department staff to ensure its usability in day-to-day work. Finally, the public has provided feedback on the BZO that supports the new document. The Planning Commission recommended that the City Council adopt the BZO, finding it a clear improvement over the existing Zoning Ordinance and agreeing that it met project goals and objectives.

ALTERNATIVE ACTIONS CONSIDERED

No alternatives were considered; however, City Council could choose to not adopt the BZO.

CONTACT PERSON

Justin Horner, Associate Planner, Planning and Development, 510-981-7476
Alene Pearson, Principal Planner, Planning and Development, 510-981-7489

Attachments:

- 1: Ordinance
 - Exhibit A: Text of new Baseline Zoning Ordinance
 - Exhibit B: Revised Zoning Map
- 2: 2016 City Council Referral
- 3: December 16, 2020 Planning Commission Final Minutes
- 4: Code Comparison Example (Variance Section)
- 5: Consent Changes Matrix
6. December 16, 2020 Planning Commission Staff Report (without BZO attachment)
7. Public Hearing Notice

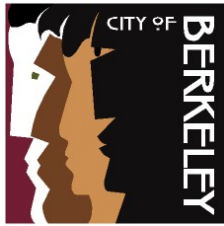
Link

- 1: ZORP website:

[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)

- 2: A PDF of the full Baseline Zoning Ordinance:

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Land_Use_Division/Att%201%20Exhibit%20A%20-%20Baseline%20Zoning%20Ordinance.pdf



SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2

Meeting Date: September 28, 2021

Item Number: 32

Item Description: Adoption of the Baseline Zoning Ordinance (BZO)

Submitted by: Jordan Klein, Director, Planning and Development Department

Information in this second supplemental report and amended ordinance is inclusive of the content from Planning's first supplemental report, distributed to Council in Supplemental Packet #1."

In response to Councilmember comments and feedback received after the September 14, 2021 agenda materials were published, the following modifications are presented for Council consideration. The modifications are presented in four categories:

1. Modifications to select consent changes
2. Modifications in response to Supplemental 2, submitted September 13, 2021
3. Modifications in response to City Council deliberations on September 14, 2021
4. Technical edits

Modifications to Select Consent Changes

1. BZO Section 23.102.070 – Conflicting Provisions (pg. 15)

Original BZO Language

23.102.070 – Conflicting Provisions

- A. **Conflict with State or Federal Regulations.** Where the Zoning Ordinance conflicts with state or federal laws, higher law controls over lower law unless local variation is permitted.
- B. **Conflict with Other City Regulations.** Where the Zoning Ordinance conflicts with other ordinances, resolutions, or regulations of the City of Berkeley, the more restrictive controls.
- C. **Conflict with Private Agreements.** It is not the intent of the Zoning Ordinance to interfere with, abrogate, or annul any easement, covenant, deed restriction, or other agreement between private parties. If the Zoning Ordinance imposes a greater restriction than imposed by a private agreement, the Zoning Ordinance controls. Private agreements may impose greater restrictions than the Zoning Ordinance, but the City is not responsible for monitoring or enforcing private agreements.

Proposed Modification to BZO Language

23.107.070— ~~Conflicting Provisions~~ Conflict with Private Agreements

- ~~A. **Conflict with State or Federal Regulations.** Where the Zoning Ordinance conflicts with state or federal laws, higher law controls over lower law unless local variation is permitted.~~
- ~~B. **Conflict with Other City Regulations.** Where the Zoning Ordinance conflicts with other ordinances, resolutions, or regulations of the City of Berkeley, the more restrictive controls.~~
- A. Conflict with Private Agreements.** It is not the intent of the Zoning Ordinance to interfere with, abrogate, or annul any easement, covenant, deed restriction, or other agreement between private parties. If the Zoning Ordinance imposes a greater restriction than imposed by a private agreement, the Zoning Ordinance controls. Private agreements may impose greater restrictions than the Zoning Ordinance, ~~but the City is not responsible for~~ and at its sole discretion, the City may monitoring or enforceing private agreements.

Rationale:

The language in Sections A and B is unnecessary and may lead to confusion, so it has been deleted.

With the deletion of Sections A and B, Section C is the only one that remains. New language was added to this section to clarify that the City, while at no obligation to do so, may monitor and enforce private agreements if it so chooses.

2. BZO Section 23.404.050.A – Public Hearings and Decisions (pg. 383)

Original BZO Language

A. General. Hearings shall be conducted in a manner consistent with the procedures approved by the review authority.

Proposed Modification to BZO Language

A. **General.** Hearings shall be conducted in a manner consistent with the requirements of State and local law and the procedures approved by the review authority.

Rationale: This added language clarifies that there are additional requirements on the conduct of public hearings beyond what a review authority may approve.

3. BZO Section 23.412.050.C City Council (pg. 425)

Original BZO Language

C. Effective Date. Zoning Ordinance Amendments become effective 30 days after the adoption of the ordinance by the City Council.

Proposed Modification to BZO Language

C. Effective Date. Zoning Ordinance Amendments become effective 30 days after the adoption of the ordinance by the City Council, or at a date determined by the City Council.

Rationale: This change permits the City Council to determine an effective date for an Ordinance other than 30 days.

Modifications in Response to Supplemental 2

4. BZO Section 23.104.020 – Zoning Officer -- Authority (pg. 17)

Original BZO Language

The Zoning Officer is responsible for interpreting the meaning and applicability of all provisions in the Zoning Ordinance. Zoning Officer interpretations are subject to review and modification by the Zoning Adjustments Board (ZAB) and City Council.

Proposed Modification to BZO Language

The Zoning Officer ~~is responsible for interpreting~~ has the authority to interpret the meaning and applicability of ~~all provisions in~~ the Zoning Ordinance. Zoning Officer interpretations are subject to review and modification by the Zoning Adjustments Board

(ZAB) and City Council, with the ultimate decision-making power resting with the City Council.

Rationale: The section is amended to clarify that the Zoning Officer has the authority to interpret the BZO, but is not the ultimate interpreter of the BZO in all cases.

5. BZO Section 23.402.040 – Zoning Officer (pg. 368)

Original BZO Language

A. Responsibilities and Powers.

1. The Zoning Officer:

- a. Acts as the Secretary to the Zoning Adjustments Board (ZAB) and the Design Review Committee (DRC);
- b. Determines if land uses, structures, and activities conform with the Zoning Ordinance;
- c. Serves as the review authority on applications as shown in Table 23.402-1: Review and Decision-Making Authority;
- d. Interprets the meaning and applicability of the Zoning Ordinance...

Proposed Modification to BZO Language

A. Responsibilities and **Powers Duties**.

1. The Zoning Officer:

- a. Acts as the Secretary to the Zoning Adjustments Board (ZAB) and the Design Review Committee (DRC);
- b. Determines if land uses, structures, and activities conform with the Zoning Ordinance;
- c. Serves as the review authority on applications as shown in Table 23.402-1: Review and Decision-Making Authority;
- d. **Has the authority to** interpret~~s~~ the meaning and applicability of the Zoning Ordinance...
- e. ...

Rationale: This language is changed to better mirror the language in the existing Zoning Ordinance and to maintain consistency with BZO 23.104.020 (Zoning Officer-Authority; see 4, above).

6. BZO Section 23.402.040.B.1.i – Zoning Officer (pg. 369)

Original BZO Language

- i. Performs other duties to administer the Zoning Ordinance as assigned by the ZAB, Planning Commission, and City Council.

Proposed Modification to BZO Language

- i. Performs other duties to administer the Zoning Ordinance as assigned by the ~~ZAB, Planning Commission, and~~ City Council.

Rationale: This language is changed to clarify that it is only the City Administrator and City Council that can assign duties to the Zoning Officer.

7. BZO Section 23.402.020.B – Review and Decision-Making Authority (pg. 365)

Original BZO Language

23.402.020 -- Review and Decision-Making Authority

- A. **Summary Table.** Table 23.402-1 summarizes the review and decision-making authority when processing permit applications and other requested approvals.
- B. **Meaning of Notations.** Authority roles as noted in Table 23.402-1 mean the following:
 1. “Recommend” means the authority reviews and makes a recommendation to a higher decision-making body.
 2. “Decision” means the authority has the power to approve, conditionally approve, or deny an application.
 3. “Appeal” means the authority has the power to hear an appeal of a decision by a lower review authority.
 4. “–” means the authority role has no role in the application.

Proposed Modification to BZO Language

23.402.020 - Review and Decision-Making Authority

- A. **Summary Table.** Table 23.402-1 summarizes the review and decision-making authority when processing permit applications and other requested approvals.
- B. **Meaning of Notations.** Authority roles as noted in Table 23.402-1 mean the following:
 1. “Evaluate” means the Department presents to the review authority an evaluation of the application as provided in Section 23.404.030.D (Project Evaluation and Staff Report).
 2. “Recommend” means the authority reviews and makes a recommendation to a higher decision-making body.

3. "Decision" means the authority has the power to approve, conditionally approve, or deny an application.
4. "Appeal" means the authority has the power to hear an appeal of a decision by a lower review authority.
5. "--" means the authority has no role in the application.

Rationale: This language is added to distinguish between the evaluation and review of applications done by City staff (which could include a recommendation for action) and the legally-required recommendations of the Zoning Adjustments Board

The new language for "Evaluate," above, refers to existing BZO Section 23.404.030.D, which reads:

23.404.030 – Application Review

D. Project Evaluation and Staff Reports.

1. **Staff Evaluation.** The Department shall review all applications to determine if they comply with the Zoning Ordinance, the General Plan, and other applicable City policies and regulations and state laws.
2. **Staff Report.** For all applications requiring review by the ZAB and City Council, the Department shall prepare a staff report describing the proposed project and including, where appropriate, a recommendation to approve, approve with conditions, or deny the application.
3. **Report Distribution.** The staff report shall be given to the applicant after it is provided to the review authority and before action on the application.

8. BZO Table 23.402-1: Review and Decision-Making Authority (pg. 366-367)

Rationale for Proposed Modifications to the BZO Language

Table 23.402-1: Review and Decision-Making Authority (see pages 7-8 below) has been amended to include the following changes:

1. "Evaluate" has replaced "recommend"," per amendment 7, above, to describe the role of City staff in the processing of applications.
2. A column has been added for the Landmarks Preservation Board. In the original BZO table, the role of the LPC in Design Review was included as a footnote to the Design Review Committee. This change adds the LPC to the table itself for greater clarity.
3. Rows have been added for Permit Modification, Permit Revocation and Nuisance Abatement to provide information on decision-making authority for those actions.

Type of Action	Zoning Ordinance Location	Planning and Development Department	Role of Authority					
			Zoning Officer	Design Review Committee	<u>Landmarks Preservation Commission</u>	Zoning Adjustments Board	Planning Commission	City Council
Legislative Actions								
Zoning Ordinance Amendments	23.412	<u>Recommend</u> <u>Evaluate</u>	–	–	–	–	Recommend	Decision
Permits								
Administrative Use Permits	23.406.030	–	Decision	–	–	Appeal	–	Appeal
Use Permits	23.406.040	<u>Recommend</u> <u>Evaluate</u>	–	–	–	Decision	–	Appeal
Master Use Permits	23.406.060	<u>Recommend</u> <u>Evaluate</u>	–	–	–	Decision	–	Appeal
<u>Permit Modification</u>	<u>23.404.070</u>	<u>Evaluate</u>	<u>Decision [3]</u>	–	–	<u>Decision [3]</u>	–	<u>Decision [3]</u>
<u>Permit Revocation</u>	<u>23.404.080</u>	<u>Evaluate</u>	–	–	–	<u>Recommend [4]</u>	–	<u>Decision</u>
Design Review								
Design Review	23.406.070	<u>Recommend</u> <u>Evaluate</u>	–	<u>Decision [1]-See Note [1]</u>		Appeal	–	Appeal
Staff-Level Design Review	23.406.070	–	Decision	Appeal	–	Appeal	–	Appeal
Flexibility and Relief								
Variances	23.406.050	<u>Recommend</u> <u>Evaluate</u>	–	–	–	Decision	–	Appeal

Modifications to Development Standards in West Berkeley Plan Area	23.406.080	<u>Recommend</u> <u>Evaluate</u>	-	-	-	Decision	-	Appeal
Reasonable Accommodations	23.406.090	-	-	-	See Note [2]		-	Appeal
<u>Public Nuisances</u>								
<u>Nuisance Abatement</u>	<u>23.414.060</u>	<u>Evaluate</u>		-	-	<u>Recommend</u> <u>[4]</u>	-	<u>Decision</u>
Ministerial Actions								
Zoning Certificates	23.406.020	-	Decision	-	-	-	-	-

- Note:
- [1] Landmarks Preservation Commission conducts Design Review approval required for projects that involve landmarks, structures of merit or buildings within a historic district. Design Review Committee conducts design review for all other projects that are subject to design review.
 - [2] Either the Zoning Officer or Zoning Adjustments Board takes action on reasonable accommodation applications as described in Section 23.406.090.C.
 - [3] A permit shall be modified by the review authority which originally approved the permit.
 - [4] A ZAB recommendation to deny or modify a permit, or to abate a nuisance, shall be deemed a final decision if the permit holder, or property owner in the case of a public nuisance, consents to the recommendation within 10 days after the recommendation is made. In such a case, there shall be no City Council review and action on the matter.

