

ACTION CALENDAR

May 9, 2019

To: Members of the City Council

From: Mayor Arreguin and Councilmember Kesarwani

Subject: Adopting North Berkeley BART Development Goals and Objectives; Directing the City Manager to Engage with BART to Develop a Memorandum of Understanding (MOU) to Guide the Planning Process Moving Forward; Referring to Planning Commission to Develop Implementing Zoning for the North Berkeley BART site

RECOMMENDATION

1. Adopt the proposed North Berkeley BART Goals and Objectives to inform the development of a Memorandum of Understanding with BART and future project planning;
2. Direct the City Manager to engage with BART to develop an MOU that outlines the project planning process including feasibility analysis, project goals, and roles and responsibilities;
3. Refer to the Planning Commission to study development of zoning for the site, including feedback on the conceptual land use scenarios developed by City staff (as per direction of the January 15 Worksession).

SUMMARY

Assembly Bill 2923 enables BART to develop zoning standards on its sites, and requires BART to develop its zoning standards by July 1, 2020. Berkeley has until July 1, 2022, to adopt zoning that conforms to AB 2923 guidelines. The North Berkeley BART site is currently unclassified, meaning there is no zoning designation, and therefore zoning and development standards will have to be developed by the Planning Commission in consultation with the community.

**Direction to Develop MOU**

The established timelines are tight, and for this reason, first and foremost, the Council must move forward expeditiously in developing an MOU with BART to ensure the City's involvement and participation in BART's development of standards for the site. The MOU will define the project scope, specify the terms of development on the site,

formalize commitments between BART and the City, and ensure agreement on the process moving forward.

Specifically, the MOU will outline the process and parameters for creating zoning standards for the site and will clarify the roles and responsibilities of both the City and BART throughout the creation and implementation of zoning. Proceeding with an MOU exhibits the City's commitment to achieving a vision for transit-oriented housing development at the site, and ensures BART's continued focus and cooperation on working with the City to achieve this vision.

In the coming months, the BART Board of Directors will be considering their 10-year work plan. It is expected that the North Berkeley and Ashby stations will be placed in the 0-5 year category for development. Therefore, it is crucial that, on May 9, the Council direct City Staff to develop an MOU with BART to formalize our partnership, in advance of actions by BART in response to AB 2923.

Significant work has been done to engage neighbors and work extensively with the community to develop a shared understanding of the values with which we should approach future development on the site. See Background, below, for additional detail.

### **Planning Commission Referral**

Based on Council direction at its January 15, 2019, meeting, conceptual land use scenarios have been created to guide discussion of principles, priorities, and tradeoffs for future development of the site. Council feedback on land use scenarios will be referred to the Planning Commission for their use as they study development of zoning standards for the site.

The North Berkeley BART site is currently zoned U-Unclassified<sup>1</sup>. This zoning designation must be updated in order to realize the vision that will guide this process. The Planning Commission should use the information and scenarios prepared by Planning staff, as well as feedback on those scenarios from the Council during this meeting, to develop appropriate zoning for the site.

New zoning for the site may be based on existing City zoning designations, or may require a special zoning designation specific to this unique 8-acre site. While studying potential zoning for the site, the Planning Commission should also consider:

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<sup>1</sup> [https://www.cityofberkeley.info/uploadedFiles/IT/Level\\_3\\_-\\_General/Zoning%20Map%2036x36%2020050120.pdf](https://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/Zoning%20Map%2036x36%2020050120.pdf) [PDF]

connections to other public transit options such as AC Transit; successful active transportation routes for safe and convenient cycling and walking; public open space and the potential programming of that open space to ensure it is a major amenity for the community; and zoning for commercial retail that facilitates successful space for neighborhood-serving business uses and is flexible enough to respond to both community needs and the changing retail environment.

An overarching goal during the Planning Commission's process should be the realization of a vibrant neighborhood where the site successfully integrates a variety of new households and fully utilizes both the publicly-owned land and its transit advantages. This can be accomplished through a design sensitive to the surrounding community and one that is also responsive to the wider community's interest.

## BACKGROUND

We began this process in late 2017 — before the introduction of AB 2923 — as a community-driven effort to create a positive vision for housing at the North Berkeley BART Station, involving extensive conversations and work with the neighborhood<sup>2</sup>. AB 2923 (Chiu, 2018)<sup>3</sup>, signed into law in September 2018, codifies BART's ability to pursue transit-oriented development on their parcels. The legislation 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. Under AB 2923, BART has until July 1, 2020, to fully develop its TOD zoning standards and cities like Berkeley have until July 1, 2022, to adopt zoning that conforms to the TOD guidelines established for this parcel. This is the reason for embarking on this thorough process.

