



# Memorandum

**TO:** PLANNING COMMISSION

**FROM:** Rosalynn Hughey

**SUBJECT:** PDC17-051

**DATE:** March 24, 2021

**COUNCIL DISTRICT:** 4

<b>Type of Permit</b>	Planned Development Zoning
Demolition	Surface parking lot, Flea Market vendor structures
Proposed Land Uses	Mixed-Use Residential and Commercial
New Residential Units	Up to 3,450 units
New Commercial Square Footage	Up to 3,400,000 square feet
Additional Policy Review Items	US-101/Oakland/Mabury Transportation Policy
Tree Removals	NA
<b>Project Planner</b>	Charla Gomez
<b>CEQA Clearance</b>	Final Environmental Impact Report (EIR)
<b>CEQA Planner</b>	David Keyon

## RECOMMENDATION

Staff recommends that the Planning Commission recommend that the City Council take all of the following actions:

1. Adopt a resolution certifying the San Jose Flea Market Southside Rezoning Environmental Impact Report and make certain findings concerning significant impacts, mitigation measures, alternatives, and adopting a Statement of Overriding Considerations and a related Mitigation Monitoring and Reporting Program, all in accordance with the California Environmental Quality Act;
2. Approve an ordinance rezoning (File No. PDC17-051) an approximately 61.5-gross acre site located at 1590 Berryessa Road (Assessor Parcel Numbers 254-17-052, 053, 007, 084, 095) from the A(PD) Planned Development Zoning District to CP(PD) Planned Development Zoning District to allow up to 3,450 residential units and up to 3.4 million square feet for commercial uses;
3. Approve an ordinance repealing Section 14.30.035 of Chapter 14.30 of Title 14 of the San José Municipal Code to apply the US-101/Oakland/Mabury Traffic Impact Fee to the current project;
4. Adopt a resolution adopting the amended US-101/Oakland/Mabury Transportation Development Policy to provide a credit to the current project's Traffic Impact Fee obligation.

**PROPERTY INFORMATION**

<b>Location</b>	1590 Berryessa Road
<b>Assessor Parcel No.</b>	254-17-052, 053, 007, 084, 095
<b>General Plan</b>	Urban Village
<b>Growth Area</b>	Berryessa BART Urban Village (BBUV) Plan
<b>Zoning</b>	A(PD) Planned Development Zoning (PDC16-001)
<b>Historic Resource</b>	San Jose Flea Market, eligible as a historic resource
<b>Annexation Date</b>	June 20, 1967 (Orchard No. 44)
<b>Council District</b>	4
<b>Acreage</b>	61.5-gross acre
<b>Proposed Density</b>	Minimum 150 DU/Acre on average

**SURROUNDING USES**

	<b>General Plan Land Use</b>	<b>Zoning</b>	<b>Existing Use</b>
<b>North</b>	Residential Neighborhood	A(PD) Planned Development	Single-Family Detached Residential
<b>South</b>	Light Industrial	LI Light Industrial	DOT Service Yard
<b>East</b>	Light Industrial, and Urban Village	A(PD) Planned Development, IP Industrial Park	Berryessa BART station facility
<b>West</b>	Heavy Industrial	LI Light Industrial and HI Heavy Industrial	Graniterock (asphalt plant), recycling yard

**REZONING PROJECT LOCATION AND CONTEXT**

The Flea Market southside (object of this rezoning) is located south of Berryessa Road between the BART tracks alignment to the east and Coyote Creek to the west. The existing uses of the site include the San Jose Flea Market, its ancillary buildings, and a parking lot north of Mabury Road (see Exhibit “A” Vicinity Map). The area surrounding the site is developed with multi-family buildings, townhomes, and a commercial site to the north across Berryessa Road, the North San Jose/Berryessa BART station, BART tracks, and related facilities to the east, and Coyote Creek to the west. Across Coyote Creek there are heavy industrial uses, including the Graniterock asphalt/gravel plant, a metal reclamation yard, asphalt recycling and warehouses. The City of San José’s Mabury storage yard is southerly of the site, south of Mabury Road.

**PROJECT BACKGROUND**

The Flea Market Planned Development Zoning (File No. PDC09-006) was adopted by City Council on November 3, 2009. That zoning allowed up to 365,622 square feet of industrial/commercial uses and up to 2,818 residential units in the 120-gross acre site of the San Jose Flea Market, including the north and south sides of Berryessa Road. The subsequent Master Planned Development Permit (File No. PD08-025) effectuated the zoning district and approved the design, construction and phasing for public improvements.

On June 2, 2015, the City Council amended the *US-101/Oakland/Mabury Transportation Policy* (“TDP”) (Agenda Item 4.3) by adopting a resolution to align the San José Flea Market site’s transportation mitigation payment (“Traffic Mitigation Payments”) schedule with both the US-101/Mabury Road Interchange project schedule and the phased development of the Flea Market Site. In conjunction with those actions, Council directed staff to return to Council with a recommended approach to increase employment-generating development on the Flea Market site beyond the 365,622 square feet currently approved, specifically on the south side of Berryessa Road.