Modifications in Response to City Council Deliberation

9. BZO Section 23.210.020 – Hillside Overlay Zone (pg. 193)

Proposed Modification to BZO Language

2. Protect the safety and health of residents where steep topography, unusual street conditions and proximity to the wildland-urban interface create severe risk from wildfire.

Rationale: This language, proposed by Councilmember Wengraf, is added to codify existing practice regarding why special land use regulations are appropriate in the H overlay zone.

Technical Edits

10. BZO Section 23.402.050 – Landmarks Preservation Commission (pg. 369)

Original BZO Language

1. **Design Review.** The Landmarks Preservation Commission (LPC) shall consider Design Review applications for projects that involve landmarks, structures of merit, or buildings within a historic district. The LPC shall either approve, modify, or deny such applications in accordance with Section 23.406.070– Design Review.
2. **Other Responsibilities and Powers.**
 - a. As provided in Municipal Code Chapter 3.24 (Landmarks Preservation Commission), the LPC shall serve as the review authority for Structural Alteration Permits for designated landmarks, structures of merit, and buildings within a historic district.
 - b. Municipal Code Chapter 3.24 identifies additional LPC responsibilities and powers which may affect land use and development in the city.

Proposed Modification to BZO Language

~~Design Review. The Landmarks Preservation Commission (LPC) shall consider Design Review applications for projects that involve landmarks, structures of merit, or buildings within a historic district. The LPC shall either approve, modify, or deny such applications in accordance with Section 23.406.070– Design Review.~~

1. ~~Other~~ **Responsibilities and Powers.**

~~As provided in Municipal Code Chapter 3.24 (Landmarks Preservation Commission), the LPC shall serve as the review authority for Structural Alteration Permits for designated landmarks, structures of merit, and buildings within a historic district.~~

- a. Municipal Code Chapter 3.24 identifies ~~additional LPC~~ the responsibilities and powers ~~of the Landmarks Preservation Commission which may affect land use and development in the city.~~
- b. **Design Review.** The Landmarks Preservation Commission (LPC) shall consider Design Review applications for projects that involve landmarks, structures of merit,

or buildings within a historic district. The LPC shall either approve, modify, or deny such applications in accordance with Section 23.406.070– Design Review.

Rationale: Consistent with the BZO Style Guide, this language change makes the most important aspect of the LPC—its wide-ranging responsibilities as detailed in Chapter 3.24—the first and most prominent fact in the BZO. Its role in one distinct area of responsibility, Design Review, is then detailed afterwards.

11. BZO Section 23.402.060.C – Landmarks Preservation Commission (pg. 370)

Original BZO Language

2. The DRC may make a recommendation on other matters upon request by the ZAB, Planning Commission, City Council, or other City boards or commissions. ZAB recommendations shall be limited to issues related to building and site design.

Proposed Modification to BZO Language

2. The DRC may make a recommendation on other matters upon request by the ZAB, Planning Commission, City Council, or other City boards or commissions. ~~ZAB DRC~~ recommendations shall be limited to the subject areas of its expertise ~~issues related to building and site design.~~

Rationale: The first change—from ZAB to DRC—is a copy edit. The second change is recommended because the original BZO language may inadvertently limit the range of what the DRC may address. The language is changed to better mirror the DRC’s responsibilities as stated in [BMC 23B.08.020.D](#) [*emphasis added*].

Upon request, the [Design Review] Committee may make a recommendation on matters brought to its attention by the Board, the Planning Commission, the Council or any other City Board or Commission. Such recommendations shall be limited to ***the subject areas of its expertise.***

12. BZO Section 23.402.070.C.1.c – Zoning Adjustments Board (pg. 371)

Original BZO Language

2. Modifies previously approved permits in accordance with Section 23.404.070– Permit Modifications;

Proposed Modification to BZO Language

2. Modifies previously approved ~~Use P~~permits and Variances in accordance with Section 23.404.070– Permit Modifications;

Rationale: This added language makes explicit that both Use Permit and Variance modifications are responsibilities of the ZAB.

13. BZO Section 23.402.070.C.1.e – Zoning Adjustments Board (pg. 371)

Original BZO Language

- e. Recommends actions to abate a public nuisance in accordance with Chapter 23.414—Nuisance Abatement;

Proposed Modification to BZO Language

- e. Recommends actions to enforce the zoning ordinance, including to abate a public nuisance in accordance with Chapter 23.414—Nuisance Abatement;

Rationale: The ZAB does not just make recommendations on how to abate a public nuisance, but has formal authority to enforce Nuisance Abatement provisions.

14. BZO Section 23.402.070.C.1.g – Zoning Adjustments Board (pg. 371)

Original BZO Language

- g. Makes recommendations on other matters as requested by the City Council and Planning Commission; and

Proposed Modification to BZO Language

- g. Makes recommendations on other matters as requested by the City Council, ~~and~~ Planning Commission, or any other City Board or Commission; and

Rationale: This added language better reflects the language in [BMC 23B.04.020.B.6](#) [**emphasis added**]:

- 6. Upon request, make recommendations on other matters brought to its attention by the Council, the Planning Commission **or any other City Board or Commission**; and

15. BZO Section 23.306.020 – Accessory Dwelling Units (pg. 243)

Original BZO Language

- A. The provisions of this chapter apply to all lots with at least one existing or proposed dwelling unit.

Proposed Modification to BZO Language

- A. The provisions of this chapter apply to all lots with at least one existing or proposed dwelling unit.

Rationale: Copy edit.

16. BZO Section 23.406.030.H.1 – Administrative Use Permits (pg. 395)

Original BZO Language

H. Findings of Approval

1. To approve an AUP, the Zoning Officer shall find that the proposed project:

Proposed Modification to BZO Language

H. Findings of Approval

1. To approve an AUP, the Zoning Officer shall find that the proposed project **or use:**

Rationale: This added language clarifies that both projects and uses are subject to findings. This reflects language included in [BMC 23B.28.050.A](#) that is broader than “project” [**emphasis added**]

- A. The Zoning Officer may issue an AUP, either as submitted or as modified, only upon finding that **the establishment, maintenance or operation of the use, or the construction of a building, structure or addition** thereto...

17. BZO Section 23.406.040.E.1 Use Permits (pg. 396)

Original BZO Language

E. Findings of Approval

1. To approve a Use Permit, the Zoning Officer shall find that the proposed project:

Proposed Modification to BZO Language

E. Findings of Approval

1. To approve a Use Permit, the Zoning Officer shall find that the proposed project **or use:**

Rationale: Similar to 14, above, this added language clarifies that both projects and uses are subject to findings. This reflects language included in [BMC 23B.28.050.A](#) that is broader than “project” [**emphasis added**]

- A. The Zoning Officer may issue an AUP, either as submitted or as modified, only upon finding that **the establishment, maintenance or operation of the use, or the construction of a building, structure or addition** thereto...

BART Communications

(Received after 4pm on September 1 - 9am
October 1.)

Communication

From: Julie Abraham <abraham1222@gmail.com>
Sent: Sunday, September 5, 2021 10:44 AM
To: Pearson, Alene
Subject: North Berkeley Bart

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

Dear Planning Commissioners:

We urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, we urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

*Sincerely,
Julie and Glenn Abraham*

Communication

From: Barbara Anscher <barbaraanscher@gmail.com>
Sent: Sunday, September 5, 2021 11:08 AM
To: Pearson, Alene
Subject: Zoning at North Berkeley BART

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood. The history of urban planning tells us that monolithic apartment towers and little open space breeds urban blight.*

I also urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding! Also, please consider the desperate need for low-income housing in Berkeley. This is an opportunity to provide a reasonable number of low-income housing units, which would benefit the diversity of our community rather than developers.

Finally, I urge you to consider the transportation infrastructure that is needed due to the elimination of parking at the North Berkeley BART station. Bus service from the North Berkeley hills is drastically insufficient --the bus near where I live only runs once an hour.

Thank you for all that you do.

*Sincerely,
Barbara Anscher
2506 Hawthorne Terrace, Berkeley 94708*

Communication

From: Mary BehmSteinberg <marybehmsteinberg@gmail.com>
Sent: Thursday, September 9, 2021 4:54 PM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: North Berkeley BART

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

Dear Ms. Pearson:

I appreciate how much some proponents of this legislation think it is the answer to climate change and gentrification. We can absolutely agree that those problems need to be urgently addressed, now.

The problem comes when the "solutions" exacerbate, rather than relieve, the urgent issues at hand and ignore very common sense issues having to do with basic safety and economics. These can be demonstrated as follows:

1. If we eliminate road capacity, how will you even be able to have bike commuting during rush hour for all the people able-bodied enough to do it? For example, imaging a single lane for bike traffic with people from 1200 units trying to use it all at once (and that would be for proposed building at NB BART alone, not even including the surrounding area).

It's not workable, because you don't have the throughput on roads. BART already does a very poor job of adequate seating for people with disabilities, and elevators are frequently out. Buses also frequently have broken lifts, so if you need to be somewhere on time and you can't climb into a bus without accommodation, you're screwed.

2. Because the Powers that Be fear "drawing in more homeless people," there is an embarrassing dearth of public restrooms, which causes a public health catastrophe, but also precludes people who need frequent bathroom stops (seniors and people with disabilities) from being able to use transit. Beyond the obvious inhumanity to the most vulnerable of our citizens, be they homeless, and/or disabled and/or elderly, which are regularly brushed aside by some, there is the consideration of the public health issues this raises which affects us all. If compassion can't be the guide here, enlightened self interest is another factor.

3. In the event of our now yearly devastating fires and the hazard of the Hayward fault, transit won't be running. How are people supposed to evacuate if there isn't enough throughput on local roads, in a firestorm? The City is starting to acknowledge this, indirectly, by trying to "pre-evacuate" the hills before there's even a fire there. How many people will scurry away in advance, leaving everything behind, to spend a bunch of money looking to go to other places that may also be on fire? https://www.youtube.com/watch?v=9_gyQCC_auU

I have heard the same things former Berkeley Mayor Dean has about how fast a serious fire in the hills could take out the rest of Berkeley, now that the wind break of the trees are going. How do the rest of us get out? Even with evac. routes, you still have the issue of road throughput...

4. Narrowing roads precludes emergency vehicles from getting to fires and people in medical crises fast enough. Especially with the possible closure of Alta Bates, that's a vital concern, and the necessity for emergency medical care can happen to anyone.

5. Trickle down economics has never worked, and there are ample studies, including an important one from MIT <https://web.mit.edu/fnl/volume/254/salvucci.html>, that demonstrate that it isn't "supply and demand." Check out the former UN Rapporteur for Adequate Housing's take on other problems with this, including using housing not as housing, but as another vital resource to be cornered by the few: <https://www.youtube.com/watch?v=u4-VORQZ1-Q>

6. To have a fully integrated community, many of the YIMBY types say two contradictory things: that people don't have to live in Berkeley if it's too

expensive, but that they don't want people to drive either. I'm not sure how they expect their plumber to bike on over from out of town with hundreds of pounds of necessary equipment, but this is also a practical concern.

