
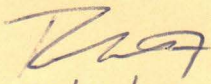
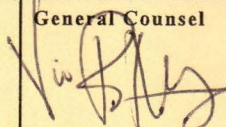
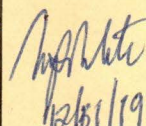
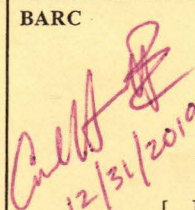




EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL:  1/2/20		GENERAL MANAGER ACTION REQ'D: No		
DATE: 12/18/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Abigail Thorne-Lyman Dept: Systems Development Signature/Date:  12/31/19	General Counsel  12/31/19 []	Controller/Treasurer  12/31/19 []	District Secretary []	BARC  12/31/2019 []
Status: Routed		Date Created: 12/18/2019		

Berkeley MOU for Transit Oriented Development at Ashby and North Berkeley stations

PURPOSE:

To authorize the General Manager to execute a Memorandum of Understanding between BART and the City of Berkeley to advance Transit Oriented Development (TOD) at the North Berkeley and Ashby BART stations.

DISCUSSION:

Background

On May 9, 2019, the Berkeley City Council unanimously voted to enter into a Memorandum of Understanding (MOU) with BART to collaborate on development at the North Berkeley BART Station, to advance zoning of the property, and set goals and objectives for the property (Attachment 1).

Since that time, BART and City officials have collaborated on development of an MOU addressing development at both the North Berkeley and Ashby Stations. The MOU establishes a process by which the City and BART may:

1. Identify a shared vision and priorities for development at both stations, and set forth the steps needed to pursue the vision and priorities;
2. Clarify the processes that the parties will pursue to address the development activities and timelines; and
3. Provide greater clarity for all parties, including members of the public, on the steps,

timelines, roles and responsibilities needed to initiate development of TOD on the BART properties at both Stations.

On December 10, 2019 the Berkeley City Council unanimously approved the proposed MOU. It was understood by the City Council that BART Board approval of the MOU is also required.

Station Property Context

The Ashby Station is located under Adeline Street in South Berkeley, perpendicular to Ashby Avenue with Adeline separating two parcels with a combined area of 6.3 acres and encompassing 603 parking spaces. The City retains an option to the air rights over the west parcel. The City has released its draft Adeline Corridor Specific Plan and EIR which establishes goals for the Ashby BART parcels (Attachment 2).

The North Berkeley BART Station sits on approximately 8.1 acres in residential Northwest Berkeley and includes three parking areas with a total of 753 spaces. The North Berkeley BART site is currently zoned U-Unclassified in the City Zoning Code, meaning it currently has no specifically zoned use.

Relationship to State Law

The California Government Code, as amended by AB 2923, requires local jurisdictions to conform with BART's TOD Zoning Standards by July 1, 2022. At the June 16, 2019 BART Board meeting, BART staff indicated that at this time, BART would not set TOD Zoning Standards by the Bill's stated July 1, 2020 deadline, with the intent that, by action of the statute, BART's 2017 TOD Guidelines would become the Zoning Standards for the properties. BART staff are developing a guidance document and 10-Year TOD work plan for discussion by the Board in mid-2020.

The City of Berkeley is aware of its obligation to rezone the Station properties to conform with AB 2923 by July 1, 2022 and has allocated funds to support rezoning of both properties by mid-2021. BART's urban design and land use planning consultants are using BART's North Berkeley property as one of several study areas to provide local jurisdictions guidance on how to address some of the physical and regulatory aspects of the legislation.

Summary of Key Terms in the MOU

The MOU establishes a process for the City and BART to identify a shared vision and priorities, clarify activities and timelines, and identify roles and responsibilities needed to advance TOD at the North Berkeley and Ashby BART Stations in advance of AB 2923 timelines. While the City has a process for zoning and entitlements, and BART has a process for development of its properties, this MOU identifies in broad terms how these processes will work together.