On May 10, 2016, (Deferred from 4/19/16 - Item 11.2), the City Council approved a Conforming Rezoning (File No. PDC16-001) from the A(PD) Planned Development Zoning District to the A(PD) Planned Development Zoning District in the Flea Market north site, to eliminate a school land use and redistribute the location of residential and public park land uses on the approved Land Use Map (File No. PDC09-006) for a 1.9 gross acre area located on the north side of Berryessa Road. City Council recommended approval of the Conforming Rezoning with a condition requiring the property owner to rezone the Flea Mart site south of Berryessa Road to include a range of commercial/retail/industrial space between 1.5 and 2.2 million square feet. This condition also required significant improvements constructed on the site by November 1, 2016.

Per General Plan Land Use Policy LU-2.4, the City can reconsider existing entitlements to expand the area planned for employment uses and to increase the density of employment and residential areas within the BART Urban Village area if the developer/ property owner has not accomplished significant infrastructure improvements on the respective side of Berryessa Road within 5 years of the adoption of the Plan. No significant improvements were constructed on the south side of Berryessa Road by November 1, 2016 under the existing entitlements.

On January 18, 2018, the City received an application for rezoning of the Flea Market south site located south of Berryessa Road—this is the remaining land of the large 120-acre Flea Market site. This rezoning application is the subject of this staff report. The application requests approval for up to 3,450 residential units and up to 3.4 million square feet for commercial uses. This proposed rezoning is fully enclosed within the Berryessa BART Urban Village (BBUV) Plan boundary, and is designated with an Urban Village land use designation. On February 16, 2018, the City issued a 30-day response letter for this application which provided guidance about three possible options to process the rezoning. Option 1, the Berryessa BART Urban Village (BBUV) Plan Adoption; Option 2, Signature Project; and Option 3, 100% affordable housing units. A response letter from the applicant stated that Option 1, the BBUV Plan adoption, was the preferred option to pursue. Per the Urban Village policies in the General Plan Policy, entitlements and rezonings for market rate residential development can not occur in an Urban Village prior to Council approval of an Urban Village Plan, unless a proposed project is approved through the Signature Project process.

On August 30, 2018, the City initiated the planning process for the preparation of the Berryessa BART Urban Village Plan (BBUV) Plan. The rezoning application for the Flea Market South side was processed concurrently with the preparation of the BBUV Plan. The BBUV plan has goals and policies for land use, circulation, parking, open space, placemaking, sustainability, and other planning topics that informed all aspects of the final recommendations for this rezoning application. Most importantly, the BBUV plan has urban design standards and guidelines used to formulate the development standards of this PD zoning. The Planning Commission and City Council hearings for the rezoning application and BBUV Plan adoption will occur concurrently.

## PROJECT DESCRIPTION

The proposed rezoning would allow up to 3,450 residential units and up to 3.4 million square feet for commercial uses on an approximately 61.5-acre site where the existing San Jose Flea Market operates today. The proposed land use plan for the project allocates commercial land uses on approximately 16.3 acres (26.5%), residential land uses on approximately 13.1 acres (21.3%), riparian corridor/open space land uses on approximately 17.1 acres (27.8 %), public open space/privately owned, publicly accessible open space 5.0 acres (8.1%), and public street right-of-way dedication on approximately 10 acres (16.3%), for a total of 61.5 acres (See Exhibit “B”). The project’s proposed residential density ranges between 150 DU/acre to 260 DU/acre, which supports between 1,700 and 3,450 dwelling units. The proposed commercial Floor Area Ratio (FAR) is 3.5 to 5.2, which supports between 1.5 and 3.4 million square feet (msf) of commercial development. In addition, the proposed project provides between 7,960 and 14,250 parking spaces.

## ANALYSIS

The proposed Rezoning was analyzed with respect to conformance with:

- 1) Envision San José 2040 General Plan
- 2) Draft Berryessa BART Urban Village Plan
- 3) Title 20 of the Municipal Code (Zoning Ordinance)
- 4) City Council Policy 6-34 and Habitat Plan Riparian Setbacks
- 5) California Environmental Quality Act (CEQA)

### Envision San José 2040 General Plan

The proposed rezoning is consistent with the following General Plan Major Strategies, Goals and Policies:

**Major Strategy #3 - Focused Growth:** Strategically focus new growth into areas of San José that will enable the achievement of City goals for economic growth, fiscal sustainability and environmental stewardship and support the development of new, attractive urban neighborhoods. Focusing new growth into the Growth Areas will help to protect the quality of existing neighborhoods, while also enabling the development of new Urban Village areas with a compact and dense form attractive to the City’s projected growing demographic groups (i.e., an aging population and young workers seeking an urban experience), that support walking, provide opportunities to incorporate retail and other services in a mixed-use format, and support transit use. Planning such sites for higher, not lower, density residential development acknowledges their value as a finite land resource and enables the City to provide housing growth capacity consistent with demographic trends and the community objectives of the Envision San José 2040 General Plan.