7. Of course climate change is urgent, but doing something like this isn't going to solve it--and may make it worse. By BART's own estimates, if the pandemic hadn't happened, they'd already be over capacity. By 2040, we're talking

152%. <https://www.bart.gov/.../bet.../RelievingCrowding2018.pdf...>

Buses are filthy, and have not been reliable. Remove parking, and the "park and drive" that people in the hills and people with disabilities count on is destroyed. So what will people do? Drive around, or call Lyfts to drive around for them, and those actually increase carbon emissions by up to 70%, according to recent studies (<https://www.theverge.com/.../uber-lyft-climate-change...>). If people are unable to take transit or bike, they will try to drive, and will end up driving in circles looking for parking, or sitting in traffic with inadequate roads.

A far better solution would be to limit density and invest in innovative technology like this solar car, which gets up to 40 miles a day on solar alone and is currently available. <https://www.aptera.us/vehicle/>

There are many solutions to the affordability crisis, but they involve us insisting that our politicians stop pandering to the interests that allow them to "climb the ladder" and start insisting on:

1. A living wage for EVERY employee. A maximum wage for "superstar" salary earners would be great too, but that will of course take longer. I would add that robust funding of the social safety net for those who can't work or are unemployed is essential.

2. Robust corporate taxes for corps. based here. If they want to leave? Exit tax, and use taxes to operate in the state. Use that money to fund the difference between what is affordable for a small landlord to offer and what is affordable for a tenant to pay, but without addressing the problem of corporate greed and the cornering of all vital assets (money is sadly survival; housing; healthcare; and water), what little chance w

Communication

From: Shoshana Berger <shoshana.berger@gmail.com>
Sent: Friday, September 3, 2021 11:04 PM
To: Pearson, Alene
Subject: Please don't overbuild North Berkeley BART

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

Maximum height: 7 stories/80 feet

Maximum floor/area ratio: 4.2

Density: 75 units per acre

These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large for a reasonable fit at the site.** Once the sites are zoned, the developer selected by BART has a vested right to build anything that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do!

Shoshana Berger
1345 Ada St.
Berkeley 94702

Communication

From: Noah Budnick <noahbudnick@gmail.com>

Sent: Friday, September 10, 2021 9:58 AM

To: Pearson, Alene <apearson@cityofberkeley.info>

Cc: Berkeley Mayor's Office <mayor@cityofberkeley.info>; Taplin, Terry <ttaplin@cityofberkeley.info>; Droste, Lori <ldroste@cityofberkeley.info>; Bartlett, Ben <BBartlett@cityofberkeley.info>

Subject: Another North Berkeley BART neighbor for paradise instead of a parking lot

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

Planning commissioners,

I'm a North Berkeley BART neighbor, transit rider and frequent visitor to local parks and businesses, and I can't wait for our BART station parking lot to become paradise in the form of abundant affordable homes and lovable public spaces. I stand with my neighbors and North Berkeley Now! to tell you the following:

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

Given the shortage of housing and the climate change-fighting benefits of living near transit, we want the highest density possible at our BART station. The majority of commenters on Sept 1 said "maximize housing" and we agree. Let me add to that: minimize parking.

Alternatives to driving must also be a priority. Some BART users need to drive, but many do not. I speak as someone who has driven, taxied, biked, bike shared and walked to and from North Berkeley BART.

Parking at BART can be eliminated except for disabled spots by providing better connectivity and access for surface transit and alternative mobility. This includes infrastructure design that promotes the safety of pedestrians and bicyclists over the convenience of drivers. We support smart infrastructure that keeps cars away from people so we all feel safe getting to BART.

Thank you for your consideration,

Rgds,
Noah Budnick
2320 Curtis Street

Communication

From: Erica Buhrmann <ebuhrmann@gmail.com>
Sent: Sunday, September 5, 2021 2:22 PM
To: Pearson, Alene
Subject: North Berkeley BART site proposal

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood. I have lived in this neighborhood for 45 years. Neighbors here know neighbors and care for each other. The absence of urban corporate retail and large developments has kept this community a friendly and safe place. Let's keep it that way!

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

Erica Buhrmann
1708 California St.
Berkeley, CA 94703

Communication

From: Lois Cantor <locando@comcast.net>
Sent: Monday, September 6, 2021 3:43 PM
To: Pearson, Alene
Subject: North Berkeley BART Development

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

Lois Cantor

*1629 Sacramento St.
Berkeley 94702*

Communication

From: The-Anh Cao <theanh0413@gmail.com>
Sent: Saturday, September 4, 2021 12:07 AM
To: Pearson, Alene
Cc: THEANH0413
Subject: ZONING THE NORTH BERKELEY BART SIDE FOR HOUSING

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

*Mrs The-Anh Cao
1481 Virginia St.
Berkeley, CA 94702*

Communication

From: Ed Connor <edconnor@comcast.net>
Sent: Friday, September 3, 2021 10:24 PM
To: Pearson, Alene
Subject: Feedback on Zoning for Housing at North Berkeley BART

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night on development at North Berkeley BART, as follows

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

Edward James Connor
1355 Ada Street, Berkeley

Communication

From: Tony Corman <anthonyjaycorman@gmail.com>
Sent: Thursday, September 2, 2021 5:56 PM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: TOD at North Berkeley BART

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

Dear Planning Commissioners:

I am a member of the Community Advisory Group, writing also in my capacity as a member of the steering committee for the North Berkeley Neighborhood Alliance. NBNA is a grassroots group of over 300 households who live near the station and are concerned about housing development at the site.

We support zoning recommendations presented by Alisa Shen Wednesday night. They comply with AB2923. We ask you not to increase the parameters recommend in the draft, as they already specify an envelope far in excess of what will sit sensibly at the site.

It's important for you to understand that, after the sites are zoned, the developer selected by BART has a vested right to build anything that complies with the zoning, and the City has little or no recourse to challenge the project. What gets built stays built for a long time. BART is operating on self interest in all this, so we, the residents, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not dominates, the neighborhoods. I would welcome the opportunity to meet with any of you to discuss the issues in detail!

Sincerely,

Tony Corman

Communication

From: Preet Dhillon <preet.kaur.dhillon@gmail.com>
Sent: Friday, September 3, 2021 11:57 PM
To: Pearson, Alene
Subject: zoning at North Berkeley BART - think about the local community too

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

*Preet dhillon
1543 Delaware St
Berkeley, CA 94703*

Communication

From: Valerie Dow <valeriedow@sbcglobal.net>
Sent: Monday, September 6, 2021 12:54 PM
To: Pearson, Alene
Subject: Zoning at North Berkeley BART

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

Dear Planning Commissioners:

Thank you for your thoughtful participation in this important process. I have attended countless meetings regarding the development of housing in the North Berkeley BART parking lots. The issues are complex and contentious. Lots of people have good intentions and strong feelings on this topic. That makes yours a difficult job.

I write to ask you to support the zoning recommendations presented by Alisa Shen at the recent planning meeting. Once the site is zoned, the developer selected by BART has a vested right to build anything that complies with the zoning and the city will have no recourse to challenge the project.

Here are the zoning recommendations from Shen that I ask you to support:

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. Please do not increase the parameters recommended in the draft. They are already much too large for a reasonable fit at the site. This community will be heavily impacted by this development. As a resident, I am asking that you recommend zoning that will permit maximum affordability and a scale that suits, not overpowers this neighborhood.

Also, I ask that you ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding.

Thank you.

Sincerely,
Valerie Dow
1539 Francisco Street
Berkeley, CA 94703

Communication

From: Sara Dwight <sara.dwight@gmail.com>
Sent: Friday, September 3, 2021 9:00 PM
To: Pearson, Alene
Subject: North Berkeley BART development

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. We, the residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

Sara and Kathy Dwight
1434 Delaware

Sent from my iPhone

Communication

From: Margaret Elms <melms1536@comcast.net>
Sent: Saturday, September 4, 2021 8:28 PM
To: Pearson, Alene
Subject: North Berkeley BART Housing Development

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

*Margaret Elms
1536 Lincoln Street
Berkeley*

Sent from my iPad

Communication

From: Daniel Fahey <dfahey1968@gmail.com>
Sent: Saturday, September 4, 2021 2:59 PM
To: Pearson, Alene
Subject: North Berkeley BART housing

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

Dear Planning Commission,

I urge you to support limiting housing heights at North Berkeley BART to no more than 7 stories. Anything higher will be a blight on our community.

Sincerely,

Dan Fahey
1737 Virginia St.
Berkeley

Communication

From: Albert Buixadé Farré <albertbuixade@gmail.com>
Sent: Friday, September 3, 2021 9:29 PM
To: Pearson, Alene
Subject: North berkeley bart zoning

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding.

Thank you for all that you do.

Sincerely,

*Albert Buixade
Resident of North Berkeley:
1734 Lincoln St, Berkeley, CA 94703*

Communication

From: Marla Faszholz <fasz@juno.com>
Sent: Friday, September 3, 2021 10:22 PM
To: Pearson, Alene
Subject: North Berkeley Bart Zoning

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

Marla Faszholz
1517 Buena Avenue
Berkeley 94703

Marla
Sent from my iPhone

Choose to be safer online.

Opt-in to Cyber Safety with NortonLifeLock.

Plans starting as low as \$6.95 per month.*
NetZero.com/NortonLifeLock

Communications
Planning Commission
October 6, 2021

Communication

From: Barbara Fisher <barbara.fisher2000@gmail.com>
Sent: Friday, September 3, 2021 9:29 PM
To: Pearson, Alene
Subject: North Berkeley BART parking lot development

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART can build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the surrounding community, who will be impacted by this development, are counting on you to recommend zoning that will permit a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for your attention.

*Sincerely,
Barbara Fisher*

Communication

From: Alisa <moonmom@sbcglobal.net>
Sent: Saturday, September 4, 2021 10:57 AM
To: Pearson, Alene
Subject: North Berkeley BART Planning Commission

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,
Alisa Foster
1803 McGee Ave
Berkeley, CA 94703

Communication

From: Marcia <marciafree@earthlink.net>
Sent: Saturday, September 4, 2021 2:06 PM
To: Pearson, Alene
Cc: All Council
Subject: BART Housing-Planning Commission Item 9

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

Dear Planning Commissioners:

Let's create places to call home for all who need it and a safe, thriving new hub of activity in the heart of our neighborhood!

I would like to express my support for:

- Building as much housing as possible without delay.
- Creating a viable development with as many affordable housing units as feasible, and a right to return for displaced residents; -Calming traffic and reducing the number of lanes on Adeline St. to ensure a safe environment for all South Berkeley Residents;
- Ensuring a permanent home for the Flea Market that allows it to thrive -Including affordable ground space for local businesses and non-profits.

Please keep this process moving. We need housing NOW!

Sincerely,

Marcia Freedman
Berkeley resident

Communication

From: Marcia <marciafree@earthlink.net>
Sent: Saturday, September 4, 2021 2:06 PM
To: Pearson, Alene
Cc: All Council
Subject: BART Housing-Planning Commission Item 9

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

Dear Planning Commissioners:

Let's create places to call home for all who need it and a safe, thriving new hub of activity in the heart of our neighborhood!

I would like to express my support for:

- Building as much housing as possible without delay.
- Creating a viable development with as many affordable housing units as feasible, and a right to return for displaced residents; -Calming traffic and reducing the number of lanes on Adeline St. to ensure a safe environment for all South Berkeley Residents;
- Ensuring a permanent home for the Flea Market that allows it to thrive -Including affordable ground space for local businesses and non-profits.

Please keep this process moving. We need housing NOW!

Sincerely,

Marcia Freedman
Berkeley resident

Communication

From: Linda Gallaher-Brown <lgallaherbrown@aol.com>
Sent: Saturday, September 4, 2021 6:23 PM
To: Pearson, Alene
Cc: evetsnapoli@gmail.com
Subject: Development at North Berkeley

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

Dear Planning Commissioners of Berkeley,

I am writing to you as a member of the neighborhood around North Berkeley BART (1616 Virginia Street - 2 blocks away).

I am concerned that once the sites are zoned the developer selected by BART has a right to build anything that complies with the zoning and the City and community will have no recourse to challenge the project.

As a resident of the community who will be heavily impacted by this development, we are urging you to support the following:

- Maximum height of 7 stories or 80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. Do not increase the parameters above. They are already too large for a reasonable fit at the site.

The community wants zoning that will permit maximum affordability and a scale that suits the neighborhood (which consists overwhelmingly of single family homes, one-story duplexes, and primary homes with a rental cottage). A large development will destroy the character and convenience of our beloved neighborhood. Untenable traffic and parking problems will make our neighborhood unpleasant for long-term residents.