The key terms of the agreement include:

- Scope of Agreement: The MOU addresses potential development of the Ashby BART parcels and the North Berkeley main parking lot. The parties will consider modifications or enhancements to North Berkeley auxiliary BART lots, city streets and other surroundings in order to support TOD at those stations.
- Community Engagement: The City of Berkeley will form a Community Advisory Group for both stations to facilitate community input on site master planning and zoning at the Stations. While there may be distinct concepts and requirements for each station site, the CAG will advise the City Planning Commission on zoning that conforms with AB 2923. The CAG will also provide input to the City and BART as the parties establish a joint vision and priorities document that will be incorporated into eventual Requests for Proposal/Requests for Qualifications for potential developers.
- Zoning: At its own expense, the City of Berkeley will rezone both properties by June 2021 (one year in advance of AB 2923 July 2022 deadline).
- AB 2923: At its own expense, BART will provide an AB 2923 guidance document draft by February 2020 and a final document by July 2020.
- Funding for Affordable Housing: The City of Berkeley will make a decision on set-aside of funding sufficient to assure BART, in its sole discretion that, pending further definition of zoning and site capacity, at least 35% of the housing units proposed to be constructed at both sites would be deed-restricted to low, very low and/or extremely low affordable housing by December 2020.
- Developer Solicitation: BART's 10-year work plan will set out criteria for prioritizing development sites. If the City of Berkeley commits funding by December 2020, together with its commitment to complete rezoning of the properties by June 2021, BART's 10-Year TOD Work Plan will place the Ashby and North Berkeley Stations higher on the list for initiating joint development (i.e. before 2025).
- Station Access: Per AB 2923 requirements and BART practice, BART will fund and complete an access study to address parking replacement and encourage multimodal access alternatives to driving alone. The timeline will depend on the Developer solicitation timing for each station, and the Developer may reimburse BART for the cost of the study.
- Increased City Involvement in the Solicitation Process: The City and BART will meet in December 2020 to 1) determine whether the City has approved a set-aside of sufficient funding to meet the 35% affordable housing minimum for each station; 2) negotiate possible additional City participation in the solicitation processes; and 3) agree upon the timing of the developer solicitations for the BART Properties in December 2020.

If this motion is approved, City and BART staff will finalize and execute the MOU. The Office of the General Counsel will approve the MOU as to form.

Community Feedback to Date:

BART staff have participated in public meetings on this topic throughout the last two years. Attendance at these meetings has been high. From these meetings, several unresolved issues

have emerged that must be explored in future BART and City activities throughout 2020 and beyond, including:

1. Affordable housing
2. Station access and parking
3. "Right to Stay, Right to Return" for residents and businesses, including the Ashby Flea Market
4. High quality urban design

FISCAL IMPACT:

This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves in the current Fiscal Year. Current BART Planning & Development staff time will be involved in the implementation of the activities established in the MOU throughout FY2020 and FY2021. AB 2923 activities referenced in the MOU were fully funded in the FY2019 Budget. BART will not advance the station access study without a future allocation of additional funds which may include an external grant or reimbursement from a future developer of the properties. BART is not responsible for costs associated with the zoning of the properties or the Community Advisory Group.

ALTERNATIVES:

Do not pursue the MOU. This action would result in a missed opportunity to advance a TOD, improve access and bring new riders and revenue to the District.

RECOMMENDATION:

Adoption of the following motion:

MOTION:

The General Manager or his designee is hereby authorized to execute the Memorandum of Understanding with the City of Berkeley to cooperatively pursue TOD and the implementation of Assembly Bill 2923 at the Ashby and North Berkeley BART Stations.

North Berkeley BART Development Goals and Objectives
(Approved unanimously by the Berkeley City Council on May 9, 2019)

State law (AB 2923, Chiu) passed in 2018 requires the San Francisco Bay Area Rapid Transit District (BART) to develop transit-oriented development (TOD) zoning standards for each BART station, establishing minimum local zoning requirements for height, density, parking, and floor area ratio by July 1, 2020.