*Analysis: This project is located within the Berryessa BART Urban Village (BBUV) Plan. Urban Villages are areas of focused growth in the City of San Jose. The project is consistent with this Strategy in that it will facilitate the maximum number units allowed under the zoning to be constructed, further supporting transit ridership at BART Station currently in operation, as well as providing more housing options in the community. The proposed project also concentrates a significant amount of commercial uses immediately adjacent to the BART station. The proposed commercial uses are consistent with the vision of the BBUV plan regarding employment generation, particularly office and Research and Development (R&D) land uses. Employment opportunities adjacent to the BART station are also important to support transit ridership. Overall, the project proposes a combination of residential and commercial development in a horizontal mixed-use development pattern that supports the goals of the BBUV Plan. This development pattern fosters the creation of more complete neighborhoods with services and more land use options that meet the daily needs of a diverse population within walking distance from the BART station.*

## General Plan Major Strategy #5 - Urban Villages

This strategy promotes the development of Urban Villages to provide active, walkable, bicycle-friendly, transit-oriented, mixed-use urban settings for new housing and job growth attractive to an innovative workforce and consistent with the Plan's environmental goal.

*Analysis: This site is located within the Berryessa/BART Urban Village (BBUV) Plan and is consistent with this Major Strategy. The Berryessa BART Urban Village (BBUV) Plan include goals, policies, standards, guidelines and action items to guide new development and private and public investment to achieve the Urban Village's vision. The BBUV Plan concentrates the planned capacities in larger opportunity sites called sub-areas or Districts. These Districts can accommodate the planned capacities adequately while preserving the surrounding established single-family neighborhoods and other areas in the Urban Village that have been recently developed (i.e. Flea Market north site).*

*The proposed rezoning is fully contained within the Flea Market South District of the BBUV Plan. The rezoning proposes a balance of commercial and residential development in a horizontal mixed-use development pattern. This development pattern facilitates the construction of residential and commercial projects independent from each other, yet close to each other, consistent with BBUV's vision for a mixed-use development that can support BART ridership adequately. The proposed rezoning is also consistent with the BBUV Plan because the balance of commercial and residential uses supports the fiscal and social benefits of shifting to a more compact and dense urban form, by encouraging new commercial and residential development at specific areas at higher residential densities and job intensities. The horizontal mixed-use approach of the proposed rezoning fosters the creation of more complete neighborhoods with services and more land use options that meet the daily needs of a diverse population within walking distance from the BART station.*

**Implementation Policy IP-1.6:** Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram, and advance Envision General Plan Vision, goals and policies.

*Analysis: Consistent with this policy, the proposed rezoning advances the General Plan's Vision, goals and policies by focusing high density and intensity development within an Urban Village adjacent to a BART station. The allowance of up to 3.4 million square feet of commercial will further the City's Regional Job Center Strategy and, together with the up to 3,450 residential units permitted by the zoning, will support BART ridership and reduce Vehicle Miles Traveled. The proposed zoning is also consistent with the proposed Land Use Diagram and goals in policies in the Draft BBUV Plan which will be considered by the Council prior to consideration of this rezoning.*

**Land Use Policy LU-2.4:** To accomplish the planned intensification of employment and residential uses at the Berryessa BART station, reconsider existing entitlements to expand the area planned for employment uses and to increase the density of employment and residential areas within the BART Station Village area if the developer/ property owner has not accomplished significant infrastructure improvements on the respective side of Berryessa Road within 5 years of the adoption of the Plan.

*Analysis: This policy states that the City should reconsider existing entitlements on the subject site if the property owner has not accomplished significant infrastructure improvements on the south side of Berryessa Road within five years of the adoption of the General Plan. The Plan was adopted on November 1, 2011. The last conforming rezoning was approved in May 10, 2016 and no significant improvements have occurred in the Flea Market south site.*

*The proposed rezoning would significantly increases the amount of residential and commercial development that would be allowed on the Flea Market site above what was allowed under the previous Planned Development Zoning. The proposed zoning would allow up to 3,450 housing units and up to 3.4 million square feet of commercial uses. In contrast the original A(PD) Planned Development Zoning District (File No. PDC09-006) only allowed up to 2,818 dwelling units and up to 365,622 million square feet of commercial development.*