I also urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding, which should be used for non-profit development of affordable housing and housing for the underserved homeless.

I am counting on you to do the right thing!

Thank you for reading this and for working for our community. I hope we can move forward in a constructive way.

A local voter,

Linda Gallaher-Brown

Communication

From: Laura García-Moreno <lauragarmor@gmail.com>
Sent: Friday, September 3, 2021 9:29 PM
To: Pearson, Alene
Subject: North Berkeley Bart Development

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

Dear Planning Commissioners:

I am someone who will be directly affected by the building plans for North Berkeley Bart Station.

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site.*

Anything higher than 7 floors is extremely undesirable. It will block the view, the sun, and change life in the neighborhood dramatically.

*Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

*Thank you.
Sincerely,*

Laura Garcí Moreno
1385 Francisco St.

Communications
Planning Commission
October 6, 2021

Communication

From: Sean Golden <spgolden@gmail.com>

Sent: Wednesday, September 1, 2021 3:13 PM

To: Pearson, Alene <apearson@cityofberkeley.info>

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

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

Planning Commission Secretary:

I'm writing to you to encourage the planning committee to support all types of housing on BART property, including near the Ashby and North Berkeley stations. As someone that regularly commuted to the North Berkeley station and walked several blocks through low density single family home neighborhoods, it's clear that housing near transit is key to achieving our shared climate goals to reduce carbon emissions.

These projects will not solve all of our problems, but are unique opportunities to think imaginatively. Hopefully, with this committee's foresight, we can begin to shift how we think about equity, climate change, and urban development for a new generation of Berkeley residents. We support progressive new types of thinking, want to tackle difficult problems instead of ignoring them, and are tired of the old broken housing policies that have completely failed us as a community.

Thank you for your careful consideration.

Sincerely,

Sean Golden

Communication

From: Karl Goldstein <kgoldstein46@gmail.com>
Sent: Friday, September 3, 2021 10:20 PM
To: Pearson, Alene
Subject: N.Berkeley BART development

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

Dear Planning Commissioners:

I have lived near the North Berkeley Bart station for 35 years. This is a beautiful cohesive community that represents Berkeley's values in so many ways.

I'm writing to urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. This is a quiet, residential neighborhood and its character will change drastically if large apartment towers are plopped down in the middle of it. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding! It would be an outrage to Berkeley's values.

Thank you,
Karl Goldstein
1376 Virginia St.
Berkeley, CA 94702

Communication

From: Deborah Gouailhardou <deborah_gouailhardou@yahoo.com>
Sent: Friday, September 3, 2021 8:56 PM
To: Pearson, Alene
Subject: North Berkeley BART development

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Please, please, please do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers ***should not profit from public funding!***

Deborah Gouailhardou - North Berkeley BART neighbor

Communication

From: ml hicks <mlhicks2003@yahoo.com>
Sent: Monday, September 6, 2021 4:58 PM
To: Pearson, Alene

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

Dear Planning Commissioners:

Please support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Please do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, **are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.**

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

Mary Lawrence Hicks

Communication

From: Carol Hirth <chirth@mac.com>
Sent: Saturday, September 4, 2021 11:22 AM
To: Pearson, Alene
Subject: Building housing at North Berkeley BART

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

*Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. **Private developers should not profit from public funding!***

Thank you for all that you do.

Sincerely,

*Carol Hirth
1309 Cornell 94702*

Communication

From: Eileen Hughes <jnyahsgrandma@gmail.com>
Sent: Saturday, September 4, 2021 8:57 AM
To: Pearson, Alene
Subject: N Berk BART development

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

*Eileen Hughes
1721 Sacramento Street
Berkeley 94702*

Communication

From: kevjames@comcast.net
Sent: Saturday, September 4, 2021 2:57 PM
To: Pearson, Alene
Cc: Kesarwani, Rashi
Subject: Proposed Development of Housing at the North Berkeley BART Station
Attachments: BART Development - Planning Commission.pdf

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

Dear Ms. Pearson,

Attached please find a letter my husband and I sent to the Planning Commission in December regarding the prospective construction of housing at the North Berkeley BART station. I believe that the concerns we expressed in that letter about the project are still valid, and have not yet been satisfactorily addressed by BART, or by the prospective developers of the project. Those points may be summarized as follows:

- There is no shortage of market rate housing in Berkeley. The small apartment buildings near the North Berkeley BART station, for example, continue to have vacancies. What is in short supply is affordable housing. There is no excuse to develop the North Berkeley station for any purpose other than affordable housing. Building “luxury” units (as the housing built at the MacArthur BART station is advertised) will not increase neighborhood diversity or open up housing to working people. Indeed, it will further gentrify the neighborhood: the market-rate units, built with little to no parking, will appeal primarily to people who commute to well-paid tech industry jobs in San Francisco and to middle-class UC Berkeley students (who can afford market rate housing by sharing bedrooms).
- Transit-oriented development requires good mass transit. North Berkeley does not have good mass transit. BART is *not* an urban subway system: it is a commuter rail system, and one beset by increasing consumer dissatisfaction and falling ridership. At best, it moves people into and out of downtown San Francisco and Oakland. It doesn’t go to many of the places that families with children must go on a regular basis. AC Transit has been reducing its level of service in North Berkeley for decades. This means that the people who live in the housing built at the North Berkeley BART station (unless they are college students or young professionals without children) will want to use cars and, if adequate provision is not made for parking, will want to park them on already-congested nearby streets. (The assumption that the residents will walk or bicycle everywhere that BART and AC transit do not go is ableist and ageist.) Perhaps, if the project proponents are certain that the automobile needs of the future residents of the housing will be slight, they should be required to provide their future tenants with several hundred shared electric vehicles, to be charged in an on-site parking garage, and to prohibit their tenants from owning cars and from parking them on nearby streets.
- Recent housing developments on the commercial thoroughfares near the North Berkeley BART station have been limited to five stories. (The development at Cedar and San Pablo has five stories in front, and steps down at the rear so as not to overshadow the surrounding neighborhood of one and two-story homes.) I have no doubt that the City of Berkeley would limit the North Berkeley BART project to five stories were it not for BART’s determination that the area surrounding the North Berkeley BART station somehow constitutes an “Urban Neighborhood/City Center.” BART contends that this determination requires the City to permit BART to develop a housing project at least seven stories tall. (BART’s determination is, at best, arbitrary and capricious. BART, for example, designated the far more urban area surrounding the downtown Walnut Creek station a “Neighborhood/Town Center” subject to a minimum housing development of five stories. There are ten-story office buildings adjacent to the Walnut Creek BART station.) Ideally, the City of Berkeley would zone the North Berkeley BART station for five-story development and invite BART to challenge this decision in court (which

would require BART to litigate its unsupportable determination that North Berkeley is a “City Center.”) At a minimum, the City of Berkeley should limit development of the North Berkeley BART station to seven stories: BART’s efforts to turn North Berkeley into a “City Center” by building upscale housing for professionals should not be rewarded with a limit greater than seven stories.

Thank you for your attention.

Sincerely yours,
Kevin James

Kevin James and Tom Reilly
1450 Keoncrest Drive
Berkeley, CA 94702
December 2, 2020

Members
Berkeley Planning Commission

Ladies and Gentlemen:

We write to express our concerns about the nature and scope of the proposals for development of the parking lot at the North Berkeley BART station for housing. We would support the construction of housing at the parking lot if the housing to be built were affordable housing and if the development were of the same approximate size and scope of the housing that has been built on such major nearby thoroughfares as University Avenue and San Pablo Avenue. But the currently contemplated development of the parking lot suffers from several major flaws. First, most of the units to be built will be market rate units and not affordable units; this means that the development will do little to ease the Bay Area's housing crisis. Second, the parking and traffic impacts of the development have been wished away; BART appears to assume that the residents of the apartment complex will not use cars. They will. Finally, the contemplated height of the apartment complex is entirely out of scale with the surrounding neighborhood of single-family homes. Indeed, it is taller than any of the apartment buildings that have been built on nearby commercial thoroughfares, and it is taller than the apartment buildings under construction next to the Fruitvale and Coliseum BART stations, and near the planned Berryessa/North San José station.

I. The parking lot at the North Berkeley BART station should be developed for affordable housing. The parking lot is publicly owned land, and it should be put to a use that will provide the greatest benefit to the public: construction of affordable housing for the teachers, city employees, plumbers, auto mechanics and baristas who work in Berkeley. All of the proposals for the development of housing at the North Berkeley BART station, however, assume that more than 70% of the housing that will be built will be market rate housing – i.e., expensive housing for well-paid professionals who work in other cities. This is squandering the opportunity that development of the North Berkeley BART station presents: BART faces no land acquisition costs and can take longer to recoup its development and construction costs than can any private developer. BART can and should ensure that at least half of the units built at the site are affordable units and, to that end, should choose a non-profit housing developer as its partner on the project.

Moreover, there is no shortage of market rate housing locally. BART has not yet tenanted the massive towers of “luxury apartments” (as they have been advertised) that it built at the MacArthur station, and there are human-scale, market-rate apartment buildings within a quarter mile of the North Berkeley BART station (e.g., “The Parc at 1300”) that have been seeking tenants for at least the past six months.

II. The proposals for the development of housing at the North Berkeley BART station include little to no parking for the people who will live in the new apartment complex. BART assumes that, if the residents of the new apartment complex do not have parking spaces, they will not have or use cars. This is wishful

thinking. While the residents of the new apartment complex may take BART to their jobs in Oakland or San Francisco, they will use cars for many other purposes – to shop, to take their children to preschool and school (children in Berkeley do not necessarily attend the elementary school nearest their home), to attend worship services, for medical appointments, etc. BART was designed and functions as a commuter rail service: it moves people from distant suburbs to downtown Oakland and downtown San Francisco. It is not an urban subway system. It does not reach most of the places that residents of the East Bay visit on a regular basis. Moreover, the North Berkeley BART station is on the Richmond line. This means that, even when BART is running normally, trains come only once every twenty minutes evenings and Sundays and that there is no direct service to San Francisco at those times. (The lack of direct service is significant; in our experience, the timed transfers at the MacArthur and 19th Street stations fail at least half the time evenings and weekends). This means that, as a practical matter, people in North Berkeley who want to travel to San Francisco in the evening or on the weekend find it much faster to drive into the City.

Moreover, even before the pandemic severely curtailed its operations, BART had suffered a marked decline in the quality of its service. Outside of commute hours, train cars frequently reeked of weed, and contained puddles of vomit, urine, and beer. Sexual harassment of female patrons was common, and assaults on passengers were not unusual.¹ BART ridership was falling even then as a result of these problems.² As such, the residents of any apartment complex likely to be built at the North Berkeley BART station are likely to use cars evenings and on weekends.

Much as we might prefer that everyone in Berkeley used public transportation and bicycles for all their transportation needs, the residents of the apartment complex to be built at the North Berkeley BART station will use cars. They will, therefore, significantly increase the vehicle traffic on nearby roads. If they own those cars, they will need a place to park them. If insufficient parking spaces are created for their cars, they will park them on the streets of North Berkeley adjacent to the North Berkeley BART station. While those streets are subject to a Residential Preferential Parking (RPP) system, the residents of the new apartment complex will likely manage to obtain parking permits enabling them to park on nearby streets. (Even if the City of Berkeley solemnly promises that the apartment complex residents will *never* be eligible for residential parking permits, the complex residents will eventually succeed in changing the City's policy. The residents of the apartment complex will, after all, constitute a substantial number of voters.)

If the residents of the apartment complex to be built at the North Berkeley BART station do not own their own cars, they will use Uber and Lyft for many of their trips. From a traffic congestion and environmental perspective, this would be far worse than if the residents owned and used their own cars: a 2019 study conducted in San Francisco found that “[an]Uber [or] Lyft [vehicle is] empty either waiting for a ride request or heading to pick up a passenger roughly half of the time [the] vehicle is on

¹ BART's statistics may not reflect the scope of the problem. In 2019, one of us was assaulted at the Lake Merritt BART station. The assailant left quickly, and we had no idea who he was. As there were no injuries, we did not report the incident.

² Swan, Rachel. “Flagging ridership puts BART in budget bind, raises specter of more fare hikes.” *San Francisco Chronicle*, 9 May 2019. Indeed, BART's weak financial position likely explains both the massive size of the proposed development of the North Berkeley BART station and the relative lack of affordable housing in any of the proposals.

the road.”³ The last thing we want is for the residents of the new apartment complex to rely on Uber and Lyft because BART failed to create an adequate number of parking spaces for them when it developed the property.