Additional information on early phases of the community process are available here:

Read more about our progress to date at: <http://www.jessearreguin.com/north-berkeley-bart>

Read more about the process in the Mayor's Report to Council, January 15, 2019:

[https://www.cityofberkeley.info/Clerk/City\\_Council/2019/01\\_Jan/Documents/2019-01-15\\_WS\\_Item\\_03a\\_North\\_Berkeley\\_BART\\_Zoning\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/01_Jan/Documents/2019-01-15_WS_Item_03a_North_Berkeley_BART_Zoning_pdf.aspx)

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<sup>2</sup> <http://www.jessearreguin.com/north-berkeley-bart> & <http://www.rashikesarwani.com/issues/north-berkeley-bart>

<sup>3</sup> [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180AB2923](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2923)

Video of the January 15, 2019, Council Worksession (starts at 1:56:00):  
[http://berkeley.granicus.com/MediaPlayer.php?publish\\_id=4fa753c3-1a77-11e9-b021-0050569183fa](http://berkeley.granicus.com/MediaPlayer.php?publish_id=4fa753c3-1a77-11e9-b021-0050569183fa)

On January 15, 2019, hundreds of residents came to the City Council Worksession to share their opinions on what kind of development they would like to see on the North Berkeley BART parking lot. Many shared positive visions for the future of the site, including the potential for affordable housing, the desire for a significant neighborhood asset, new open spaces, and extension to the Ohlone Greenway bicycle and walking path. Some also expressed concerns about housing affordability, prioritizing housing for families, and that new buildings should be sensitive to the surrounding neighborhood. Another concern repeatedly expressed related to the loss of parking and its impact on ridership. Concerns included the need for parking for older and disabled residents who have fewer options.

Council directed staff to return in spring 2019 with land use scenarios to inform the Council's direction on a vision for development. Staff work has included site assessment (to identify buildable areas and areas that must remain undeveloped due to BART tunnel constraints and therefore provide opportunities for open space and cycling and walking paths) as well as context studies and, finally, development of conceptual land use scenarios.

### ENVIRONMENTAL SUSTAINABILITY

The current use of the North Berkeley BART Station parking lots solely for vehicle parking is not the optimal environmental use of scarce, publicly-owned land. By creating housing on this site, the City Council would further its goals to address the Climate Emergency<sup>4</sup> and reduce greenhouse gas emissions from vehicle miles traveled. A reconfigured use of the site can allow for improved bicycle and pedestrian facilities and safer routes to encourage alternate means of access to the BART station, while maintaining some optimally designed parking for those who must drive to access the station.

### FISCAL IMPACTS

The fiscal impacts of any future development of the North Berkeley BART Station site will be analyzed at a later date, once there is more specific direction on options and

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<sup>4</sup> The Berkeley City Council unanimously passed a Declaration of Climate Emergency on June 12, 2018 [[https://www.cityofberkeley.info/Clerk/City\\_Council/2018/06\\_June/Documents/06-12\\_Annotated\\_Agenda.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/06_June/Documents/06-12_Annotated_Agenda.aspx) (PDF)]

development potential. For example, the potential availability of public funding to support affordable housing, or any fiscal benefits of new housing or commercial uses, would be assessed when more information is known.

CONTACT

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Councilmember Rashi Kesarwani	510-981-7110

ATTACHMENTS

1. North Berkeley BART Development Goals and Objectives
2. Letter from Mayor Arreguin and Councilmember Kesarwani to Assemblymember Chiu regarding AB 2923

## North Berkeley BART Development Goals and Objectives

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.

The Berkeley City Council expresses its intent to zone the North Berkeley BART parking lot in accordance with AB 2923.

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**

**Engage the community in a meaningful input process 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 of affordable below-market-rate units and populations to be served; the size, scale, spacing, and setbacks of buildings; the design of green open space; exploration of small-scale community, non-profit, and/or retail space to serve the immediate neighborhood; parking needs; as well as design to promote bicycle and pedestrian safety.

### **Affordability**

**Maximize the number of affordable below-market-rate units that are available to low-income households of diverse types and sizes.** We seek to exceed BART's 35% system-wide affordability goal by aiming for a high number of affordable units—to potentially be funded in part by the Measure O affordable housing bond approved by Berkeley voters in November 2018 and other state and regional funding sources.

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

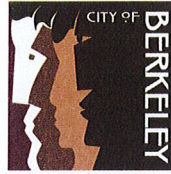
We will engage in a community dialogue that is positive, productive, and thoughtful in regards to community benefits and financial feasibility.

### **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 and scale. In particular, we seek a development that steps down in height around the perimeter of the station in order to blend in visually and physically with the residential neighborhoods surrounding the station; 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 and setbacks 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. In addition, 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. We note that AB 2923 in Section 29010.6(h) 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. As part of developing a station access plan for implementation, we 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, and additional electric-assist bikes and scooters. 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.



Office of the Mayor

Jesse Arreguín  
Mayor

April 22, 2019

Honorable David Chiu  
California State Assembly, District 17  
State Capitol  
P.O. Box 942849  
Sacramento, CA 94249-0017

Dear Assemblymember Chiu:

We are writing to inform you of our progress in implementing your sponsored legislation, Assembly Bill 2923, in the City of Berkeley. We also write to request your assistance in addressing questions we have about the law as we continue our efforts to create homes at the North Berkeley Bay Area Rapid Transit (BART) station parking lot, followed by the Ashby BART station parking lot.

