

ORDINANCE NO. 7,815-N.S.

AMENDING TITLE 23 OF THE BERKELEY MUNICIPAL CODE TO ESTABLISH THE RESIDENTIAL—BART MIXED USE (R-BMU) ZONING DISTRICT

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 23.106.050 is amended to read as follows:

**23.106.050 Floor Area Ratio.**

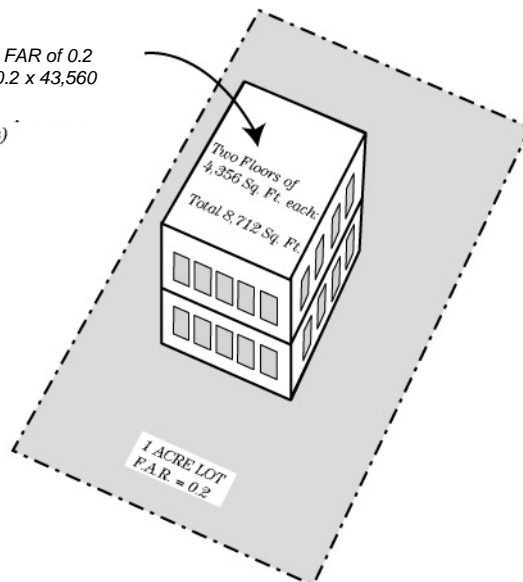
**A. Floor Area Ratio Defined.** Floor area ratio (FAR) means the quotient resulting from division of the gross floor area of all buildings on a lot by the area of the lot. See Figure 23.106-1: Floor Area Ratio.

1. Floor Area Ratio Defined in R-BMU: In the R-BMU district, FAR means the quotient resulting from division of the Gross Floor Area of all buildings on a lot by the Lot Area. In a single integrated development on contiguous lots, the permitted Floor Area Ratio shall be computed upon the basis of the total area of all such lots.

**FIGURE 23.106-1: FLOOR AREA RATIO**

Maximum Floor Area for a FAR of 0.2  
on a 43,560 Sq. Ft. Lot =  $0.2 \times 43,560$   
Sq. Ft. = 8,712 Sq. Ft.

(1 Acre)



**B. Development on Contiguous Lots.** In a single integrated development on contiguous lots, the permitted floor area ratio is calculated using the total combined area of all such lots.

Section 2. That Berkeley Municipal Code Section 23.108.020 is amended to read as follows:

**23.108.020 Zoning Districts**

**A. Districts.** Berkeley is divided into districts as shown in Table 23.108-1: Zoning Districts. Unique regulations apply within each district as established in Chapters 23.202 – 23.208 (Zoning Districts).

**TABLE 23.108-1: ZONING DISTRICTS**

<b>DISTRICT SYMBOL</b>	<b>NAME OF DISTRICT</b>
<b>Residential Districts</b>	
R-1	Single-Family Residential
R-1A	Limited Two-family Residential
ES-R	Environmental Safety Residential
R-2	Restricted Two-family Residential
R-2A	Restricted Multiple-family Residential
R-3	Multiple-family Residential
R-4	Multi-family Residential
R-5	High Density Residential
R-S	Residential Southside
R-SMU	Residential Southside Mixed Use
R-BMU	Residential BART Mixed Use
<b>Commercial Districts</b>	
C-C	Corridor Commercial
C-U	University Avenue Commercial
C-N	Neighborhood Commercial
C-E	Elmwood Commercial
C-NS	North Shattuck Commercial
C-SA	South Area Commercial
C-T	Telegraph Avenue Commercial
C-SO	Solano Avenue Commercial
C-DMU	Downtown Mixed-Use
C-W	West Berkeley Commercial
C-AC	Adeline Corridor Commercial
<b>Manufacturing Districts</b>	

<b>DISTRICT SYMBOL</b>	<b>NAME OF DISTRICT</b>
M	Manufacturing
MM	Mixed Manufacturing
MU-LI	Mixed Use-Light Industrial
MU-R	Mixed Use-Residential
<b>Special Districts</b>	
S	Specific Plan
U	Unclassified

Section 3. That Berkeley Municipal Code Section 23.202.020 is amended to read as follows:

**23.202.020 Allowed Land Uses**

**A. Allowed Land Uses.** Table 23.202-1: Allowed Land Uses in Residential Districts identifies allowed land uses and required permits in the Residential Districts. All land uses are defined in Chapter 23.502—Glossary. Permit requirements are described in Chapter 23.406—Specific Permit Requirements.

**B. Unlisted Land Uses.** Any land use not listed in Table 23.202-1: Allowed Land Uses in Residential Districts is not permitted in the Residential District.

ZC = Zoning Certificate <b>AUP = ADMINISTRATIVE USE PERMIT</b> UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply ** - Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											<b>USE-SPECIFIC                      REGULATIONS</b> APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU*		
<b>Residential Uses</b>													
Accessory Dwelling Unit	See 23.306— Accessory Dwelling Units		NP	See 23.306—Accessory Dwelling Units									
Dwellings													
Single-Family	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Two-Family	NP	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Multi-Family	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Group Living Accommodation	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Senior Congregate Housing	NP	NP	NP	NP	See 23.302.070.H– Use-Specific Regulations								
Mixed-Use Residential	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
<b>Public and Quasi-Public Uses</b>													
Child Care Center	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Club/Lodge	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Columbaria	AUP*	AUP*	NP	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	NP	23.302.070.C– Use-Specific Regulations	
Community Care Facility	See 23.202.040.A– Use-Specific Regulations												
Community Center	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Emergency Shelter	NP	NP	NP	NP	NP	NP	See 23.308						
Family Day Care Home, Large	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Family Day Care Home, Small	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Hospital	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	NP		
Library	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Nursing Home	NP	NP	NP	–	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Park/Playground	ZC	ZC	UP	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply ** - Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU*	
Public Utility Substation/Tank	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Religious Assembly	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
School	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
<b>Commercial Uses</b>												
Alcoholic Beverage Service	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH) *	23.310—Alcoholic Beverage Sales and Service
Food Products Store	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH) *	23.202.140.B.3– R-SMU Residential Southside District
Food Service Establishment	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	UP(PH) *	23.302.070.E– Use-Specific Regulations
Group Class Instruction	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH) *	23.202.150.C – R-BMU Residential BART Mixed Use District
Gym/Health Club	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH) *	23.202.150.C – R-BMU Residential BART Mixed Use District
Hotel, Tourist	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Laundromat and Cleaner	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	
Office	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH) *	23.202.150.C – R-BMU Residential BART Mixed Use District
Parking Lot/Structure	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH)*	UP(PH) *	23.302.070.G– Unenclosed Accessory Structures in Residential Districts  23.322.100– On-site Loading Spaces
Personal and Household Service, General	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC*	ZC*	23.202.140.B.2– R-SMU Residential Southside District
Retail, General	NP	NP	NP	NP	NP	NP	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH)*	UP(PH) *	23.202.040.B– Use-Specific Regulations