Accordingly, a thorough analysis of any proposal for construction of housing at the North Berkeley BART station must include an honest appraisal of the traffic and parking impacts of the new housing. Pretending that the residents will rely on BART for most or all of their transportation needs is naive if not intellectually dishonest.⁴

III. Several of the proposals under consideration for the development of housing at the North Berkeley BART station contemplate the construction of at least a seven-story apartment building. This is because BART has designated North Berkeley as an “urban neighborhood/city center,” requiring the City of Berkeley to zone the site to permit the construction of at least seven stories. But BART’s designation of the site appears so unwarranted as to be arbitrary and capricious: the surrounding streets consist primarily of one and two-story single-family homes, and buildings on the nearest commercial thoroughfare, University Avenue, are no more than four or five stories. Accordingly, construction at the site should be limited to four or five stories, as it would be if it were located on University Avenue. (Berkeley’s zoning practices hardly constitute the sort of exclusionary zoning that would justify BART to ride roughshod over them. Although Berkeley has less developable space than most cities in the Bay Area, it has built hundreds of new housing units in the past decade in downtown Berkeley, along the San Pablo corridor and along University Avenue.) Indeed, BART’s contemplated development of a seven to fifteen story building at the North Berkeley BART station is inconsistent with its ongoing development of four and five story apartment buildings adjacent to the Fruitvale and Coliseum BART stations, and with the construction of five story apartment buildings near its new station in North San José.

Assembly Bill 2923 was adopted to allow BART to develop transit-oriented housing in communities that had long used their zoning laws to prevent development. Instead of using its authority under AB 2923 to develop housing in such communities, it is using that authority at a site that local authorities were already planning to develop, with broad community support and in accordance with local zoning requirements that have allowed the development of a significant amount of housing in the past decade. Sadly, none of the projects that BART is considering creates a significant amount of affordable housing; as such, none of those projects, if built, will do anything to ease the Bay Area’s housing crisis. Moreover, BART assumes away the significant increased traffic and parking problems that will be created both by the development of housing at the North Berkeley BART station and by the elimination of most of the commuter parking at the station. Finally, BART is misusing its authority – giving a site in a neighborhood of single-family homes the same designation that it would give a site in downtown San Francisco – in

³ Rodriguez, Joe Fitzgerald. “Uber and Lyft traffic impacts double SF’s own estimates.” *San Francisco Examiner*, 5 August 2019.

⁴ Similarly, a thorough analysis of any proposal or construction of housing at the North Berkeley BART station must include an honest appraisal of the traffic and parking impacts of eliminating approximately 600 parking spaces for commuters at the station. Pretending that all the commuters who currently park at the station will commute to the station by bus or bicycle is wishful thinking. They might, instead, drive to San Francisco or Oakland; this would significantly increase traffic congestion and automobile emissions. Alternatively, they might commute to the North Berkeley BART station by Uber or Lyft. This would result in roughly double the current level of congestion and automobile exhaust created by those commuters.

order to build an apartment complex that is far taller than its surroundings and which is taller than the new housing now being built near other BART stations. BART should, instead, work closely with the City of Berkeley to develop an apartment complex roughly four or five stories high, with adequate parking for residents, and with a minimum of 50% affordable units. It should also work closely with the City to determine how best to address the loss of commuter parking spaces at the North Berkeley BART station: assuming that all of the commuters no longer able to park at the station will instead ride the bus to the station is not adequate analysis or a practical solution.

Sincerely yours,

Kevin James
Tom Reilly

Communication

From: Miriam Kasin <scribblescribbler@gmail.com>
Sent: Saturday, September 4, 2021 8:11 AM
To: Pearson, Alene
Subject: BART building project

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

Dear Planning Commissioners:

I am a native of Berkeley, and remember when it was decided that BART stations would be built far apart, with big parking lots for people to drive to BART.

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

*Miriam Kasin
363 Panoramic Way
Berkeley, CA 94704*

Communication

From: Michael Katz <mqkatz@gmail.com>
Sent: Tuesday, September 7, 2021 1:30 PM
To: Pearson, Alene
Subject: North Berkeley BART zoning: Please support staff's 9/1/21 recommendations

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

Dear Members of the Planning Commission,

I'm writing as a North Berkeley resident, as a high-density apartment-complex dweller, and as someone who commutes via the North Berkeley BART station (and a bicycle). I hope that you will adopt the following AB 2923-compliant zoning recommendations, which staff presented at your Sept. 1 initial meeting on new zoning for the North Berkeley station area:

- Maximum height of 7 stories \approx 80 feet
- Maximum FAR of 4.2
- Density of 75 units per acre

I hope that you will also adopt objective design standards that call for:

- Contextual design, with ample step-downs and setbacks at the project's edges, to make this new housing a good neighbor.

The latter is important for three reasons:

1. Fairness to existing neighbors in this historically 1- and 2-story, middle-income area of Berkeley. Bounded by two arterials and the Santa Fe railroad tracks, this modest neighborhood was once known as the "Teachers' Tract."

Recent rhetoric caricaturing it as some elitist, exclusionary, gated community is simply ridiculous. Earlier in this planning process, staff presented Census data showing that the population around this station is nearly as diverse as the population within a comparable radius of the Ashby station – with slightly *lower* average income, and with a higher percentage of nonmotorists.

2. Creating a template for successful, harmonious housing development at many other suburban BART stations. Berkeley officials cooperated with BART to make this site the agency's initial parking-to-housing conversion in a residential neighborhood. Everyone in the media and the public likes to pay attention to Berkeley, and if this project goes smoothly, it can pave the way for lots more transit-oriented development.

If the City pushes the envelope on zoning beyond AB 2923 minimums, creating a rancorous process, we can expect to animate strong opposition among the public – and elected officials – in other Bay Area suburbs. Some of these officials are already organizing around a 2022 ballot initiative that would nullify AB 2923 along with other state-level housing legislation. Let's show that we can make transit-oriented development work for everyone.

3. Creating a place that feels like home, and like a place of pride, for our future neighbors. No one gets excited about living in a big rectangular box. Historically, what connotes "home" in America is a peaked roof. This multi-unit development should be built to the same envelope.

Let's show that we in Berkeley can make transit-oriented development work for everyone. Thank you for considering these comments.

Respectfully yours,
Michael Katz
Berkeley 94709

Communication

From: Laura Klein <lauraanneklein@gmail.com>
Sent: Sunday, September 5, 2021 2:19 PM
To: Pearson, Alene; All Council
Subject: Zoning the North Berkeley BART station

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

Dear Planning Commissioners:

I am writing regarding the upcoming zoning of the North Berkeley BART station.

I understand that you must zone in accordance with AB2923. However, that hastily written legislation misclassified the North Berkeley BART station as an "urban center", which it most certainly is not. It is the ONLY station in the system smack in the middle of a quiet, low rise residential area. (El Cerrito, a far more commercially developed area, is classified as a "town center".)

For that reason, I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows:

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for the site.

Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. As a nearby resident who will be heavily impacted by this development, I implore you to recommend zoning that will permit **maximum affordability and a scale that suits, not overshadows, its surroundings.**

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding- public land should be used for the public good.

Thank you.

Sincerely,

Laura Klein
1519 Virginia Street, Berkeley

Communication

From: Laurence LePaule <lepaule@att.net>
Sent: Friday, September 3, 2021 9:01 PM
To: Pearson, Alene
Subject: BART development

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

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- *Maximum floor/area ratio: 4.2*
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*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

*Michelle LePaule
1720 Virginia Street*

Communication

From: Andreas Lautenmeister <lautenmeister@gmail.com>
Sent: Friday, September 3, 2021 9:01 PM
To: Pearson, Alene
Subject: North Berkeley BART housing zoning

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

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*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

Franklin Lei, homeowner
1611 California Street
Berkeley CA 94703

Communication

From: James Loza <jamesloza@gmail.com>
Sent: Saturday, September 4, 2021 12:53 PM
To: Pearson, Alene
Subject: Bart housing

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding! Indeed, stop turning our town into an ant mound with loads of out of state tech workers ruining our once liveable city.

Thank you for all that you do.

*James Loza
1830 Cedar St
Berkeley*

Communication

From: Laura Magnani <friendlauramagnani@gmail.com>
Sent: Saturday, September 4, 2021 9:39 AM
To: Pearson, Alene
Subject: zoning on No Berkeley BART

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

Dear Planning Commissioners:

I live alongside the North Berkeley BART station and am very concerned about the zoning decisions related to development of the parking lot.

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

As you know, these recommendations match the provisions of AB 2923 and are crucial to maintain the residential neighborhood in which we live. Most of the developed stations I have seen are in commercial areas, but this area is quite different. That doesn't mean we don't need housing. We do. But it needs to be proportional to the setting around it. Too often we see BART build huge developments when they get the green light. Please help us keep this situation in perspective.

Thank you,

Laura Magnani, 1425 Virginia St., Berkeley 94702

Communication

From: Sue Martin <getmesue@gmail.com>
Sent: Wednesday, September 8, 2021 8:24 AM
To: Pearson, Alene
Cc: Kesarwani, Rashi
Subject: Zoning at North Berkeley BART

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

Dear Planning Commissioners:

*I urge you to **support the zoning recommendations presented by staff member Alisa Shen** at the last Planning Commission meeting. The recommendation are as follows*

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **PLEASE do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the North Berkeley site. These recommendations are based on 3 years of public testimony and the extensive work of the CAG.*

Also PLEASE separate the zoning for the North Berkeley site from the Ashby site. These sites are totally different (one commercial, one residential) and the adjoining neighbors wants different developments with Ashby desiring a higher, denser development.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded portion of the affordable housing.

Thank you for listening to the wishes of the unique neighborhoods of Berkeley, which is what makes us Berkeley!

*warmly,
Sue Martin*

Communication

From: Sue Martin <getmesue@gmail.com>
Sent: Friday, September 10, 2021 9:11 AM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: FACT CHECK ALERT

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

Dear Members of the Planning Commission,

It has come to my attention that there is a campaign under foot to encourage people to lie and claim they live in North Berkeley and that North Berkeley wants the "highest density" at the NB BART station.

The residents of North Berkeley DO NOT want high density. We support the recommendations of the Planning Commission staff to zone at the maximum of 7 stories. Most of us near the station feel that is already too high and too dense for North Berkeley. But the law requires zoning at 7 stories.

Here is the email encouraging people to lie. So if emails begin like this one, you will know they are falsely claiming they live in North Berkeley, and may not even live in Berkeley at all. I will try to encourage neighbors to include their addresses when they email you.

"Subject: Another North Berkeleyn for paradise instead of a parking lot

Planning commissioners,

I live in North Berkeley, and I can't wait for our BART station parking lot to become paradise in the form of abundant affordable homes and lovable public spaces. I stand with my neighbors and North Berkeley Now! to tell you the following:

When it comes to affordability, we want mixed income at North Berkeley BART.

Given the shortage of housing and the climate change-fighting benefits of living near transit, we want the highest density possible at our BART station. **Don't set BART's minimums as our maximums.**

...."

This was also true of much of the public comments on 9/1.... many falsely claimed and started their statement "I live in North Berkeley and as a neighbor welcome the highest densest development."

Please look back over the years of public testimony and the hundreds of us neighbors that showed up at the hearings. We want more adorable housing while protecting the unique character of Berkeley neighborhoods.

Many in our neighbors are over 65 and do not readily know how to participate via zoom. WE will do our best to get them at the next Planning Commission meeting on this topic.

Please follow the staff recommendations which are based on three years of extensive public testimony and many meetings of the Committee Advisory Group that represents all sides of this issue.

warmly,
Sue Martin
1511 Virginia Street

Communication

From: Judy Massarano <jmassarano@gmail.com>
Sent: Sunday, September 5, 2021 2:51 PM
To: Pearson, Alene
Subject: NB BART

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

Maximum height: 7 stories/80 feet

Maximum floor/area ratio: 4.2

Density: 75 units per acre

These recommendations comply with AB2923. Do not increase the parameters recommended in the draft. They are already much too large for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build anything that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

Judy Massarano

I live across the street

When will I see the sun?