Prior to the enactment of AB 2923, the Berkeley City Council initiated a community process to explore the potential for transit-oriented development at the North Berkeley BART station. Creating homes at the North Berkeley BART parking lots will help the City of Berkeley address the shortage of affordable homes; reduce vehicle miles traveled and meet our climate change goals; and improve the livability of the surrounding neighborhood through the creation of green open space, pedestrian and bicycle infrastructure improvements; and possible small-scale community, non-profit, and/or retail uses.

AB 2923 requires local jurisdictions like Berkeley to adopt a local zoning ordinance that conforms to BART TOD zoning standards.

While the Berkeley City Council voted at its May 29, 2018 meeting to oppose AB 2923, the City Council recognizes that we now have an obligation to comply with the law. The Council is seeking to comply as soon as possible with AB 2923 for the purposes of developing the North Berkeley BART station in order to ensure that the community has a meaningful opportunity to engage with BART on how the site is developed.

At the same time, the Berkeley City Council acknowledges the unique neighborhood characteristics of each BART station and expresses its intent to incorporate a station-specific design that is sensitive to the existing single-family (R-1) and two-family (R-2) residential zoning directly adjacent to the North Berkeley BART station.

The City of Berkeley seeks to enter into a Memorandum of Understanding with BART that enumerates, among other terms, the following goals and objectives for development:

Community Input

A Community Advisory Committee shall be created for the purposes of providing input to the City's Planning Commission as it considers City and BART TOD zoning standards.

The planning process will engage the community in order to ensure that the site reflects the community's values for equity, sustainability, and sense of place. In particular, community input should be considered for:

- The number/percentage of affordable housing units and populations to be served, including the possibility of a 100% affordable project

- The size, height, scale, spacing, and setbacks of buildings, and their responsiveness to the neighborhood
- The inclusion of green and open spaces
- The possibility of limited, small-scale community, non-profit, and retail space to serve the immediate neighborhood
- Exploration of whether it's appropriate to include small-scale community, non-profit, and/or retail space to serve the immediate neighborhood, whether any parking should be provided for such uses, and consideration of the tradeoff of foregone housing units
- Access options, including traditional modes such as public transit, taxis and private vehicles, active modes such as biking, walking and scooters, emerging modes such as car share, ride share, driverless cars, etc., and access for the disabled and mobility impaired
- Green and sustainable features

Station Access

BART, the City of Berkeley, and a future developer(s) will address station access. Specifically, Section 29010.6(h) of AB 2923 requires BART—in cases in which commuter parking is reduced as a result of a TOD project—to develop and fund an access plan that maintains station access for at least the number of customers affected by the reduced number of commuter parking spaces, with specific consideration for customers who live further than one-half mile from the station. A station access plan for implementation will seek to explore feasible and effective alternatives to individuals driving to and parking at the station, such as reserved parking spaces for carpools and car-share vehicles, ride-share, enhanced bus/shuttle service, additional electric-assist bikes and scooters, among other alternatives. We will also consider limiting or eliminating parking for residential and/or potential community, non-profit, or retail uses in order to maximize parking availability for commuters. We note that the station access plan should take into account the rapid evolution of mobility trends and technologies and consider the adaptability of the plan to future mobility patterns. Further, we intend to conduct a traffic study to help determine the number of parking spaces that are needed at the site, including reserved spaces for people with disabilities.

In light of Berkeley's long tradition of leadership on issues related to the disabled and mobility impaired, access at the North Berkeley BART station should be first in its class, including consideration for access to and from the station itself, within the station, and to and from the BART platform.

All traditional modes should be considered: public transit, taxis, carpools and cars; all active modes including walking, biking and scooters; all emerging modes including car share, ride share, van pools and driverless vehicles; and all modes of accessibility for the disabled.

Affordability

Maximize the number of affordable below-market-rate units that are available to low-income households of diverse types and sizes, including affordable live/work units for artists. We seek to exceed BART's 35% system-wide affordability goal by aiming for a high number of affordable

units—to potentially be funded by local, state, and regional funding sources. In order to ensure housing for a range of income levels, we will consider inclusionary below-market-rate units and engagement of an affordable housing developer to develop a fully affordable building.