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply ** - Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU*		
Veterinary Clinic	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)		
Theater	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)		
Video Tape/Disk Rental	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	NP		
<b>Industrial and Heavy Commercial Uses</b>													
Commercial Excavation	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)		
<b>Other Uses</b>													
Accessory Uses	See 23.302.020.A– General Use Regulations												
Art/Craft Studio	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC	
ATM: Exterior and Attached to Bank or Interior or Exterior and Not With Bank	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Home Occupations	See 23.302.040– Home Occupations												
Live/Work	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH) *	23.312–Live/Work
Public Market, Open Air	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Public Market, Enclosed	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Short-Term Rental	ZC*	ZC*	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.314—Short-Term Rentals
Temporary Uses	See 23.302.030– Temporary Uses and Structures												
Urban Agriculture, Low-Impact	ZC*	ZC*	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.318—Urban Agriculture
Urban Agriculture, High-Impact	AUP*	AUP*	NP	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	23.318—Urban Agriculture
Wireless Telecommunication Facility	See 23.332—Wireless Communication Facilities												

Section 4. That Berkeley Municipal Code Section 23.202.040.B is amended to read as follows:

**B. *General Retail.***

1. In the R-4, R-5, R-S, and R-SMU districts, general retail uses must be:
  - (a) Accessory to another use;
  - (b) Contained within a building with no street access; and
  - (c) Without displays of merchandise visible from the street.
2. In the R-BMU district, General Retail is:
  - (a) Permitted with a Use Permit at the North Berkeley BART station;
  - (b) Permitted with a Zoning Certificate at the Ashby BART station.

Section 5. That Berkeley Municipal Code Section 23.202.150 is hereby added to read as follows:

**23.202.150: R-BMU Residential BART Mixed Use District**

- A. District Purpose.** The purpose of the BART Mixed-Use (R-BMU) district is to create vibrant, well-designed, and welcoming neighborhoods that address City of Berkeley priorities such as affordable housing, civic and public space, multi-modal transportation and site access, high-quality building and site design and architecture, and a mix of land uses that contributes positively to the community, and to establish zoning standards in compliance with AB 2923.
- B. Definitions.** For the purpose of this Section (23.202.150), the following definitions apply:
- 1. Dwelling Units per Acre.** The quotient resulting from the total number of dwelling units on a site by the Lot Area.
- C. Allowed Land Uses.**
1. **General.** See Section 23.202.020 (Allowed Land Uses), which indicates identifies allowed land uses and which are prohibited.
    - a. The initial establishment of a land use in a new building will follow the R-BMU Master Development Plan process outlined in Section 23.202.150D. below.
    - b. The change of use of an existing building or portion of a

building will require the permits indicated in Section 23.202.020 and Table 23.202-1 for the R-BMU District.

- c. Any use not listed in Table 23.202-1 for the R-BMU District can be approved through the Master Development Plan process outlined in Section 23.202.150D below for the initial establishment of a land use in a new building.
- d. Uses subject to supplemental regulations are shown in in Table 23.202-1 with an asterisk (\*) following the permit requirement (e.g., ZC\*). The Use-Specific Regulations column in Table 23.204-1 identifies the location of these regulations in the Zoning Ordinance.

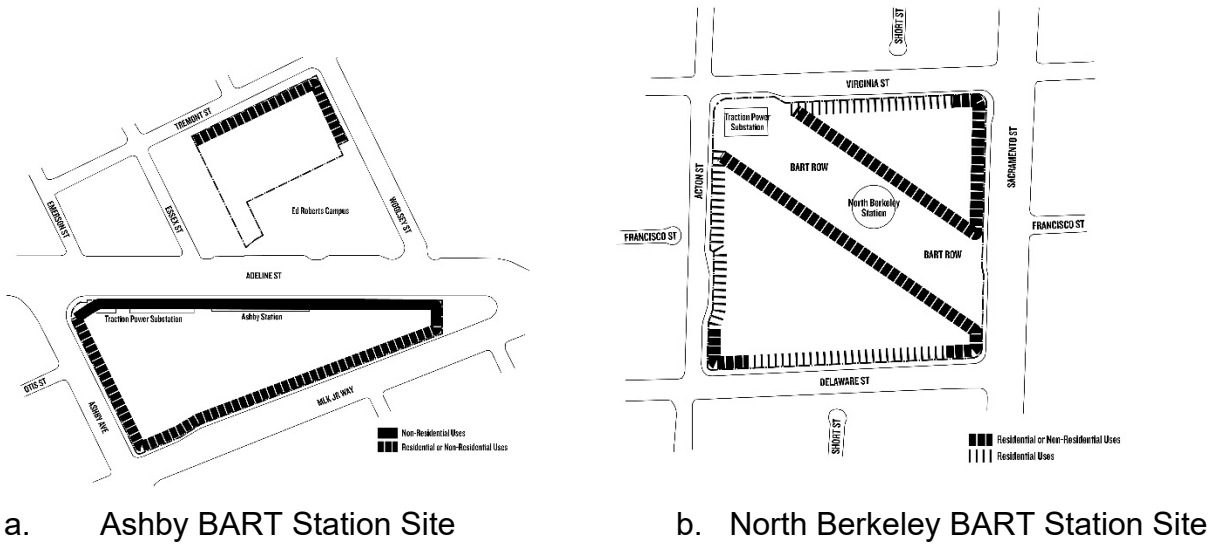
2. **Group Class Instruction and Gym/Health Clubs.** Group class instruction and gym/health club uses are permitted at the Ashby BART station with a Zoning Certificate. Group class instruction and gym/health club uses are permitted at the North Berkeley BART station with a Use Permit.
3. **Office.** At the Ashby BART station, office uses above the ground floor are permitted with a ZC. All other office uses in the R-BMU require a Use Permit.