Keep this a residential neighborhood, honor the spirit of it

Communication

From: Julie McNamara <juliemcmath@gmail.com>
Sent: Tuesday, September 7, 2021 5:28 PM
To: Pearson, Alene
Subject: North Berkeley BART Housing

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows. These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Maximum height: 7 stories/80 feet
Maximum floor/area ratio: 4.2
Density: 75 units per acre

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

--

Julie McNamara
1442 Delaware Street

Communication

From: negeene mosaed <ngmosaed@yahoo.com>
Sent: Saturday, September 4, 2021 2:24 PM
To: Pearson, Alene
Subject: Stop ● destruction of our neighborhood

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Negeene Mosaed
Resident of district 5
Sent from my iPhone

Communication

From: Leonard Mudrock <lmudrock@icloud.com>
Sent: Saturday, September 4, 2021 11:13 AM
To: Pearson, Alene
Cc: Leonard Mudrock
Subject: Berkeley resident - zone issue

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

Hi Alene Pearson,

I am a resident at 1408 Delaware Street that is across the street to North Berkeley BART parking lot. I read several emails about concerning high tall building might be on the North Berkeley BART parking lot.

I don't want many floors at the front side of Delaware Street because I am deaf and have to be careful to drive out of my driveway - watching bikes and pedestrians and increasing traffic on Delaware Street. I prefer lower height of buildings and front soil yard on Delaware Street for more visible and less populations on North Berkeley Bart site.

Also, I'd recommend to have Arts and Crafts designs of building because a lot of bungalow homes 1910's and 1920's design around the blocks in neighborhoods. Permit zone should restrict the building heights at North Berkeley BART parking lot site comparing to neighborhoods' houses' height. Comparing to others.

There were many meetings and they were hard for me with a sign language translator over the phone calls for prolong hours.

Thanks,
Leonard Mudrock
1408 Delaware Street
Berkeley, CA 94702

Communication

From: Heidi Nelson <heidin510@gmail.com>
Sent: Sunday, September 5, 2021 2:34 PM
To: Pearson, Alene
Subject: Zoning at North Berkeley BART

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, Sept. 1:

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,
Heidi Nelson
1810 Short Street
Berkeley

Communication

From: mimi.nielsen <mimi.nielsen@comcast.net>
Sent: Saturday, September 4, 2021 3:02 PM
To: Pearson, Alene
Subject: N Berk Bart Zoning

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

Dear Planning Commissioners:

We urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, we urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

Mimi Nielsen and Al Nelson
1811 Acton Street

Sent from my iPhone

Communication

-----Original Message-----

From: Info <info@larryorman.net>
Sent: Wednesday, September 8, 2021 8:59 AM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: Comment to Planning Commission re BART zoning

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

Dear Planning Commissioners,

I urge you to support these specifics in the zoning recommendations presented to you last week by City staff:

Maximum height: 7 stories/80 feet

Maximum floor/area ratio: 4.2*

Density: 75 units per acre

*Applying FAR 4.2 alone at North Berkeley would likely result in 1.2 million square feet of building space - this is almost the bulk of the Salesforce Tower in San Francisco - it is an outrageous factor on its face and should never be anything but a theoretical maximum.

These recommendations comply precisely with AB2923 and should not be increased.

Remember that once the BART sites are zoned, the developer selected for negotiations by BART (BEFORE any designs are submitted) is granted a vested right to build anything that complies with the zoning (another outrage of AB 2923, see Section 29010.10), and the City will have no recourse to change those elements of the project.

I also strongly encourage you to revamp the Joint Vision and Priorities document draft to focus exclusively the goal of 100% affordable housing at North Berkeley (as well as Ashby) BART and to aim for a 4-500 unit project at North Berkeley that will both be best for affordable housing goals, as well as far more climate friendly than a huge project.

Finally, it is critical that you ensure that the base for any state-mandated density bonus for the project EXCLUDES any affordable housing funded by the City of Berkeley or any other public source.
Private developers should not profit from public funding!

Thanks for your attention on this -

Larry Orman
1616 Delaware St., Berkeley

Communication

From: philoxenia@earthlink.net
Sent: Saturday, September 4, 2021 8:37 AM
To: Pearson, Alene
Subject: Berkeley Planning Commission

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,
Norman McKnight
1533 Francisco Street
Berkeley 94703

Communication

From: KEVIN RAYHILL <rayhillk@comcast.net>
Sent: Sunday, September 5, 2021 3:11 PM
To: Pearson, Alene
Subject: No. Berkeley BART Zoning Recommendations

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

To Whom It May Concern:

I am writing ask the Planning Commission to limit the recommended zoning for the North Berkeley BART Station to 7 stories maximum with maximum density of 75 units per acre. I also ask that the housing be reserved for low and middle income residents.

Thank you for your consideration.

Sincerely,

Kevin Rayhill
719 Neilson Street
Berkeley, CA 94707

Communication

From: kevjames@comcast.net
Sent: Saturday, September 4, 2021 2:57 PM
To: Pearson, Alene
Cc: Kesarwani, Rashi
Subject: Proposed Development of Housing at the North Berkeley BART Station
Attachments: BART Development - Planning Commission.pdf

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

Dear Ms. Pearson,

Attached please find a letter my husband and I sent to the Planning Commission in December regarding the prospective construction of housing at the North Berkeley BART station. I believe that the concerns we expressed in that letter about the project are still valid, and have not yet been satisfactorily addressed by BART, or by the prospective developers of the project. Those points may be summarized as follows:

- There is no shortage of market rate housing in Berkeley. The small apartment buildings near the North Berkeley BART station, for example, continue to have vacancies. What is in short supply is affordable housing. There is no excuse to develop the North Berkeley station for any purpose other than affordable housing. Building “luxury” units (as the housing built at the MacArthur BART station is advertised) will not increase neighborhood diversity or open up housing to working people. Indeed, it will further gentrify the neighborhood: the market-rate units, built with little to no parking, will appeal primarily to people who commute to well-paid tech industry jobs in San Francisco and to middle-class UC Berkeley students (who can afford market rate housing by sharing bedrooms).
- Transit-oriented development requires good mass transit. North Berkeley does not have good mass transit. BART is *not* an urban subway system: it is a commuter rail system, and one beset by increasing consumer dissatisfaction and falling ridership. At best, it moves people into and out of downtown San Francisco and Oakland. It doesn’t go to many of the places that families with children must go on a regular basis. AC Transit has been reducing its level of service in North Berkeley for decades. This means that the people who live in the housing built at the North Berkeley BART station (unless they are college students or young professionals without children) will want to use cars and, if adequate provision is not made for parking, will want to park them on already-congested nearby streets. (The assumption that the residents will walk or bicycle everywhere that BART and AC transit do not go is ableist and ageist.) Perhaps, if the project proponents are certain that the automobile needs of the future residents of the housing will be slight, they should be required to provide their future tenants with several hundred shared electric vehicles, to be charged in an on-site parking garage, and to prohibit their tenants from owning cars and from parking them on nearby streets.
- Recent housing developments on the commercial thoroughfares near the North Berkeley BART station have been limited to five stories. (The development at Cedar and San Pablo has five stories in front, and steps down at the rear so as not to overshadow the surrounding neighborhood of one and two-story homes.) I have no doubt that the City of Berkeley would limit the North Berkeley BART project to five stories were it not for BART’s determination that the area surrounding the North Berkeley BART station somehow constitutes an “Urban Neighborhood/City Center.” BART contends that this determination requires the City to permit BART to develop a housing project at least seven stories tall. (BART’s determination is, at best, arbitrary and capricious. BART, for example, designated the far more urban area surrounding the downtown Walnut Creek station a “Neighborhood/Town Center” subject to a minimum housing development of five stories. There are ten-story office buildings adjacent to the Walnut Creek BART station.) Ideally, the City of Berkeley would zone the North Berkeley BART station for five-story development and invite BART to challenge this decision in court (which

would require BART to litigate its unsupportable determination that North Berkeley is a "City Center." At a minimum, the City of Berkeley should limit development of the North Berkeley BART station to seven stories: BART's efforts to turn North Berkeley into a "City Center" by building upscale housing for professionals should not be rewarded with a limit greater than seven stories.

Thank you for your attention.

Sincerely yours,
Kevin James

Kevin James and Tom Reilly
1450 Keoncrest Drive
Berkeley, CA 94702
December 2, 2020

Members
Berkeley Planning Commission

Ladies and Gentlemen:

We write to express our concerns about the nature and scope of the proposals for development of the parking lot at the North Berkeley BART station for housing. We would support the construction of housing at the parking lot if the housing to be built were affordable housing and if the development were of the same approximate size and scope of the housing that has been built on such major nearby thoroughfares as University Avenue and San Pablo Avenue. But the currently contemplated development of the parking lot suffers from several major flaws. First, most of the units to be built will be market rate units and not affordable units; this means that the development will do little to ease the Bay Area's housing crisis. Second, the parking and traffic impacts of the development have been wished away; BART appears to assume that the residents of the apartment complex will not use cars. They will. Finally, the contemplated height of the apartment complex is entirely out of scale with the surrounding neighborhood of single-family homes. Indeed, it is taller than any of the apartment buildings that have been built on nearby commercial thoroughfares, and it is taller than the apartment buildings under construction next to the Fruitvale and Coliseum BART stations, and near the planned Berryessa/North San José station.

I. The parking lot at the North Berkeley BART station should be developed for affordable housing. The parking lot is publicly owned land, and it should be put to a use that will provide the greatest benefit to the public: construction of affordable housing for the teachers, city employees, plumbers, auto mechanics and baristas who work in Berkeley. All of the proposals for the development of housing at the North Berkeley BART station, however, assume that more than 70% of the housing that will be built will be market rate housing – i.e., expensive housing for well-paid professionals who work in other cities. This is squandering the opportunity that development of the North Berkeley BART station presents: BART faces no land acquisition costs and can take longer to recoup its development and construction costs than can any private developer. BART can and should ensure that at least half of the units built at the site are affordable units and, to that end, should choose a non-profit housing developer as its partner on the project.

Moreover, there is no shortage of market rate housing locally. BART has not yet tenanted the massive towers of “luxury apartments” (as they have been advertised) that it built at the MacArthur station, and there are human-scale, market-rate apartment buildings within a quarter mile of the North Berkeley BART station (e.g., “The Parc at 1300”) that have been seeking tenants for at least the past six months.

II. The proposals for the development of housing at the North Berkeley BART station include little to no parking for the people who will live in the new apartment complex. BART assumes that, if the residents of the new apartment complex do not have parking spaces, they will not have or use cars. This is wishful

thinking. While the residents of the new apartment complex may take BART to their jobs in Oakland or San Francisco, they will use cars for many other purposes – to shop, to take their children to preschool and school (children in Berkeley do not necessarily attend the elementary school nearest their home), to attend worship services, for medical appointments, etc. BART was designed and functions as a commuter rail service: it moves people from distant suburbs to downtown Oakland and downtown San Francisco. It is not an urban subway system. It does not reach most of the places that residents of the East Bay visit on a regular basis. Moreover, the North Berkeley BART station is on the Richmond line. This means that, even when BART is running normally, trains come only once every twenty minutes evenings and Sundays and that there is no direct service to San Francisco at those times. (The lack of direct service is significant; in our experience, the timed transfers at the MacArthur and 19th Street stations fail at least half the time evenings and weekends). This means that, as a practical matter, people in North Berkeley who want to travel to San Francisco in the evening or on the weekend find it much faster to drive into the City.

Moreover, even before the pandemic severely curtailed its operations, BART had suffered a marked decline in the quality of its service. Outside of commute hours, train cars frequently reeked of weed, and contained puddles of vomit, urine, and beer. Sexual harassment of female patrons was common, and assaults on passengers were not unusual.¹ BART ridership was falling even then as a result of these problems.² As such, the residents of any apartment complex likely to be built at the North Berkeley BART station are likely to use cars evenings and on weekends.

Much as we might prefer that everyone in Berkeley used public transportation and bicycles for all their transportation needs, the residents of the apartment complex to be built at the North Berkeley BART station will use cars. They will, therefore, significantly increase the vehicle traffic on nearby roads. If they own those cars, they will need a place to park them. If insufficient parking spaces are created for their cars, they will park them on the streets of North Berkeley adjacent to the North Berkeley BART station. While those streets are subject to a Residential Preferential Parking (RPP) system, the residents of the new apartment complex will likely manage to obtain parking permits enabling them to park on nearby streets. (Even if the City of Berkeley solemnly promises that the apartment complex residents will *never* be eligible for residential parking permits, the complex residents will eventually succeed in changing the City's policy. The residents of the apartment complex will, after all, constitute a substantial number of voters.)

