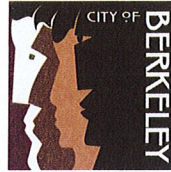


Office of the Mayor



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

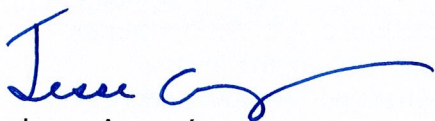
held to specifically seek input on the 2017 TOD Guidelines staff report. While we support the goals of AB 2923, we are concerned about the lack of opportunity for our community—and other impacted communities—to provide input on the TOD Guidelines that will serve as the minimum zoning standards. Of particular 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