We will seek to support the creation of local jobs through a project labor agreement for construction of the development.

We will engage in a community dialogue that is positive, productive, and thoughtful in regards to community benefits and financial feasibility.

Livability

Enhance the livability of the neighborhood surrounding the North Berkeley BART station. The site should create a visual and physical connection with the neighborhood through its architectural design, height, and scale. In particular, we seek a development that considers the character and context of the neighborhood and steps down in height around the perimeter of the station (with consideration for the varying width of streets around the station) in order to blend in visually and physically with the residential neighborhood. Such a design honors a common theme of many of the designs submitted as part of the October 2018 visioning event. We also seek reasonable spacing between buildings, setbacks, and plantings at the perimeter of the station.

The inclusion of green open space should serve as an amenity that enhances the neighborhood's sense of place.

The streetscape design should strive to minimize neighborhood traffic and congestion impacts and support safe access to the station for bicyclists and pedestrians. Transportation demand management and other best practices should be used to reduce traffic and parking impacts in the surrounding neighborhood.

Environmental Sustainability

Reflect the City's commitment to reducing our carbon footprint in every possible way. All buildings should strive to: incorporate all-electric designs, achieve Zero Net Energy, and reduce parking for residents and retail to the maximum extent possible.

To ensure universal access, regardless of age or ability, Universal Design should be considered for all elements of housing and of all other private and public spaces.

3.7 ASHBY BART

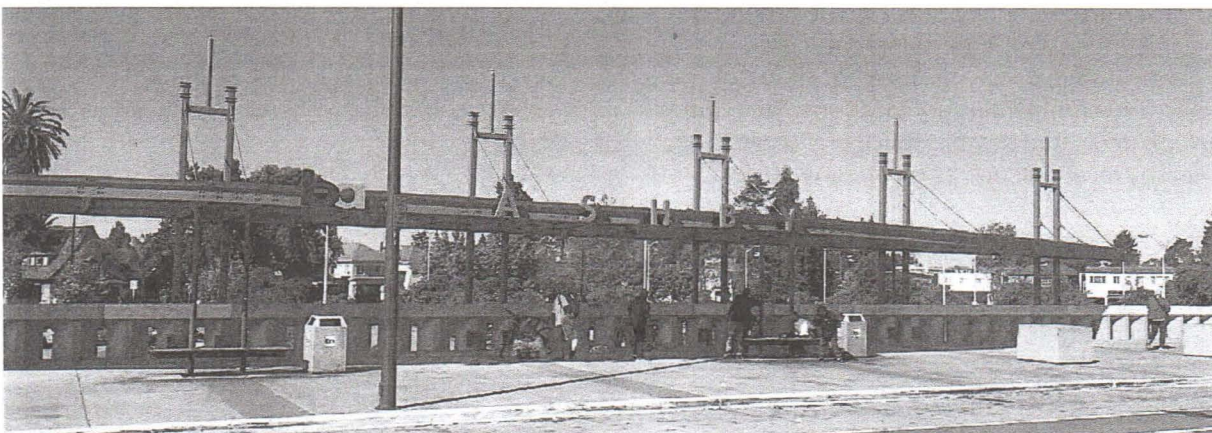
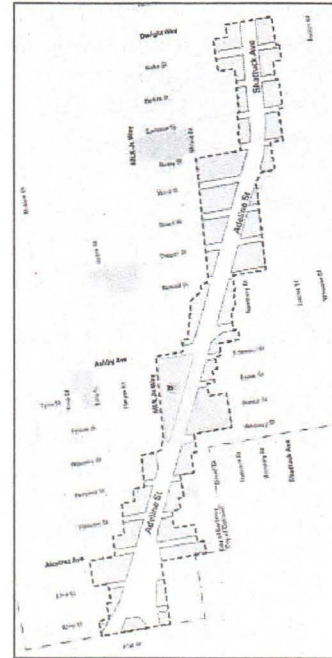
Future development within the Ashby BART subarea shall provide public space, community-oriented facilities, and affordable housing, consistent with the objectives, parameters, and process outlined in the Adeline Corridor Specific Plan.