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

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

Frontage Locations	Permitted Street-Facing Ground Floor Uses
Along Ashby and MLK	Non-Residential Uses or non-residential accessory spaces to residential buildings, such as community rooms. At least 50% of the combined frontage of MLK and Ashby must include active ground -floor uses.[1] Active uses at corner locations are encouraged.
Along Adeline	Non-Residential Uses or non-residential accessory spaces to residential buildings, such as community rooms
Along Woolsey, Tremont [2], or fronting interior public spaces	Residential or Non-Residential Uses
Along Sacramento, along the Ohlone Greenway, or within 50 feet of any street corner	Residential or Non-Residential Uses
Along Delaware, Acton, or Virginia	Residential Uses
<p>[1] Active uses are commercial uses which generate regular and frequent foot traffic; such uses include businesses in the following use categories: Retail; Personal and Household Services; Food and Alcohol Service, and Entertainment.</p> <p>[2] Public entrances for non-residential uses fronting Tremont Street must be located on Woolsey Street.</p>	

**FIGURE 23.202-3 PERMITTED STREET-FACING GROUND FLOOR USES**



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

**F. Development Standards.**

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

**TABLE 23.202-28: R-BMU DEVELOPMENT STANDARDS**

		Supplemental Standards
Lot Area, Minimum	No minimum	23.304.020
Private Usable Open Space, Minimum [1][2]		23.302.090
Per Dwelling Unit	40 sf/DU	23.302.090
Per Group Living Accommodation Resident	15 sf/resident	23.302.090
Public Open Space, Minimum		
Per Dwelling Unit	35 sf/unit	
Per Group Living Accommodation Resident	18 sf/resident	

Floor Area Ratio (FAR), Maximum	4.2	
Main Building Height, Maximum [3]	80 feet and 7 stories	23.304.050
Residential Density, Minimum	75 dwelling units per acre	
<p>[1] Private Usable Open Space may be provided as any combination of personal and common private space.                  [2] 50% of the Private Usable Open Space requirement may be fulfilled through the provision of an equal amount of additional Public Open Space.                  [3] Building Height Measurement: In the case of a roof with a parapet wall, building height shall be measured to the top of the roof and parapets may exceed the height limits by up to five feet by right.</p>		

### 3. Additional Open Space Requirements.

#### a. Definitions

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

#### b. Public Space Design.

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

this section (23.202.150(D)3(b)).

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

**4. Front Setbacks.**

- a. Setbacks are not required at Martin Luther King Jr. Way, Adeline Street, Sacramento Street.
- b. Setbacks along all other frontages along public rights-of-way and internal publicly accessible pathways shall range from 5 feet (minimum) to 15 feet (maximum) for at least 50 percent of any building's linear street frontage, including all frontages within 50 lineal feet of an intersecting corner.

5. **Front Upper-Story Step-backs.** Any street-facing building frontage above four stories in height that is not within 100 linear feet of Sacramento Street, Adeline Street, Ashby Avenue, or Martin Luther King Jr. Way, shall step back from the property line for portions of the building above four stories.
6. **Ground-floor Residential Frontage.** For ground-floor residential uses, outward facing building entrances may include any of the following: stoops, front doors, courtyard and forecourt entrances, ramped or at-grade universally accessible entries, outward-facing and visually permeable lobby entrances, or other outward-facing residential entrance, with transition spaces from private frontages to public spaces.
7. **Ground-floor Non-Residential Frontage.** For ground-floor non-residential uses, outward-facing building entrances and activation strategies may include outdoor seating, dining, display spaces, performance spaces, public art, architectural detailing, and extensions of the public sidewalk.
8. **Frontage Improvements.** Any area between a building and the front property line, or any area between a building and on-site public space or the public circulation network, shall be improved as part of a wider sidewalk, outdoor seating area, outdoor dining area, yard area, landscaping, or other usable open space.
9. **On-site Pedestrian Access.** Pedestrian accessways shall be provided for all new construction and for additions of 10,000 square

feet or more of gross floor area in accordance with the following standards:

- a. **Internal Connections.** A system of publicly accessible pedestrian walkways (e.g. public sidewalks) shall connect all buildings on a site to each other, to on-site bicycle and automobile parking and drop-off areas, to any on-site open space areas or pedestrian amenities, and to the publicly accessible pedestrian circulation network.
- b. **To the Public Circulation Network.** A publicly accessible on-site walkway shall connect the building lobby entry or entries on each street or on-site pathway frontage to the public pedestrian circulation network. Connections to publicly accessible on-site walkways provided at least every 300 feet along portions of the development site perimeter that are adjacent to public rights-of-way.
- c. **To Neighbors.** Publicly accessible pedestrian access shall be provided from residential and commercial building entrances and public space to adjoining residential and commercial areas.
- d. **To Transit.** Publicly accessible pedestrian connections from the public circulation network shall be provided to all transit stops and entrances including elevators outside the station.
- e. **Illumination.** All publicly accessible pedestrian connections shall include nighttime illumination pursuant to Ordinance N.S.-7424.