*Consistent with Land Use Policy LU-2.4, City Council recommended approval of the most recent Conforming Rezoning (File No. PDC16-001) with a condition requiring the property owner to rezone the Flea Mart site south of Berryessa Road and increase the commercial/retail/industrial space from 365,222 up to 2.2 million square feet. The proposed zoning is consistent with the direction provided by the Council on May 10, 2016 because the rezoning includes a minimum of 1,500,000 square feet of commercial development.*

### **Draft Berryessa BART Urban Village Plan**

The subject site is located within the Berryessa BART Urban Village (BBUV) boundary. In the Envision San José 2040 General Plan, this Urban Village is in Horizon I. Until the BBUV Plan is adopted, the subject site has the Urban Village land use designation in the General Plan Land Use/Transportation Diagram. The Berryessa BART Urban Village (BBUV) Plan will be considered before but concurrently with the proposed rezoning application. The section evaluates the proposed zoning's conformance with the proposed BBUV Plan. Adoption of this rezoning is contingent on the approval of the BBUV by the City Council. Any changes made to the BBUV by the Council may necessitate modification to this proposed zoning and a continuation of this item to a future Council Hearing.

When adopted, the BBUV land use plan will have two land use designations on the subject site: Transit Residential and Transit Employment Center (TEC) (See Exhibit "C", BBUV land use map). The proposed rezoning is analyzed for its conformance with the Transit Residential and Transit Employment Center (TEC) land use designations of the BBUV land use plan because the adoption of the BBUV Plan precedes the approval of the rezoning application.

For residential development, the proposed site plan of the rezoning allocates approximately 13.1 acres (21.3% of the site) to residential land uses. The proposed amount and location of residential land in the rezoning closely aligns with the amount of Transit Residential allocated in the BBUV land use plan. The residential density allowed in the Transit Residential land use designation in the BBUV Plan is 95 - 500 Du/Acre. The densities of the Transit Residential land use designation in the Flea Market south site support between 2,145 residential units and 7,150 units. The proposed residential density range in the rezoning is 150 to 260 DU/acre, which supports between 1,700 and 3,450 dwelling units, on 13.1 acres of land.

In addition, and consistent with the BBUV Plan, the Transit Residential designation of the General Plan authorizes new high-density, residential, or mixed-use residential development in sites located within walking distance of mass transit, such as the Berryessa/ North San José Station. Transit Residential is typically associated with high-density residential development, with vertical integration of commercial retail on the first floor, which supports a pedestrian-oriented environment. The land designated as residential in the rezoning application land use map and associated residential land use intensities are consistent with the land uses supported in the Transit Residential land use designation in the General Plan. Therefore, both the proposed residential densities and proposed residential land uses in the rezoning are consistent with the BBUV Plan, as an extension with the Envision San Jose 2040 General Plan.

The proposed rezoning allocates approximately 16.3 acres (26.5% of the site) to commercial land uses. The proposed amount and location of commercial land in the rezoning aligns with the amount of Transit Employment Center (TEC) allocated in the BBUV land use plan. The commercial Floor Area Ratio (FAR) allowed in the TEC land use designation for the Flea Market Property in the BBUV is 3.5 to 10 FAR. The proposed commercial FAR range in the rezoning is 3.5 to 5.2, which supports between 1.5 and 3.4 million square feet of commercial development, on 16.3 acres of land.

Within this Urban Village plan, the Transit Employment Center designation is applied to areas within walking distance of the Berryessa/ North San José BART Station, which are envisioned for intensive job creation. Uses allowed in this designation include retail and service commercial uses on the first two floors, office, research and development (R&D), as well as other supportive commercial uses such as personal services. In particular, this Urban Village Plan envisions types of businesses with high employee densities that would place a premium on being adjacent to the BART Station and would support BART ridership. The land designated as commercial in the rezoning application land use map and the associated commercial land use intensities are



consistent with the TEC land use designation proposed for the Flea Market site in the BBUV.

### **Zoning Ordinance Conformance**

The project site is in the original A(PD) Planned Development Zoning District (File No. PDC09-006). This existing A(PD) Planned Development Zoning District would not permit the proposed development, as the current zoning allows up to 2,818 dwelling units and up to 365,622 square feet of commercial development. Also, the existing A(PD) Planned Development Zoning District requires different setbacks, heights, open space, parking, and other development standards that do not support the proposed building design and development of the proposed rezoning.

The site is proposed to be rezoned from an A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District. General Plan Implementation Policy IP-8.5 allows the Planned Development Rezoning process to be utilized if the Planned Development Rezoning process would better conform to the General Plan goals and policies than a conventional zoning district. The Commercial Pedestrian (CP) is the default zoning district in Urban Village areas in the municipal code so it is the recommended base district for this rezoning and best conforms with the Berryessa BART Urban Village (BBUV) plan goals, policies, standards, and guidelines. Therefore, if approved, the rezoning shall be modified from an A(PD) Planned Development Zoning District to CP (PD) Planned Development Zoning District.