If the residents of the apartment complex to be built at the North Berkeley BART station do not own their own cars, they will use Uber and Lyft for many of their trips. From a traffic congestion and environmental perspective, this would be far worse than if the residents owned and used their own cars: a 2019 study conducted in San Francisco found that “[an]Uber [or] Lyft [vehicle is] empty either waiting for a ride request or heading to pick up a passenger roughly half of the time [the] vehicle is on

¹ BART's statistics may not reflect the scope of the problem. In 2019, one of us was assaulted at the Lake Merritt BART station. The assailant left quickly, and we had no idea who he was. As there were no injuries, we did not report the incident.

² Swan, Rachel. “Flagging ridership puts BART in budget bind, raises specter of more fare hikes.” *San Francisco Chronicle*, 9 May 2019. Indeed, BART's weak financial position likely explains both the massive size of the proposed development of the North Berkeley BART station and the relative lack of affordable housing in any of the proposals.

the road.”³ The last thing we want is for the residents of the new apartment complex to rely on Uber and Lyft because BART failed to create an adequate number of parking spaces for them when it developed the property.

Accordingly, a thorough analysis of any proposal for construction of housing at the North Berkeley BART station must include an honest appraisal of the traffic and parking impacts of the new housing. Pretending that the residents will rely on BART for most or all of their transportation needs is naive if not intellectually dishonest.⁴

III. Several of the proposals under consideration for the development of housing at the North Berkeley BART station contemplate the construction of at least a seven-story apartment building. This is because BART has designated North Berkeley as an “urban neighborhood/city center,” requiring the City of Berkeley to zone the site to permit the construction of at least seven stories. But BART’s designation of the site appears so unwarranted as to be arbitrary and capricious: the surrounding streets consist primarily of one and two-story single-family homes, and buildings on the nearest commercial thoroughfare, University Avenue, are no more than four or five stories. Accordingly, construction at the site should be limited to four or five stories, as it would be if it were located on University Avenue. (Berkeley’s zoning practices hardly constitute the sort of exclusionary zoning that would justify BART to ride roughshod over them. Although Berkeley has less developable space than most cities in the Bay Area, it has built hundreds of new housing units in the past decade in downtown Berkeley, along the San Pablo corridor and along University Avenue.) Indeed, BART’s contemplated development of a seven to fifteen story building at the North Berkeley BART station is inconsistent with its ongoing development of four and five story apartment buildings adjacent to the Fruitvale and Coliseum BART stations, and with the construction of five story apartment buildings near its new station in North San José.

Assembly Bill 2923 was adopted to allow BART to develop transit-oriented housing in communities that had long used their zoning laws to prevent development. Instead of using its authority under AB 2923 to develop housing in such communities, it is using that authority at a site that local authorities were already planning to develop, with broad community support and in accordance with local zoning requirements that have allowed the development of a significant amount of housing in the past decade. Sadly, none of the projects that BART is considering creates a significant amount of affordable housing; as such, none of those projects, if built, will do anything to ease the Bay Area’s housing crisis. Moreover, BART assumes away the significant increased traffic and parking problems that will be created both by the development of housing at the North Berkeley BART station and by the elimination of most of the commuter parking at the station. Finally, BART is misusing its authority – giving a site in a neighborhood of single-family homes the same designation that it would give a site in downtown San Francisco – in

³ Rodriguez, Joe Fitzgerald. “Uber and Lyft traffic impacts double SF’s own estimates.” *San Francisco Examiner*, 5 August 2019.

⁴ Similarly, a thorough analysis of any proposal or construction of housing at the North Berkeley BART station must include an honest appraisal of the traffic and parking impacts of eliminating approximately 600 parking spaces for commuters at the station. Pretending that all the commuters who currently park at the station will commute to the station by bus or bicycle is wishful thinking. They might, instead, drive to San Francisco or Oakland; this would significantly increase traffic congestion and automobile emissions. Alternatively, they might commute to the North Berkeley BART station by Uber or Lyft. This would result in roughly double the current level of congestion and automobile exhaust created by those commuters.

order to build an apartment complex that is far taller than its surroundings and which is taller than the new housing now being built near other BART stations. BART should, instead, work closely with the City of Berkeley to develop an apartment complex roughly four or five stories high, with adequate parking for residents, and with a minimum of 50% affordable units. It should also work closely with the City to determine how best to address the loss of commuter parking spaces at the North Berkeley BART station: assuming that all of the commuters no longer able to park at the station will instead ride the bus to the station is not adequate analysis or a practical solution.

Sincerely yours,

Kevin James
Tom Reilly

Communication

From: Irene Rice <ir07441@gmail.com>
Sent: Saturday, September 4, 2021 2:05 PM
To: Pearson, Alene
Subject: North Berkeley Bart Development Planning

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

Irene Rice, North Berkeley Resident

Communication

From: Cindy Shamban <cshamban@comcast.net>
Sent: Saturday, September 4, 2021 7:44 AM
To: Pearson, Alene
Subject: North Berkeley and Ashby BART Developments

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

Dear Planning Commissioners:

I am very concerned the new Commissioners (as well as the old) are being presented with both of these large and complex developments. Their decisions have the potential to change the City of Berkeley forever.

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus

for the project excludes the publicly-funded affordable housing and low income housing.

Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,
Cindy Shamban
1621 Bancroft Way
District 4

Communication

From: Shari Simburg <shar.simburg@gmail.com>
Sent: Friday, September 3, 2021 11:25 PM
To: Pearson, Alene
Subject: North Berkeley BART Zoning

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

Sharon Simburg
1802 California Street, Berkeley, 94703

Communication

From: Katerina Stephan <katerina.stephan@gmail.com>
Sent: Thursday, September 2, 2021 5:33 PM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: Justice looks like more housing

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

Hi!

Let's make Berkeley a place we can be proud to live in (that our actions align with our values) - and a place that is welcoming in our words and our housing policy. I'll spare you my personal narrative, but two quick points:

- We know there's a severe housing shortage - AND we're not addressing it well. Check out this reporting: [According to Need](#). Our Oakland neighbors are not alone in this battle for housing, and it's incumbent upon all of us to create the new homes we need to create **equity and affordability**.
- Housing near transit is a key to achieving our shared climate goals. **"Light duty vehicles (LDV) represent the largest source of greenhouse gas emissions in the state, while transportation emissions as a whole, including trucking and off-road transportation, is the largest source of emissions by sector.** Reducing greenhouse gas emissions from the transportation sector requires a multi-pronged strategy encompassing fuel economy standards for conventional vehicles, **reductions in vehicle miles traveled through smart growth strategies**, as well as low- and zero-emissions vehicles and biofuels" ([E3 Report](#), page 34)

All eyes on us!!

Cheers,
Katerina

Communication

From: Kathy Tuttle <kathy.tuttle@comcast.net>
Sent: Monday, September 6, 2021 9:13 AM
To: Pearson, Alene
Subject: Zoning Standards for BART Parking Lot Development

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

*Kathleen Tuttle
1451 Virginia Street
Berkeley*

Communication

From: Jason Warriner <jason.jaywar@gmail.com>
Sent: Tuesday, September 7, 2021 10:25 AM
To: Pearson, Alene
Subject: zoning at North Berkeley BART

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

Jason

Communication

From: Wilson, Jacqueline <Jacqueline.Wilson@ucsf.edu>
Sent: Saturday, September 4, 2021 9:44 AM
To: Pearson, Alene
Subject: Zoning recommendations for North Berkeley BART station

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

Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at my North Berkeley neighborhood site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of my community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding.

Thank you

Jacqueline Wilson
1556 Sacramento Street
Berkeley 94702

Communication

From: Marc Price Wolf <marcpricewolf@gmail.com>
Sent: Friday, September 3, 2021 9:30 PM
To: Pearson, Alene
Subject: N Berkeley Bart

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

*Marc Price Wolf
1719 Sacramento St.*

Communication

From: Walter Wood <whwoodii@gmail.com>
Sent: Sunday, September 5, 2021 5:12 PM
To: Pearson, Alene
Subject: recommendations to Berkeley Planning Commission and ZAB regarding zoning of North Berkeley BART

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

Dear Berkeley Planning Commissioners:

I am a resident of Berkeley living not far from the North Berkeley BART station. Although I do not do Zoom meetings, I am alarmed by rumors that the North Berkeley BART parking lot is at risk of being destroyed to build housing in compliance with a misguided Assembly Bill AB2923 that would damage the moderate density residential character of the North Berkeley BART neighborhood. I am particularly concerned that excessive additional population would have a detrimental effect. Parking availability for BART and surrounding neighbors is threatened. Residential street parking is already "permit only" on my block. More people living at the current BART parking lot site would make the parking problem worse if parking is being removed to accomplish adding housing. My sense is that the Planning Commission and the Zoning Adjustments Board (ZAB) are failing to protect residential neighborhoods. The Zoning Adjustments Board seems to be turning a blind eye to neighborhood expectations to preserve the character of the neighborhood and keep population density moderate. I do not want to see a repeat or anything remotely similar to what is happening at 1717 University Avenue where 29 units are being built with only 6 auto parking spaces. Residents with cars will be attempting to park on residential streets which already are short of parking spaces. Design plans I have heard about for the North Berkeley BART parking lot site are way outside of the range of population density expectations of people living in nearby residential neighborhoods, and are completely inadequate with regard to parking. Planners and the ZAB appear to be pandering to those demanding increasingly dense housing in neighborhood locations that have settled expectations of moderate population density. The Planning Commission and the Zoning Adjustment Board need to use the "health and safety" provision in AB2923 to prevent overly high population density projects. Safety is a concern because crime risk increases with population density. Health is a concern because incidence and prevalence of infectious diseases (think COVID 19, influenza, etc.) increases when people are densely crowded. Mental illness also increases in densely populated crowded areas. The stress of finding parking in Berkeley has probably already caused mental health issues. Taller buildings would be a health and safety risk in the event of earthquakes. In my opinion, nothing taller than 30 feet should be allowed on the current North Berkeley parking lot, yet the current proposal is an outrageously high 80 feet - - seven story monstrosities - - or I think some people are proposing even taller. The North Berkeley BART neighborhood should never be allowed to become an urban city environment. I urge you to protect our neighborhoods by limiting population density in the name of health and safety as permitted by AB2923. Any development should be consistent with the present moderate density of the surrounding neighborhood.

Sincerely,

Walter Wood
1709 Berkeley Way
Berkeley, CA 94703

Communication

From: Barbara Ann Yoder <yoder.b@comcast.net>
Sent: Friday, September 3, 2021 10:13 PM
To: Pearson, Alene
Subject: Feedback on Zoning for Housing at North Berkeley BART

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night on development at North Berkeley BART, as follows

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

Barbara Yoder
1355 Ada Street, Berkeley

Communication

From: Andrea Altschuler <andreaaltschuler@gmail.com>

Sent: Monday, September 20, 2021 9:04 PM

To: Pearson, Alene <apearson@cityofberkeley.info>; All Council <council@cityofberkeley.info>; Berkeley Mayor's Office <mayor@cityofberkeley.info>

Cc: Shen, Alisa <AShen@cityofberkeley.info>

Subject: Zone for contextual, affordable development at North Berkeley BART

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

Dear Planning Commissioners:

As a neighbor to the North Berkeley BART station, I urge you to support the zoning recommendations presented by Alisa Shen at the 9/1 Planning Commission meeting:

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4/2
- Density: 75 units per acre

These recommendations comply with AB 2923; anything more dense and/or greater height would be much too large for a reasonable fit for the site and surrounding neighborhood.

Once the site is zoned, the developer selected by BART has a vested right to build anything that complies with the zoning, and the City and its residents will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, but doesn't overpower the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding.

Thank you for your consideration.