#### 10. Transparency.

- a. **Required Openings.** Ground-level exterior walls facing and within 20 feet of a front lot line or publicly accessible pathway or Public Open Space shall run in a continuous plane for no more than 30 feet without a window, door, or other similar building opening.
- b. **Non-Residential Transparency.** For non-residential ground-floor uses facing a front lot line, publicly accessible pathway or Public Open Space, a minimum of 50% of the building wall area located between three and seven feet above ground level shall be transparent with a visible light transmittance of not less than 80%.

#### 11. Building Entrances.

- a. **Minimum Number of Entrances Required.** There shall be a minimum of at least one building entrance at an average distance of 50 linear feet of ground-floor non-residential building frontage, and at least one building lobby entrance for every 200 feet of ground-floor residential building frontage.

- b. **Ground Floor Residential Entries.** All ground floor residential units shall provide entries to the street in the form of stoops or other exterior entries, or balcony or patio without entrance to the street, with a minimum area of 20 square feet.
  - c. **Separate Entrances Required.** Buildings containing a mix of residential and non-residential uses shall provide separate building entrances for each major use category. Amenity areas such as exercise rooms do not require separate building entrances from the primary use.
  - d. **Entrance Orientation.** Principal building entrances shall face a public street, publicly accessible pathway, or Public Open Space.
  - e. **Illumination.** Building entries and addresses shall be illuminated to provide nighttime visibility from adjacent streets, public accessways, and common areas.
12. **Ground-Floor Non-Residential Space Dimensions.** The minimum ground floor height for non-residential uses is 15 feet, as measured from the ground level floor to the first floor above.

### 13. Parking Design and Access.

- a. **Unbundled Parking Required.** All parking spaces shall be leased separately from the residential unit or commercial space except where prohibited by affordable housing financing sources.
- b. **Structured Parking Required.** All new off-street parking shall be located within an enclosed structure, with the exception of curb-side pickup and drop-off, curb-side metered parking, ADA parking, or small-scale surface parking for security and station operations and maintenance purposes only.
- c. **Structured Parking Design.** Parking garages shall be located underground or located behind conditioned building space at any adjacent street, sidewalk, or other publicly accessible accessway or open space. Conditioned building space is not required along shared interior lot lines of abutting parcels.
- d. **Vehicular Entry.** Parking garage vehicular entrances facing the street shall be no more than 20 feet wide.
- e. **Pedestrian Entry.** Parking garage pedestrian entrances shall be provided at-grade, connecting directly to the public pedestrian circulation network, on each street-facing frontage.
- f. **Light Screening.** Parking garages shall be designed such that interior lighting is fully shielded and automobile headlamps are not visible from

adjacent buildings, parcels, streets, public parks, publicly accessible outdoor space or designated open space area.

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

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

1. Purpose of the R-BMU District Master Development Permit (MDP) process. The purpose of these provisions is to prescribe the procedure for the review of initial development on parcels in the R-BMU District, in order to allow for the predictable buildout of the sites over time and achieve a high standard of affordability, site and building design that fulfills the City and BART Joint Vision and Priorities for the Ashby and North Berkeley BART Station Areas relating to:
  - Affordable Housing
  - Public and Civic Space
  - Land Use
  - Building Form and;
  - Station Access.
2. Applicability of the Ashby and North Berkeley BART Master Development Permit (MDP). These provisions shall apply to all land within the R-BART Mixed Use District.
3. Preliminary Development Plan. The preliminary development plan shall include, at a minimum, the following:
  - a. A plan of the entire development, defined as either the North Berkeley BART Station Area or Ashby BART Station Area, showing the items listed below. Such development plan shall include maps and information on the surrounding area within one hundred (100) feet of the development. All elements listed in this paragraph shall be characterized as existing or proposed, and sufficiently detailed to indicate intent and impact.
    - Streets, driveways, sidewalks and pedestrian ways, and off-street parking and loading areas;
    - Location and approximate dimensions of structures;
    - Utilization of structures, including activities and the number of living units;

- Estimated population;
  - Reservations for public uses, including schools, parks, playgrounds, and other open spaces;
  - Placement of above-ground utilities such as electrical transformers, vents, and other mechanical equipment;
  - Major landscaping features;
  - Relevant operational data; and
  - Drawings and elevations clearly establishing the scale, character, and relationship of buildings, streets, and open spaces.
- b. A table demonstrating that the plan meets the development standards set forth in Section 23.202.150.F and the other requirements of this Chapter, including compliance with any Objective Development Standards.
- c. A development phasing plan describing the order in which various portions of the development will be built, along with a proposed schedule for such phases.
4. Notice of Application and Public Hearing for Preliminary Development Plan.
- a. Preliminary Development Plans shall be reviewed by the Zoning Adjustments Board, the decisions of which are appealable to the City Council.
- b. The public notice and hearing process for a Master Development Permit shall be the same as for Use Permits as defined in BMC Section 23.404, except that notice shall be mailed or delivered to all businesses, residents and owners of property located within five hundred (500) feet of the subject property.
- c. The Board shall determine whether the proposal conforms to the permit criteria set forth in Section 23.202.150.D8, and may approve or disapprove the application and the accompanying Preliminary Development Plan or require such changes therein or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria and regulations. In so doing, the Board may, in its discretion, authorize submission of the Final Development Plan in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the Preliminary Development Plan and staged development schedule.

## 5. Final Development Plan

The applicant shall file with the Planning and Development Department a Final Development Plan for one or more of the phases identified in the Preliminary Development Plan.

- a. The Final Development Plan shall conform in all major respects with the approved Preliminary Development Plan and shall include the following additional information:
  - Location of water, sewerage, and drainage facilities;
  - Detailed building and landscaping plans and elevations;
  - A maintenance plan for Open Space;
  - Character and location of signs;
  - Plans for street improvements; and
  - Grading or earth-moving plans.

The Final Development Plan shall be sufficiently detailed to indicate the ultimate operation and appearance of the development, including compliance with the Objective Development Standards. Final Development Plans shall be reviewed by the Zoning Adjustments Board.