Section 20.120.510 General Development Plan Requirements of Title 20 of the San Jose Municipal Code establishes the criteria for development standards in Planned Development (PD) zoning districts. Sub-section 2 states that a PD zoning district must include and specify certain requirements that are individually designed to meet the needs of the territory so zoned. The proposed rezoning application includes a full draft of the applicable PD zoning standards to this rezoning (See Attachment B Draft Development Standards). The proposed PD zoning standards are consistent and make reference to the Berryessa BART Urban Village (BBUV) Plan goals, policies, standards and guidelines and other requirements in the Plan.

For residential areas, the PD standards permit land uses consistent with the Commercial Pedestrian (CP) zoning district and the R-M Multiple Residence zoning district of the San Jose Municipal Code. The Commercial Pedestrian (CP) is the base zoning district for Urban Village plans. The R-M Multiple Residence zoning district permit uses associated with high-density multi-family development. For commercial areas, the PD standards allow land uses consistent with the Commercial Pedestrian (CP) zoning district and offices / research and development (R&D). The Commercial Pedestrian (CP) is the base zoning district for Urban Village plans. Commercial uses associated with the office / research and development (R&D) are consistent with jobs density and employment capacity envisioned in the BBUV Plan. The PD standards also restrict, prohibit or condition uses as necessary in order to be consistent with the vision and goals of the Berryessa BART Urban Village (BBUV) Plan, such as car-centric land uses that do not support the vision of the BBUV Plan as an employment-rich, transit-oriented Urban Village.

### **Parking**

The Zoning Ordinance describes parking ratios required for multi-family and commercial developments. The parking ratios for multifamily are: 1.25 spaces for studios/ one bedroom unit, 1.7 spaces for a two-bedroom unit, and 2 spaces for a three-bedroom unit. The proposed rezoning does not include a specific residential program for the total number of one-, two-, or three-bedroom units. The proposed rezoning assumes 1.2 stalls/dwelling unit parking ratio, on average, for the total maximum of 3,400 dwelling units, totaling 4,125 parking stalls. For commercial development, the proposed rezoning is for up to 3,400,000 million square feet. The proposed rezoning assumes a 3/1,000 square feet parking ratio, on average, for a total of 10,125 parking spaces. The total maximum amount of parking proposed for both commercial and residential uses is 14,250 spaces. A reduction of 50% of parking would represent 7,960 parking spaces.

Projects located in an Urban Village plan are eligible for up to 50% reduction of parking pursuant to [Section 20.90.200](#) of the Zoning Ordinance. The rezoning has a request for reduction of parking for up to 50% consistent with what is allowed in Urban Village planning areas. The zoning ordinance requires the implementation of Transportation Demand Management (TDM) measures to justify parking reduction.

The rezoning has a PD standard for parking. The PD standards states that motor vehicle parking supply, parking management, and parking reduction for each subsequent Planned Development Permit shall be governed by the goals, strategies, and parking policies described in the Berryessa BART Urban Village Plan parking chapter. The proposed parking calculations for the purposes of this rezoning are conceptual. Specific parking supply, parking management and parking reduction at the Planned Development Permit level shall be regulated by the goals, strategies, and parking policies described in the Berryessa BART Urban Village Plan parking chapter. For purposes of design and planning of parking (including the type of parking such as electric vehicles), approved parking at the Planned Development Permit level shall be regulated by Title 20 of the municipal code, as amended. The PD standards of this rezoning discuss this last provision.

The BBUV Plan also contains an appendix with the Berryessa TDM Plan that is adopted together with the Plan. The Berryessa TDM Plan includes a list of “required or mandatory” and “additional” TDM measures that projects can select to pursue parking reduction. The City supports parking reduction up to 50% as proposed in this rezoning consistent with the parking reduction policy of the BBUV and corresponding Berryessa BART TDM Plan. An additional appendix in the BBUV Plan include a Preliminary Business Plan for the formation of a Transportation Management Association (TMA) which discusses the specifics of how the TMA will be formed and funded.

### **City Council Policy 6-34 and Habitat Plan Riparian Setbacks**

City policies and regulations, including the Envision San José 2040 General Plan, the Zoning Code, and the City Council-adopted Habitat Plan include measures to limit development and protect sensitive riparian resources. [City Council Policy 6-34](#) provides guidance on the implementation of riparian corridor protection consistent with all City policies and requirements that provide for riparian protection. The policy indicates that riparian setbacks should be measured from the outside edges of riparian habitat or the top of bank, whichever is greater, and that development of new buildings and roads generally should be set back 100 feet from the riparian corridor defined by the outer edge of riparian vegetation.