The City of Berkeley strongly supports the objectives described in AB 2923 to address the region's significant shortage of affordable homes and to locate development close to public transit in order to reduce greenhouse gas emissions. We are committed to zoning the North Berkeley BART station parking lot in accordance with BART transit-oriented development (TOD) zoning standards, as required under AB 2923. In fact, the City of Berkeley initiated an effort to create homes at the North Berkeley BART station in late 2017—before the introduction of AB 2923—as a community-led effort to address our City's shortage of affordable homes and meet our climate change goals. Our progress to date has included a well-attended initial community meeting in March 2018; a visioning event for community members to present development concepts in October 2018; followed by a City Council Work Session in January 2019, in which BART and City staff provided information on the process and timeline for development of the North Berkeley BART station. On May 9, 2019 the Berkeley City Council will review land-use scenarios and consider adoption of goals and objectives for development of the North Berkeley BART station. We are eager to continue our progress and are genuinely excited about the potential to enhance the livability of the neighborhood surrounding the BART station by, for example, creating green open space, connecting Ohlone Park to the greenway, and enhancing safety for bicyclists and pedestrians accessing the station.

While this process is an exciting opportunity for our City to meet its goals for equity and sustainability, we are also seeking to provide clarity to members of our community on how the minimum zoning standards specified in AB 2923 will guide development of the North Berkeley BART station. Section 29010.6(a)(2) of the Public Utilities Code (codified in AB 2923) requires BART to adopt TOD zoning standards that “establish, for each district station, the lowest permissible limit for height, density, and floor area ratio, and the highest permissible parking minimums and maximums.” Further, Section 29010.6(b)(1) requires the solicitation of community input in developing these zoning standards, including a public hearing and direct outreach to local jurisdictions and communities of concern. One issue of concern to us is that AB 2923 requires BART to use zoning guidelines specified in a May 2017 TOD Guidelines report prepared by BART staff as the minimum allowable density and height limits for its TOD zoning standards. In codifying a staff report as the minimum zoning standards to which BART must adhere, our concern is that public input by stakeholder communities may not be fully considered. Through an information request to BART, we learned that no public meetings were



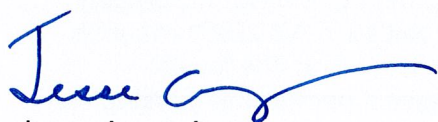
held to specifically seek input on the 2017 TOD Guidelines staff report. While we support the goals of AB 2923, we are concerned about the lack of opportunity for our community—and other impacted communities—to provide input on the TOD Guidelines that will serve as the minimum zoning standards. Of particular concern to us is the place-type designation of the North Berkeley BART station as “Urban Neighborhood / City Center” in the TOD Guidelines staff report, requiring a minimum zoned height of seven stories. We note that at our January 15, 2019 City Council Work Session, the BART TOD Program Manager described seven stories as the “maximum height envisioned” at the North Berkeley BART station, suggesting there may be some flexibility in interpreting the TOD Guidelines staff report.

We write to you seeking clarification on the flexibility afforded by AB 2923 on the building height for each place-type designation specified in the TOD Guidelines staff report. We note that the TOD Guidelines report only created three place-type designations for 48 BART stations and did so without public input. Therefore, it is our strong belief that local jurisdictions and BART should be granted some flexibility in adhering to these development standards. **It is our desire to meet or exceed the minimum density requirement specified in the report (minimum of 75 units per developable acre) in a manner that provides for flexibility in the height of the approved development.** We seek clarification on this point so that BART can incorporate this guidance into its development of TOD zoning standards, which must be completed no later than July 1, 2020.


As elected officials, we are eager to create homes at the North Berkeley BART station and have our community be part of the solution to the regional housing shortage. In order to foster trust between BART and community stakeholders, we seek your clarification on the minimum zoning standards set forth in AB 2923. When we embarked on our community process to create homes at the North Berkeley BART station prior to the passage of AB 2923, we did so with the understanding that BART would work with our community to create a development that fits our neighborhood context. In an October 8, 2018 letter to former Councilmember Linda Maio, BART General Manager Grace Crunican wrote of the importance of community input: “We have found that working with neighborhoods and local elected officials to consider community needs is not only respectful, it is the most efficient way to get the job done.” We continue to hope that this will be possible and ask for your support in specifying that the minimum density guideline should take precedence over the height guideline when BART develops its TOD zoning standards for the North Berkeley BART station.

We thank you for your leadership in addressing our region’s shortage of affordable homes, and we look forward to working with you.

Sincerely,



Jesse Arreguin  
Mayor of Berkeley



Rashi Kesarwani  
Berkeley Councilmember

CC:  
Buffy Wicks, Assemblymember (District 15)  
Nancy Skinner, State Senator (District 9)  
BART Board of Directors  
Grace Crunican, BART General Manager