- b. The public notice and hearing process for a Final Development Plan shall be the same as for Use Permits as defined in BMC Section 23B.32, except that notice shall be mailed or delivered to all businesses, residents and owners of property located within five hundred (500) feet of the subject property.

## 6. City Engineer's Report

Within thirty (30) days after the filing of the Final Development Plan, the Zoning Officer shall forward it to the City Engineer for review of public improvements, including streets, sewers, and drainage. The Zoning Adjustments Board shall not act on a Final Development Plan until it has first received a report from the City Engineer or until more than thirty (30) days have elapsed since the plan and application were sent to the City Engineer, whichever is the shorter period.

## 7. Appeal to Council

The process for appeal to Council for a Master Development Permit, Preliminary Development Plan and/or Final Development Plan shall be the

same as for Use Permits as defined in BMC Section 23B.32.

8. Findings

- a. That the location, design, size, and uses are consistent with the General Plan and with any other applicable plan, development control map, design guidelines, or ordinance adopted by the City Council;
- b. That the location, design, and size are consistent with the City of Berkeley and San Francisco Bay Area Rapid Transit District (BART) Joint Vision and Priorities document for the Ashby and North Berkeley BART Station Areas adopted by the City Council and the BART Board of Directors.

9. Adherence to the Approved Plan and Modification.

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

10. Revocation of Permits

If a Final Development Plan for an initial portion of a site has not been submitted within 10 years after approval of the applicable Master Development Plan for all or a majority portion of the site, the City Council may revoke the approval of the remainder of the Master Development Permit. If Final Development Plans for the entirety of a site have not been submitted within 20 years after approval of the applicable Master Development Permit, the City Council may revoke the remainder of the Master Development Permit.

Section 6. That Berkeley Municipal Code Section 23.302.070.E.2 is amended to read as follows:

2. **Permits Required in Commercial Districts and in the R-BMU.** Table 23.302-7 shows permits required for food service establishments in the commercial districts and in the R-BMU.

**TABLE 23.302-7: PERMIT REQUIREMENTS FOR FOOD SERVICE ESTABLISHMENTS**

DISTRICT/USE SIZE	PERMIT REQUIRED
C-C, C-U, C-T, C-W	
Under 1,500 sq. ft	ZC
1,500 sq. ft. or more	AUP
C-N, C-NS, C-SA, C-SO	
Under 1,000 sq. ft	ZC
1,000 sq. ft. or more	AUP
R-BMU, Ashby BART Station C-AC, South Shattuck and North Adeline Subareas	
3,000 sq ft or less	ZC
Over 3,000 sq ft	AUP
C-AC, South Adeline Subarea	
1,500 sq ft or less	ZC
Over 1,500 sq ft	AUP
R-BMU, North Berkeley BART Station	UP(PH)
C-E	AUP [1]
C-DMU	
Under 3,000 sq. ft outside the Arts District Overlay	ZC
3,000 sq. ft. or more	AUP
Any size within the Arts District Overlay	AUP [2]
Notes: [1] All food service uses in the C-E district require an AUP and may not be considered as an incidental use except when accessory to a food product store. [2] See 23.204.130.D.3 for required findings.	

Section 7. That Berkeley Municipal Code Section 23.302.070.G.2 is amended to read as follows:

2. Table 23.302-9 shows required permits for the exclusive or primary use of a lot for off-street parking spaces.

**TABLE 23.302-9: PERMIT REQUIREMENTS FOR PARKING LOTS/STRUCTURES**

DISTRICT	PERMIT REQUIRED
<b>Residential Districts</b>	
R-3	Use Permit for all parking lots and structures. [1]
R-S, R-SMU, R-BMU	Use Permit for parking structures only. Parking lots are not permitted, except on lots between Acton Street and Virginia Gardens and between Peralta Avenue and Northside Avenue in the R-BMU.
All other residential districts	Use Permit for all parking lots and structures.
<b>Commercial Districts</b>	
C-C, C-U	Zoning Certificate for parking lots and structures with 5 spaces or fewer. Use Permit for more than 5 spaces.
C-SO	AUP for parking lots and structures with 5 spaces or fewer. Use Permit for more than 5 spaces.
C-DMU	AUP for parking lots with 8 spaces or fewer. Use Permit for all parking structures. Lots with more than 8 spaces not permitted.
C-N, C-E, C-NS, C-SA	Use Permit for all parking lots and structures.
C-T	Use Permit for all parking structures. All parking lots not permitted.
C-W	AUP for parking lots and structures with 10 spaces or fewer. Use Permit for parking lots and structures with more than 10 spaces.
<b>Manufacturing Districts</b>	
M, MM	AUP for parking lots and structures with 10 or fewer spaces exclusively for uses in the district. Use Permit for parking lots and structures with any number of spaces not exclusively for uses in the district.
MU-LI	Zoning Certificate for parking lots and structures with 10 or fewer spaces exclusively for uses in the district. AUP for parking lots and structures with 11 spaces or more exclusively for uses in the district. Use Permit for parking lots and structures with any number of spaces not exclusively for uses in the district.
MU-R	Zoning Certificate for parking lots and structures exclusively for uses in the district. Use Permit for parking lots and structures not exclusively for uses in the district.
<p>Notes:            [1] Parking lots and structures in the R-3 district are not permitted within the Southside Plan area</p>	

Section 8. That Berkeley Municipal Code Section 23.304.140 is amended to read as follows:

**23.304.140 Area Plans.**

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

B. *Southside Plan.*

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

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

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

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

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

Section 9. That Berkeley Municipal Code Section 23.308.020.C is amended to read as follows:

C. **Required Permits.** Table 23.308-1 shows permits required for emergency shelters.

**TABLE 23.308-1: PERMIT REQUIREMENTS FOR EMERGENCY SHELTERS**

DISTRICTS	PERMIT REQUIRED [1]
<b>Residential Districts</b>	
R-1, R-1A, ES-R, R-2, R-2A, R-3	Not Permitted
R-4, R-5, R-S, R-SMU, and R-BMU	
15 beds or fewer [1]	ZC
More than 15 beds	UP(PH)
<b>Commercial Districts</b>	
C-C, C-U, C-N, C-E, C-NS, C-SA, C-T, C-SO, C-W, C-AC	
25 beds or fewer	ZC
More than 25 beds	UP(PH)
C-DMU	
60 beds or fewer	ZC
More than 60 beds	UP(PH)
<b>Manufacturing Districts</b>	
M, MM, MU-LI, MU-R	Not Permitted
Notes: [1] See also permit requirements based on floor area of use in Table 23.308.040-2	

Section 10. That Berkeley Municipal Code Section 23.310.030.A is amended to read as follows:

**A. Permits Required.** Table 23.310-1 shows permits required for alcoholic beverage service when incidental to a food service establishment.