#### **City Council Policy 6-34**

*Analysis: On the project site, the City’s riparian setback extends 100 feet landward from the outer edge of the riparian canopies of Coyote Creek and Upper Penitencia Creek. The setback is applicable to all proposed development with the exception of the proposed bridge crossings over Upper Penitencia Creek, which are required to cross the riparian corridor; the stormwater outfalls, which need to be located within the setback; and the trails, which are allowable uses in a riparian setback. These project features are exempt from the riparian setback requirements. In contrast, urban development, including new hardscape and landscaping associated with the proposed recreation area and arterial road that parallels Coyote Creek along the southwestern edge of the site, is not exempt from riparian setback requirements.*

*Per the proposed rezoning site plan, the entire 100-foot riparian setback (10.08 acres) would be modified in some way. Currently, this area is composed of urban-suburban (i.e., asphalt; 7.52 acres) and golf course/urban park (2.56 acres) habitats that are highly disturbed by human activity. Most of the 100-foot riparian setback would be used as open space (including trails), but a total of 1.36 acres of other urban uses are also proposed in the setback along Coyote Creek. These urban uses, which include a small portion of a recreation area and an arterial road that parallels Coyote Creek along the southwestern edge of the site, would consist of 1.02 acres of new hardscape and 0.34 acres of landscaping.*

*Development under the proposed rezoning would result in the construction of 1.42 acres of new hardscape within the 100-foot setback. Of this acreage, 0.40 acre of new hardscape would result from trail construction in areas that are not currently hardscaped (allowed under Policy 6-34), and 1.02 acre would result from other urban development and would require a riparian setback exception. However, the project would also remove 5.52 acres of existing hardscape (i.e., asphalt) from within the 100-foot riparian buffer and replace it with vegetated open space, resulting in a substantial net decrease (4.10 acres) in impervious*



*surface within the setback, a beneficial impact. In addition, construction of two bioretention basins which would implement post-construction measures for stormwater treatment, consistent with the requirements for an NPDES Permit would improve the quality of runoff entering the creeks from the project site over existing conditions. The replacement of hardscape with vegetated open space would also improve the quality of the habitat within the setback for use by wildlife.*

### **Santa Clara Valley Habitat Conservation Plan Riparian Setbacks**

The proposed arterial roadway along the west side of the project (Sierra Road) would also encroach into the 100-foot riparian setback required under Condition 11 of the Santa Clara Valley Habitat Conservation Plan (Habitat Plan). A total of about 1.36 acres of non-exempt development would encroach into this setback, including 1.02 acres of new hardscape and 0.34 acres of landscaping, all associated with the proposed recreation area and the new Sierra Road. A portion of a proposed roundabout would also encroach into the minimum 35-foot setback required under Condition 11 of the Habitat Plan. The proposed bridge crossings, stormwater outfalls, and trails are allowable uses in riparian setbacks and are exempt from Condition 11 setback requirements.

#### Analysis

*According to Condition 11 of the Habitat Plan, riparian setback exceptions for development adjacent to Category 1 streams should not reduce the setback to less than 100-feet for flat sites, with the potential to reduce this setback down to a minimum of 35 feet from the top of bank or edge of riparian vegetation (whichever is most restrictive) for previously developed areas.*

*According to City Council Policy 6-34, the City would consider a reduction in the riparian setback requirement under specific circumstances, including the following that apply to the project site:*

- *Sites that are being redeveloped with uses that are similar to the existing uses or are more compatible with the Riparian Corridor than the existing use, and where the intensity of the new development will have significantly less environmental impacts on the Riparian Corridor than the existing development.*
- *The existence of legal uses within the minimum setback. In considering whether to grant a setback reduction, the City considers whether a project meets some or all of the following conditions.*

*There is no reasonable alternative for the proposed riparian project that avoids or reduces the encroachment into the setback area.*

*The City conducted an analysis based on the BBUV overall project design and objectives. The City considered relocation of the Sierra Road encroachment and concluded that it was not feasible to maintain appropriate circulation and encroachment without significantly affecting land massing and development capacity envisioned in the BBUV Plan, which the zoning conforms to. Under the proposed rezoning, a minimal encroachment of Sierra Road within the 35-foot setback per the Habitat Plan allows for more efficient use of the site and facilitates more development capacity through better configured blocks. The exception for the setback is for a roundabout on Sierra Road (not for blocks or buildings, which fully meet the Riparian setback requirements). In response to public comments on the Draft EIR, the applicant revised the roundabout design to minimize encroachment into the 35-foot minimum Habitat Plan setback by removing sidewalks and non-riparian supporting landscaping. With the revised design, approximately 100 square feet of the roundabout would encroach into the 35-foot minimum Habitat Plan setbacks. However, this encroachment would be offset by improvements in riparian habitat along Coyote and Upper Penetencia Creeks of approximately 10 acres, including the removal of 5.52 acres of hardscaping for the Flea Market parking lot, within 100-feet of the riparian corridors, and restoration with native trees and shrubs appropriate to the area per Mitigation Measure BIO-2.2 in the Draft EIR.*