Sincerely,
Andrea Altschuler
1417 Virginia Street
Berkeley, 94702

Communication

From: Sean Bouvet <seanzak@yahoo.com>

Sent: Monday, September 20, 2021 9:41 PM

To: Pearson, Alene <apearson@cityofberkeley.info>; Shen, Alisa <AShen@cityofberkeley.info>; All Council <council@cityofberkeley.info>; Berkeley Mayor's Office <mayor@cityofberkeley.info>

Subject: Zone for contextual, affordable development at North Berkeley BART

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen at the September 1st Planning Commission meeting for North Berkeley BART:

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

Sean Bouvet
1617 Delaware St.
Berkeley, CA 94703

Communication

From: Preet Dhillon <preet.kaur.dhillon@gmail.com>

Sent: Monday, September 20, 2021 8:06 AM

To: Pearson, Alene <apearson@cityofberkeley.info>; Shen, Alisa <AShen@cityofberkeley.info>; All Council <council@cityofberkeley.info>; Berkeley Mayor's Office <mayor@cityofberkeley.info>

Subject: Zone for contextual, affordable development at North Berkeley BART

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

Dear Planning Commissioners:

I urge you to please support the zoning recommendations presented by Alisa Shen at the September 1st Planning Commission meeting for North Berkeley BART:

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

Preet Dhillon

Communication

From: Ronald Phillip Drucker <ronald.drucker@mail.ccsf.edu>

Sent: Sunday, September 19, 2021 6:02 PM

To: Pearson, Alene <apearson@cityofberkeley.info>; Shen, Alisa <AShen@cityofberkeley.info>; All Council <council@cityofberkeley.info>; Berkeley Mayor's Office <mayor@cityofberkeley.info>

Subject: N Berkeley BART zoning for contextual, affordable developmen

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

Subject Line: Zoning for contextual, affordable development at North Berkeley BART

Dear Planning Commission Members:

As a 40-year resident of California St, near Virginia, I urge you to support the zoning recommendations presented by Alisa Shen at the September 1st Planning Commission meeting for North Berkeley BART:

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. **Please do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART will have a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

I urge you as well to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all the effort that you have invested in this extremely important project.

Sincerely,

Ronald P. Drucker, PhD

Communication

From: David Finn <david@davidfinnarchitects.com>
Sent: Tuesday, September 21, 2021 10:33 AM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: Contextual Zoning, affordable development at North Berkeley BART

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

Dear Planning Commissioners:

I live across the street from the North Berkeley BART station, I urge you to support the zoning recommendations presented by Alisa Shen at the 9/1 Planning Commission meeting:

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4/2
- Density: 75 units per acre

These recommendations comply with AB 2923; anything more dense and/or greater height would be much too large for a reasonable fit for the site and surrounding neighborhood.

Once the site is zoned, the developer selected by BART has a vested right to build anything that complies with the zoning, and the City and its residents will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, but doesn't overpower the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding.

Thank you for your consideration.

Sincerely,
David Finn
1417 Virginia Street
Berkeley, 94702

Communication

From: Andreas Lautenmeister <lautenmeister@gmail.com>

Sent: Sunday, September 19, 2021 4:53 PM

To: Shen, Alisa <AShen@cityofberkeley.info>; Pearson, Alene <apearson@cityofberkeley.info>; All Council <council@cityofberkeley.info>; Berkeley Mayor's Office <mayor@cityofberkeley.info>

Subject: Zone for contextual, affordable development at North Berkeley BART

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen at the September 1st Planning Commission meeting for North Berkeley BART:

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

Franklin Lei
homeowner
1611 California Street
Berkeley CA 94703-1203

Communication

From: meryl siegal <merylsiegal@gmail.com>

Sent: Sunday, September 19, 2021 9:42 PM

To: Pearson, Alene <apearson@cityofberkeley.info>; Shen, Alisa <AShen@cityofberkeley.info>; All Council <council@cityofberkeley.info>; Arreguin, Jesse L. <JARreguin@cityofberkeley.info>

Subject: Zone for contextual, affordable development at the North Berkeley BART

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen at the September 1st Planning Commission meeting for North Berkeley BART:

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

*Meryl Siegal
1144 Cedar Street
Berkeley, CA 94702*

Communication

From: Mary Ann Wight <maw.wight@gmail.com>
Sent: Friday, September 17, 2021 1:32 PM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: North Berkeley BART

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen last Wednesday night, as follows

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

*Mary Ann Wight
1332 Rose St.
Berkeley, CA. 94702*

Communication

From: Lorna Brand <h.lorna.brand@gmail.com>

Sent: Thursday, September 23, 2021 1:15 PM

To: Pearson, Alene <apearson@cityofberkeley.info>; Shen, Alisa <AShen@cityofberkeley.info>; All Council <council@cityofberkeley.info>; Berkeley Mayor's Office <mayor@cityofberkeley.info>

Subject: Zone for contextual, affordable development at North Berkeley BART

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen at the September 1st Planning Commission meeting for North Berkeley BART:

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you.

Sincerely,

*H. Lorna Brand
1531 Lincoln Street
Berkeley 94703*

Communication

From: Barbara Fisher <barbara.fisher2000@gmail.com>

Sent: Friday, September 24, 2021 10:16 PM

To: Pearson, Alene <apearson@cityofberkeley.info>; Shen, Alisa <AShen@cityofberkeley.info>

Cc: All Council <council@cityofberkeley.info>; Berkeley Mayor's Office <mayor@cityofberkeley.info>

Subject: North Berkeley BART

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen at the September 1st Planning Commission meeting for North Berkeley BART:

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you.

Sincerely,

Barbara Fisher

Communication

From: Deborah Gouailhardou <deborah_gouailhardou@yahoo.com>

Sent: Tuesday, September 21, 2021 8:25 PM

To: Pearson, Alene <apearson@cityofberkeley.info>; Shen, Alisa <AShen@cityofberkeley.info>; All Council <council@cityofberkeley.info>; Berkeley Mayor's Office <mayor@cityofberkeley.info>

Subject: North Berkeley BART housing

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

Dear Planning Commissioners:

As a lifelong resident of North Berkeley, and a lover of our small, 20's bungalow houses, I ask you to please support the zoning recommendations presented by Alisa Shen at the September 1st Planning Commission meeting for North Berkeley BART. The development is, even in this incarnation, already too big for our neighborhood, but since this is being forced on us, please keep it to the most conservative proportions you can. Her proposal:

- Max height: 7 stories
- Max Floor/area ratio: 4.2
- Density: 75 units per acre

Deborah Gouailhardou

Communication

From: Josh Gutwill <jgutwill@gmail.com>

Sent: Thursday, September 23, 2021 8:00 AM

To: Pearson, Alene <apearson@cityofberkeley.info>; Shen, Alisa <AShen@cityofberkeley.info>; All Council <council@cityofberkeley.info>; Berkeley Mayor's Office <mayor@cityofberkeley.info>

Subject: Zoning for North Berkeley BART

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

Dear Planning Commissioners:

As a homeowner near the North Berkeley BART station, I urge you to support the zoning recommendations presented by Alisa Shen at the September 1st Planning Commission meeting for North Berkeley BART:

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

These recommendations comply with AB2923. Please do not increase the parameters recommended in the draft. They are already too large for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build anything that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community like me, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you.

Sincerely,

Josh Gutwill
1660 Lincoln Street
Berkeley 94703

Communication

From: Eileen Hughes <jnyahsgrandma@gmail.com>
Sent: Tuesday, September 21, 2021 7:18 PM
To: Pearson, Alene <apearson@cityofberkeley.info>; Berkeley Mayor's Office <mayor@cityofberkeley.info>
Cc: Eileen Hughes <jnyahsgrandma@gmail.com>
Subject: N BERK BART development

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

Dear Planning Commissioners:

I urge you to support the zoning recommendations presented by Alisa Shen at the September 1st Planning Commission meeting for North Berkeley BART:

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. **Do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you for all that you do.

Sincerely,

*Eileen Hughes
1721 Sacramento Street
Berkeley, CA 94702*

Communication

From: Libby Lee-Egan <libbyco@gmail.com>
Sent: Thursday, September 23, 2021 10:36 AM
To: Pearson, Alene <apearson@cityofberkeley.info>
Cc: Berkeley Mayor's Office <mayor@cityofberkeley.info>; Kesarwani, Rashi <RKesarwani@cityofberkeley.info>
Subject: Another North Berkeleyan for paradise instead of a parking lot

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

Planning commissioners,

I live in North Berkeley, and I can't wait for our BART station parking lot to become paradise in the form of abundant affordable homes and lovable public spaces. I stand with my neighbors and North Berkeley Now! to tell you the following:

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

Given the shortage of housing and the climate change-fighting benefits of living near transit, we want the highest density possible at our BART station. The majority of commenters on Sept 1 said "maximize housing" and we agree.
Don't set BART's minimums as our maximums.

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

Thank you for your consideration,

Libby Lee-Egan
NW Berkeley resident & North Berkeley BART user

Communication

From: Andrew Livsey <alivsey51@gmail.com>
Sent: Wednesday, September 22, 2021 12:16 AM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: Zoning for North Berkeley BART

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

At this point, I can only beseech you to not allow things to get worse than they absolutely have to be. Seven stories in our neighborhood is already too much... thirteen stories (or whatever obscene height people are clamoring for) is just unconscionable.

Your decisions will impact Berkeley for many generations— please be mindful of those who will have to live under them.

Sincerely,

Andrew Livsey
1724 Acton Street

Communication

From: mrose1126@aol.com <mrose1126@aol.com>

Sent: Tuesday, September 28, 2021 11:49 AM

To: Pearson, Alene <apearson@cityofberkeley.info>

Cc: Shen, Alisa <AShen@cityofberkeley.info>; All Council <council@cityofberkeley.info>; Berkeley Mayor's Office <mayor@cityofberkeley.info>

Subject: Zoning for North Berkeley BART - Contextual & affordable

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

Dear Planning Commissioners,

I am unable to attend the next Planning Commission meeting, so I am writing today to voice my comments.

I attended the September 1st Planning Commission meeting on Zoom for North Berkeley BART and I strongly urge your support of the zoning recommendations presented by Alisa Shen which comply with AB2923:

- Maximum height: 7 stories/80 feet
- Maximum floor/area ratio: 4.2
- Density: 75 units per acre

Do not increase the parameters recommended in the draft! They are already much too large a fit for the site. Once the sites are zoned, the developer selected by BART has a vested right to build anything that complies with the zoning and the City will have no recourse to challenge the project. As a resident of the community who will be heavily impacted by this development, I am counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.

I also urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

I sincerely thank you for all that you do and thank you for considering my input!

Sincerely,

Mary

Mary Rose
1370 Delaware St.
Berkeley 94702

Communication

From: Carol Sawdey <ca.sawdey@gmail.com>
Sent: Thursday, September 23, 2021 10:32 AM
To: Pearson, Alene <apearson@cityofberkeley.info>
Subject: No. Berkeley BART Housing

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I am voicing my support for maximum 7 stories , real affordable housing and suggesting that a real effort be made to save the Ginko trees within the BART area. Other greenery should also be saved if possible as it is lovely when in bloom. Thank you.

Sincerely,
Carol Sawdey
1525 Lincoln St.
Berkeley, CA. 93703

Communications

From: Laura Wise <laurawise2669@gmail.com>
Sent: Wednesday, September 22, 2021 10:10 PM
To: Pearson, Alene <apearson@cityofberkeley.info>; Shen, Alisa <AShen@cityofberkeley.info>; All Council <council@cityofberkeley.info>; Berkeley Mayor's Office <mayor@cityofberkeley.info>
Subject: North Berkeley BART zoning - Zone for contextual, affordable housing at N Berkeley BART

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

Dear Planning Commissioners:

I am a North Berkeley homeowner and I urge you to support the zoning recommendations presented by Alisa Shen at the September 1st Planning Commission meeting for North Berkeley BART:

- *Maximum height: 7 stories/80 feet*
- *Maximum floor/area ratio: 4.2*
- *Density: 75 units per acre*

*These recommendations comply with AB2923. Please **do not increase the parameters recommended in the draft. They are already much too large** for a reasonable fit at the site given the surrounding housing which is one to two stories. Once the sites are zoned, the developer selected by BART has a vested right to build **anything** that complies with the zoning, and the City will have no recourse to challenge the project. The residents of the community, who will be heavily impacted by this development, are counting on you to recommend zoning that will permit maximum affordability and a scale that suits, not overpowers, the neighborhood.*

Lastly, I urge you to ensure that any state-mandated density bonus for the project excludes the publicly-funded affordable housing. Private developers should not profit from public funding!

Thank you.

Sincerely,

Laura Wise

1660 Lincoln Street Berkeley, CA 510-529-5548