**TABLE 23.310-1: PERMITS REQUIRED FOR ALCOHOLIC BEVERAGE SERVICE**

District	Permit Required Based on Type of Beverages Served When Incidental to Food Service	
	Beer and Wine	Distilled Spirits
R-SMU	UP(PH)	UP(PH)
All Commercial Districts, except C-AC, and the R-BMU District	ZC	UP(PH)
C-AC	ZC	AUP

District	Permit Required Based on Type of Beverages Served When Incidental to Food Service	
	Beer and Wine	Distilled Spirits
MU-LI, MU-R	UP(PH)	UP(PH)

Section 11. That Berkeley Municipal Code Section 23.310.030.B.3 is amended to read as follows:

**B. Use Limitations.**

3. **C-NS and R-BMU Districts.** In the C-NS district, distilled spirit service is allowed only for full-service restaurants. Distilled spirit service is not allowed for carry out food stores and quick-service restaurants.

Section 12. That Berkeley Municipal Code Section 23.312.030.B is amended to read as follows:

**B. Residential Districts.**

1. **All Residential Districts Except R-BMU.** Live/work units are not permitted.
2. **R-BMU District:** A Use Permit is required for live/work units.

Section 13. That Berkeley Municipal Code Section 32.322.030.A.1 is amended to read as follows:

**A. Residential Districts.**

1. **Spaces Required.** Table 23.322-1 shows minimum required off-street parking spaces in the Residential Districts.

**TABLE 23.322-1: REQUIRED OFF-STREET PARKING IN RESIDENTIAL DISTRICTS**

Land Use	Number of Required Off-street Parking Spaces
<b>Residential Uses</b>	
Accessory Dwelling Unit	See Chapter 23.306
Dwellings, including Group Living Accommodations	<p><u>R-3, R-4, and R-5 Districts (1-9 units):</u> If located on a roadway less than 26 feet in width in the Hillside Overlay: 1 per unit.</p> <p><u>R-3, R-4, and R-5 District (10 or more units):</u> If located on a roadway less than 26 feet in width in the Hillside Overlay: 1 per 1,000 sq ft of gross floor area.</p> <p><u>All Other Districts:</u> If located on a roadway less than 26 feet in</p>

Land Use	Number of Required Off-street Parking Spaces
	width in the Hillside Overlay: 1 per unit <u>All Other Locations</u> : None required
Dormitories, Fraternity and Sorority Houses, Rooming & Boarding Houses, Senior Congregate Housing	If located on a roadway less than 26 feet in width in the Hillside Overlay: 1 per each 5 residents, plus 1 for manager. <u>All Other Locations</u> : None required.
Rental of Rooms	If located on a roadway less than 26 feet in width in the Hillside Overlay: 1 per each two roomers <u>All Other Locations</u> : None required
<b>Non-Residential Uses</b>	
All non-residential uses except uses listed below	<u>R-SMU District</u> : 1 per 1,000 sq. ft. <u>R-BMU District</u> : None required; no more than 1.5 spaces per 1,000 sq. ft. <u>All Other Residential Districts</u> : See 23.322.030.A.2
Community Care Facility	<u>R-BMU District</u> : None required; no more than 1.5 spaces per 1,000 sq. ft. <u>All Other Residential Districts</u> : One per two non-resident employees
Food Service Establishment	<u>R-BMU District</u> : None required; no more than 1.5 spaces per 1,000 sq. ft. <u>All Other Residential Districts</u> : 1 per 300 sq. ft.
Hospital	<u>R-SMU District</u> : 1 per 1,000 sq. ft. <u>R-BMU District</u> : None required; no more than 1.5 spaces per 1,000 sq. ft. <u>All Other Residential Districts</u> : 1 per each 4 beds plus 1 per each 3 employees
Library	<u>R-BMU District</u> : None required; no more than 1.5 spaces per 1,000 sq. ft. <u>All Other Residential Districts</u> : 1 per 500 sq. ft. of publicly accessible floor area
Nursing Home	1 per 3 employees
Medical Practitioners	<u>R-BMU District</u> : None required; no more than 1.5 spaces per 1,000 sq. ft. <u>All Other Residential Districts</u> : 1 per 300 sq. ft.
Non-Medical Offices	<u>R-SMU District</u> : 1 per 1,000 sq. ft. <u>R-BMU District</u> : None required; no more than 1.5 spaces per

Land Use	Number of Required Off-street Parking Spaces
	1,000 sq. ft. All Other Residential Districts: 1 per 400 sq. ft.
Hotels, Tourist	1 per 3 guest/sleeping rooms or suites plus 1 per 3 employees
[1] Excludes community care facilities which under state law must be treated in the same manner as a single-family residence	

Section 14: That Berkeley Municipal Code Section 23.322.090 is amended to read as follows:

**23.322.090 – Bicycle Parking**

A. Parking Spaces Required.

1. **Non-Residential Bicycle Parking.** Table 23.322-10 shows districts where bicycle parking is required, land uses requiring bicycle parking, and the number of required spaces. Bicycle parking is required for new construction and for expansions to existing buildings that add new floor area.