*A strict conformance with the 100-foot riparian setbacks required under Policy 6-34 and Habitat Plan*

*Condition 11, including relocation of Sierra Road outside of the setback, would result in a reduction of approximately three to five acres of developable land, which would substantially diminish the development capacity on the site and in the BBUV Plan.*

*The reduced setback will not significantly reduce or adversely impact the riparian corridor.*

*In limited areas along Coyote Creek, the project would reduce the riparian setback compared to existing conditions by constructing Sierra Road and associated landscaping in areas that are currently unpaved but are not riparian habitat.. This encroachment of hardscape and landscaping may adversely affect a portion of the Coyote Creek corridor by removing potential habitat that could be used by riparian-associated species and introducing vehicle traffic closer to the riparian corridor. This encroachment would not result in any direct loss of riparian habitat. A proposed recreation area near the confluence of Coyote Creek and Upper Penitencia Creek would encroach a short distance into the riparian setback; however, this limited encroachment would not result in substantial adverse effects to the riparian corridor. No buildings are proposed within the riparian setback. Overall, the project would improve habitat conditions within the riparian setback along the remainder of the Coyote Creek and Upper Penitencia Creek segments at the site. The project proposes to remove asphalt and restore vegetation in most of the area within the riparian setback, resulting in a 4.10-acre net decrease in impervious surface and increase in vegetated area within the setback.*

*The proposed uses are not fundamentally incompatible with riparian habitats.*

*Under existing conditions, animals make some use of the golf course/urban park area along Coyote Creek, where project construction of the arterial road and associated landscaping would encroach into the riparian setback. However, based on the Biological Resources Report prepared for the project by H.T. Harvey & Associates (Appendix C to the Draft EIR), the value to riparian plant and animal communities of the area where encroachment would occur is low due to the absence of trees, scarcity of shrubs, dominance by non-native vegetation, and intensity of disturbance. Although the replacement of portions of this area with hardscape and landscaping would reduce the ability of riparian animals to use that habitat, the effect of such encroachment on any one species or community would be low. No buildings are proposed within the 100-foot riparian setback. The benefits to riparian communities from the removal of asphalt and revegetation with native species throughout most of the riparian setback would be substantial. Overall, considering both the encroachment and enhancement, the proposed land uses within the setback would be more compatible with riparian habitats than the existing conditions. The proposed uses would collectively benefit the riparian corridor and would not be fundamentally incompatible with riparian habitats.*

*There is no evidence of stream bank erosion or previous attempts to stabilize the stream*

*banks that could be negatively affected by the proposed development within the setback area.*

*Per the Draft EIR, there is no evidence observed of substantial stream bank erosion on or immediately downstream from the project site. Encroachment into the riparian corridor is not expected to cause or exacerbate any erosion, as the encroachment along Coyote Creek would occur on a flat site well above the elevation of the creek, in an area that is currently exposed to creek flow very infrequently. Therefore, no adverse impacts of the features that would encroach within the setback area on stream bank erosion or previous attempts to stabilize the stream banks are anticipated.*

*The granting of the exception will not be detrimental or injurious to adjacent and/or downstream properties.* Although the project would reduce the setback along a segment of Coyote Creek, this setback reduction would not affect adjacent properties. Even when reduced, the setback on the project site would still be greater than the setback immediately upstream from the site along Coyote Creek, where industrial land uses encroach to the edge of the riparian corridor. The project site is also separated from upstream properties by Mabury Road. The project would not result in flow-related impacts to properties upstream

*from the project site. Granting a riparian setback exception would not be detrimental or injurious to adjacent properties across Coyote Creek, nor it would be detrimental or injurious to downstream properties.*

*The project will result in a net improvement in riparian habitat compared to existing conditions. Despite some encroachment into the 100-foot setbacks required by the Policy 6-34 and Condition 11 of the Habitat Plan, the project will restore approximately 10 acres of hardscape or disturbed land to open space with native landscaping appropriate to the area, as described in Mitigation Measure BIO-2.2 in the Draft EIR. For further discussion of the project's impacts to the riparian corridor, please see Section 3.4 of the Draft EIR, the supporting Biological Resources Report (Appendix C to the Draft EIR), and the First Amendment to the Draft EIR, which can all be found at <https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/the-san-jose-flea-market-southside-rezoning>.*

## **PROPOSED AMENDMENT TO THE US 101/OAKLAND ROAD TDP**

### **Background**

On December 18, 2007, the City Council adopted Resolution No. 74195, which created the TDP. The TDP is intended to help manage traffic congestion associated with the development in the area by implementing a Traffic Impact Fee (TIF) to partially fund the improvement of the existing US-101/Oakland Road interchange and construct a new US-101 interchange at Mabury Road. The TDP identifies these two interchanges as necessary improvements in order to provide adequate access to the US-101 freeway for new development and the future Berryessa BART Station.