The Ashby BART Station is one of the most prominent landmarks and amenities along the Adeline Corridor, with the potential to support and advance all five key topic areas addressed in this Plan – land use, housing, economic opportunity, transportation, and public space.

As stated in Chapter 2, the Ashby BART subarea is envisioned to be redeveloped as a vibrant neighborhood center with high-density mixed-use development that unifies and knits back together the east and west sides of Adeline Street. The Ashby BART development will be a model for sustainable transit-oriented development, incorporating high levels of affordable housing and complementary commercial and civic uses; public space for community gatherings, special events, and civic celebrations; and green construction.

The Plan lays the groundwork for future engagement with the community and BART by outlining key objectives that apply to future development and describing a process for evaluating development proposals for these sites. Future development in the Ashby BART subarea shall be consistent with the seven objectives below, which shall be incorporated into any future master plan and development agreements with potential developers.

OBJECTIVE 1. AFFORDABLE HOUSING. For any future development in the BART subarea, at least 50% of the total housing units produced should be comprised of deed-restricted affordable housing, which could also include supportive services or other spaces associated with the affordable housing. This



The Ashby BART Station

goal for at least 50% affordable housing at a range of income levels (e.g. Extremely Low, Very Low, Low and Moderate) would be calculated across the entire Ashby BART subarea and could be accomplished through multiple phases of development. Any future development agreement should commit to deliver at least this level of affordable housing, and provide a plan to do so. Amounts of affordable housing exceeding 50% of the total square footage and number of units are encouraged.

OBJECTIVE 2. PUBLIC SPACE. Any future development shall include one or more publicly accessible spaces incorporated onto the development parcels within the Ashby BART subarea. The public space could potentially be provided as plazas, green space, pedestrian paseos, rooftop patios, flexible event space, or other pedestrian-accessible spaces that are open to the public. Incorporating elements of “green infrastructure” in these elements is highly encouraged (See Chapter 7).

Future redevelopment of the Ashby BART west parking lot shall incorporate a large civic plaza that could be designed and programmed to accommodate the Berkeley Flea Market and potentially a relocated Farmers Market, as well as support the Juneteenth Festival and other music and entertainment events. This space could include dedicated flexible space on the site and/or in a nearby location such as on Adeline Street. The space shall be designed with the general and specific needs of the Flea Market and Farmers Market, as well as allow flexibility for other programming such as the Juneteenth Festival, music and entertainment, civic events, or other public uses – at different times of the week or in complementary locations. This could include dedicated flexible space on the site or in a nearby location such as on Adeline Street.

OBJECTIVE 3. ADDITIONAL DEVELOPMENT PARAMETERS. The following general development parameters will be further refined as implementation steps of this Specific Plan:

Building Height. To achieve the affordable housing goal, climate action goals and maximize community benefits from development of public land, high density mixed-use development is envisioned that are generally up to four to seven stories. The City will continue to coordinate with BART as it refines development parameters as part of implementation of Assembly Bill 2923. In general, development fronting on Adeline Street and Ashby Avenue should “step down” or transition to lower heights where development fronts on Martin Luther King Jr. Way, Woolsey, Tremont and Essex Streets.

Ground-Floor Uses. As noted in Policy 3.1, the following types of uses shall be required for ground floor uses for the Ashby BART subarea:

- Adeline Street frontage: Ground floor retail or active commercial use required.

WHAT IS ASSEMBLY BILL (AB) 2923?

Assembly Bill 2923 was signed into law by Governor Jerry Brown on September 30, 2018. AB2923 grants BART the authority to establish transit-oriented development (TOD) zoning standards that apply to its property across the Bay Area, including the North Berkeley and Ashby BART Station sites. The intent of the law is to enable BART to work together with cities to maximize the public benefit of scarce transit-adjacent land (see Appendix B for more information). Although BART has the ultimate authority to establish zoning standards for its property, BART has indicated that it intends to work in close collaboration with local elected officials and community stakeholders. Furthermore, since the City controls the “air rights” for the west Ashby BART parking lot, it would have a direct role in approving any future master plan and development agreement for that site, and would work with BART to implement the Objectives described in the Adeline Corridor Specific Plan for any redevelopment of the Ashby BART subarea.