**TABLE 23.322-10: REQUIRED NON-RESIDENTIAL BICYCLE PARKING**

District	When Required	Required Spaces
R-BMU	New commercial space	1 per 1,000 sq. ft.
R-S, R-SMU	New commercial space	1 per 2,000 sq. ft.
All Commercial Districts except for C-E and C-T	New floor area or for expansions of existing industrial, commercial, and other non-residential buildings	1 per 2,000 sq. ft.
All Manufacturing Districts except for C-E and C-T	New floor area or for expansions of existing industrial, commercial, and other non-residential buildings	1 per 2,000 sq. ft.
C-E, C-T	None required	N/A

a. In the C-DMU district, the Zoning Officer, in consultation with the City Traffic Engineer, may approve an AUP to modify the bicycle parking requirement in Table 23.322-10 for Tourist Hotels.

2. **Residential Parking.** Table 23.322-11 shows the types of residential projects, including the residential portion of mixed-use projects, for which bicycle parking is required.

**TABLE 23.322-11: REQUIRED RESIDENTIAL BICYCLE PARKING**

Use	Long-Term Parking Requirement [1]	Short-Term Parking Requirement [1]
Dwelling Units (1 to 4 units)	R-BMU: 1 space per unit All other districts: None required	None required
Dwelling Units (5 units or more)	R-BMU: 1 space per unit All other districts: 1 space per 3 bedrooms	2, or 1 space per 40 bedrooms, whichever is greater
Group Living Accommodations, Dormitories, Fraternity and Sorority Houses, Rooming and Boarding Houses, Transitional Housing	2, or 1 space per 2.5 bedrooms, whichever is greater	2, or 1 space per 20 bedrooms, whichever is greater
[1] Long-Term Parking and Short-Term Parking shall meet the design standards included in Appendix F of the 2017 <i>Berkeley Bicycle Plan</i> , or as subsequently amended by the Transportation Division.		

**B. Bicycle Parking Standards.** The following standards apply to required bicycle parking spaces in a non-residential district:

1. Bicycle parking spaces shall be located in either a locker, or in a rack suitable for secure locks, and shall require location approval by the City Traffic Engineer and Zoning Officer.
2. Bicycle parking shall be located in accordance to the Design Review Guidelines and other design specifications promulgated by the Transportation Division.

Section 15: That Berkeley Municipal Code Section 23.502.020.L.14-20 are amended to read as follows:

**14. Lot Area.** The total horizontal area within a lot's boundary lines.

**a. Lot Area in R-BMU Only:** The total horizontal area within a lot's boundary lines, minus the square footage of the footprints of any buildings, facilities or equipment that are, or shall be, under the control of the San Francisco Bay Area Rapid Transit District (BART).

**15. Lot Coverage.** See 23.106.020 (Lot Coverage).

- 16. Lot Depth.** The average distance from the front lot line to the rear lot line measured in the general direction of the side lines.
- 17. Lot Frontage.** That dimension of a lot's front lot line abutting on a street.
- 18. Lot Lines.** The boundaries between a lot and other property or the public right-of-way.
- 19. Lot Line, Front.** The shorter of the two intersecting lot lines along the rights-of-way of a corner lot shall be deemed to be the front of the lot for purposes of determining the lot frontage and for yard requirements. In the case of a lot having equal frontage, or in the case of an irregularly shaped lot, the Zoning Officer shall determine the front in such a manner as to best promote the orderly development of the immediate area.
- 20. Lot Width.** The average distance between the side lot lines measured at right angles to the lot depth.

Section 16. Objective design standards, including, but not limited to, BART station functionality, public realm, building form and massing (e.g. vertical and horizontal articulation) building facade design, and open space shall be presented to the Council for adoption pursuant to the Memorandum of Agreement between the City and the San Francisco Bay Area Rapid Transit District ("BART") approved by City Council and the BART Board, respectively, in June 2022.

Section 17. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a special meeting of the Council of the City of Berkeley held on June 2, 2022, this Ordinance was passed to print and ordered published by posting by the following vote:

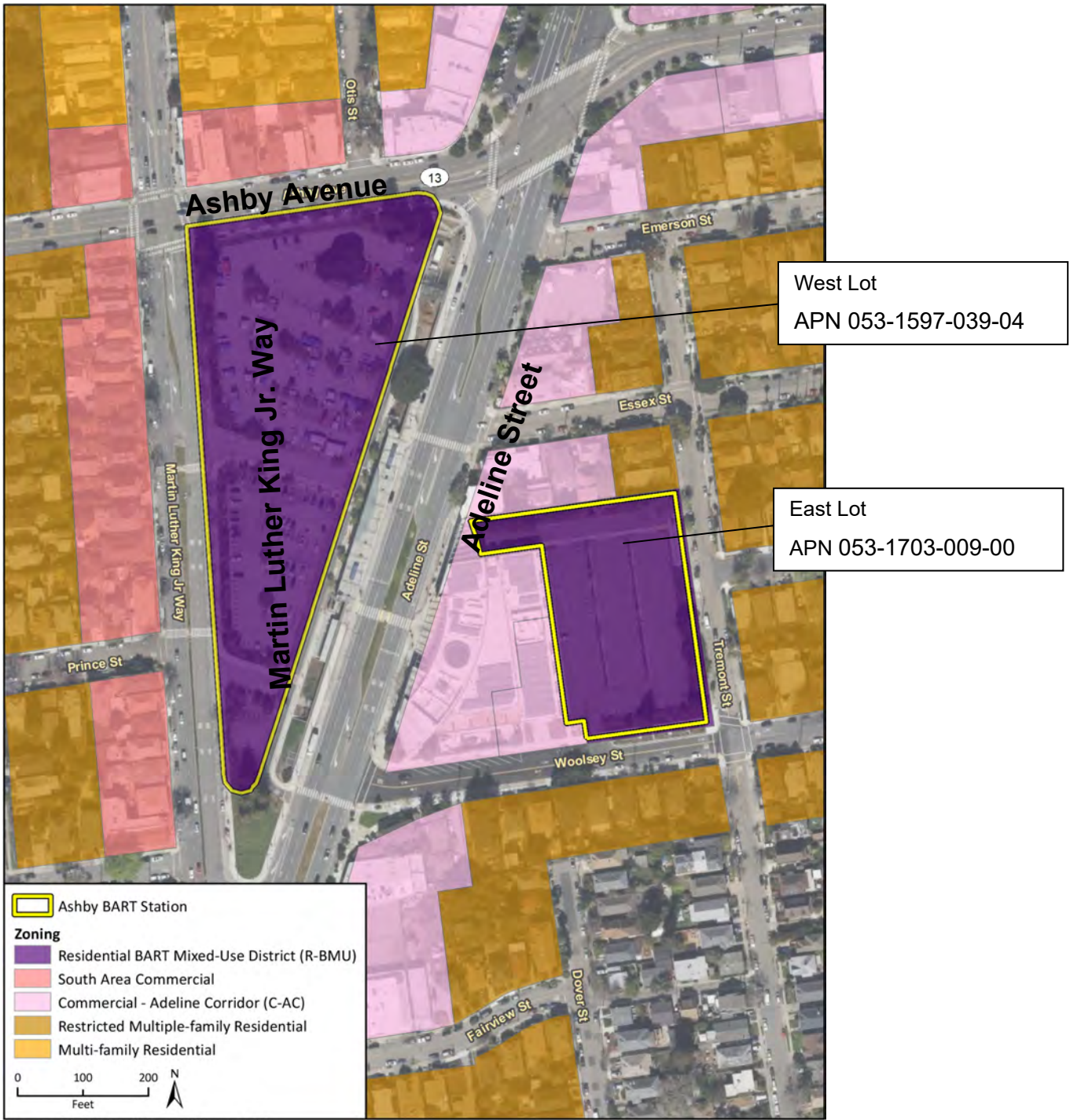
Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