- Ashby Avenue frontage: Ground floor commercial use required.
- Martin Luther King Jr. Way: Residential or commercial use allowed on ground floor.
- Tremont, Woolsey and Fairview Streets: Residential or commercial use allowed on ground floor.

Additional Land Uses. Additional land uses that would be encouraged in the Ashby BART area include the following:

- Potential space for a new African American Holistic Resource Center (see Chapter 5 for more information)
- Ground floor retail, restaurants and family-oriented entertainment;
- Affordable space for neighborhood non-profits
- Small, affordable workspaces
- Universally-accessible community event and recreation space, or performance venues.

OBJECTIVE 4. PUBLIC ART. Future redevelopment should maximize opportunities to incorporate permanent and/or temporary public art installations that celebrate neighborhood history, cultural heritage and identity (see Chapters 2, 5 and 7 for more information).

OBJECTIVE 5. PEDESTRIAN AND BICYCLE CONNECTIONS. Future development should include pedestrian and bicycle connections that serve users of all abilities and ages. Development of the west parking lot should incorporate the following key bicycle connections at minimum, consistent with the City of Berkeley Bike Plan and as described in the Transportation Chapter of this Plan:

- Connection of the Woolsey/Prince bicycle boulevard facility across the Ashby site
- Provision of an off-street/protected bicycle facility along Adeline Street between Ashby and the intersection with MLK Jr. Way.

WHAT ARE "AIR RIGHTS?"

Ownership of land can be divided into rights on the surface, subsurface (i.e. mining or mineral rights) and air rights. The City of Berkeley acquired air rights over both parking lots at Ashby BART Station back in 1966 after the voters approved undergrounding the BART lines. In 1999, the City executed a contract with the Ed Roberts Campus to assign the City's option to the air rights over the eastern Ashby BART parking lot (the current Ed Roberts Campus site and the remainder parking lot behind it), to facilitate development of the Ed Roberts Campus. An agreement between the City and the Ed Roberts Campus in 2008 confirmed that the City assigned the air rights over the eastern BART parking lot to the Ed Roberts Campus, but the City still retained the option over the western BART parking lot. The air rights generally refer to the space starting 10 feet above the average finished grade location.

OBJECTIVE 6. PARKING AND TRANSPORTATION DEMAND MANAGEMENT. Any future development must include aggressive and innovative Transportation Demand Management strategies to reduce demand for parking and single-use automobile trips (See Chapter 6). Consistent with BART Transit-Oriented Design Guidelines and the City's Climate Action Plan, any future mixed-use development shall provide parking at ratio not to exceed 0.5 spaces/residential unit and 1.6 spaces per 1000 sqft of commercial space. Because of the urban environment of the station, replacement parking for BART patrons can be provided at a ratio of 0.5 spaces/per existing space or less while access improvements are incorporated to offset the loss of parking and ride spaces and offer viable non-auto alternatives to BART patrons.

OBJECTIVE 7. PROCESS AND ENGAGEMENT. Because of the importance of the BART site both to the success of the proposed housing strategy and to the overall character of the neighborhood, any development process should include a

deliberate and extensive community decision making process. The City will work with BART to complete a planning process which includes a Station Area Advisory Group or similar body comprised primarily of representatives of local stakeholder organizations. This stakeholder group should participate in decisions regarding the site requirements to be included in any Request for Proposals (RFP). In addition, any RFP that is issued for development at the BART site will outline specific requirements that a selected developer continue to invest in proactive community engagement throughout the development process and to identify appropriate additional community benefits as part of the project design process. A development team's proven track record of managing this kind of community engagement/community benefits process will be one criteria for selection. The local community should continue to be closely involved in development of these key public sites. Chapter 4 (Housing Affordability) includes additional information and considerations for future phasing, funding, programming, and affordable housing strategies for the Ashby BART area.