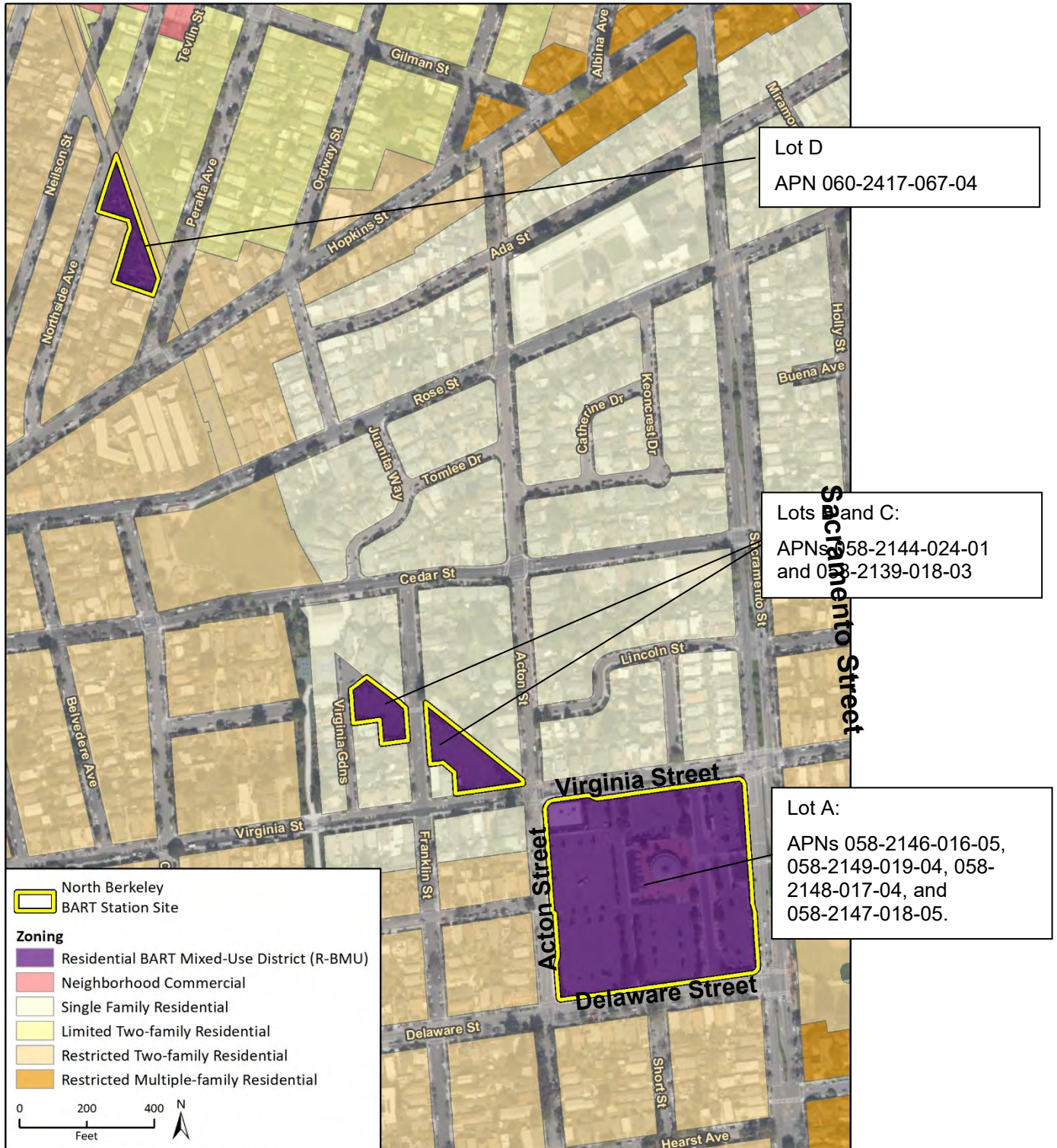
Absent: None.

### Exhibit A: Proposed Zoning Maps

#### 1. Ashby BART Site: Residential – BART Mixed Use



2. North Berkeley BART Site: Residential – BART Mixed Use



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 Land use data provided by City of Berkeley, 2019.

Fig 4.7-4 Proposed Zoning, N Berkeley