On June 2, 2015 the City Council adopted the latest amendments to the US-101/Oakland/Mabury TDP to restructure the transportation mitigation payment schedule for the Flea Market development to align with the US-101/Mabury interchange project schedule. Specifically the update: (1) required mitigation payments in lieu of the developer performing engineering study and/or design work, (2) revised maximum unit counts per phase to better reflect the current proposed build-out of the site north of Berryessa Road consistent with the approved zoning and related PD permit approvals, and (3) advanced \$800,000 from Phase III to Phase II to support the City's continued efforts towards the PSR/PR and EIR for the US-101/Mabury Interchange. The policy update did not alter the total amount of required Traffic Mitigation Payments (total \$16 million in 2008 dollars).

### **Proposed TDP Amendment**

Since the 2015 TDP amendment, the San Jose Flea Market project has constructed 1,000 units and 118,580 square-feet of commercial space on the northside of Berryessa Road from a total of 2,818 residential units and 265,000 square-feet of commercial space that was zoned under PDC03-108 for both the north and south sides of the Flea Market. Consistent with the 2015 TDP, the Flea Market has paid \$11,400,000 (in 2008 dollars) of the total \$16 million obligation with Building Permits for construction on the northside, which equates to 71% of the required traffic mitigation payments. The Flea Market developer has requested that the City provide a credit to be applied against the Flea Market South's TIF due under the Traffic Impact Fee program and the TDP. The credit is based on the difference between the Traffic Mitigation Payments made in accordance with the 2015 TDP and the actual buildout of residential and commercial units on Flea Market North. The Traffic Mitigation Payments paid in accordance with the 2015 TDP is in excess compared to the actual buildout of residential and commercial units on Flea Market north.

The proposed policy amendment is highlighted below:

Current: The TDP does not contain provisions allowing the City to provide credits to the Flea Market development for the Traffic Mitigation Payments. The TDP also does not address new land use approvals for the Flea Market Site, which under the TDP and Traffic Impact Fee program are new development required to pay the TIF.

Proposed: The TDP amendment specifically includes a calculation methodology to determine a trip credit to be applied to the Flea Market South TIF. The proposed trip calculation methodology is shown below in Table 1.

**Table 4. Trip Credit Calculation**

Flea Market Traffic Mitigation Payment Obligation (2015 TDP)	\$16M
Flea Market Traffic Mitigation Payments Made (as of January 2020)	\$11.4M
Flea Market Traffic Mitigation Payments (Percentage of Total)	71%
Original Flea Market Zoning Trips to Mabury Road Interchange	730
Equivalent Trips Paid by Flea Market Traffic Mitigation Payments	518
Trips Produced by Flea Market North using City's Travel Demand Model	327
Number of Trips to be Credited to Flea Market South Zoning TIF	191

Approval of this modification is consistent with the TDP in that it continues to:

1. Support the City's current strategy of focusing on the US-101/Mabury Interchange project via defined payments from the Flea Market development; and
2. Encourage greater density within the BART Station area.

The proposed update to the TDP was analyzed with respect to conformance with: 1) the Envision San Jose 2040 General Plan; and 2) the California Environmental Quality Act (CEQA).

In order to apply the US-101/Oakland/Mabury Traffic Impact Fee to the current Flea Market Southside project, the City Council will need to approve an ordinance repealing Section 14.30.035 of Chapter 14.30 of Title 14 of the San José Municipal Code. The current Section 14.30.035 excludes the Flea Market project from Traffic Impact Fees. Including the Flea Market development is consistent with the TDP and other developments.

#### Envision San Jose 2040 General Plan Conformance

The project was analyzed for consistency with the following General Plan goals and policies:

- Transportation Policy TR-1.4: Through the entitlement process for new development, fund needed transportation improvements for all transportation modes, giving first consideration to improvement of bicycling, walking and transit facilities. Encourage investments that reduce vehicle travel demand.
- Infrastructure Policy IN-1.4: Give priority to the development of infrastructure within identified Growth Areas to support the amount, type and location of new development planned through the Land Use/Transportation Diagram and other General Plan goals

*Analysis: The Flea Market site is located in the Berryessa BART Station Growth Area. The Flea Market project provides funding to help build out the City's transportation network along the US-101 transportation corridor, as defined in the General Plan's Land Use/Transportation Diagram. The US-101/Mabury Road interchange included in the TDP provides needed capacity for the BART station located adjacent to the Flea Market site.*

- Transportation Policy TR-3.3: As part of the development review process, require that new development along existing and planned transit facilities consist of land use and development types and intensities that contribute toward transit ridership. In addition, require that new development is designed to accommodate and to provide direct access to transit facilities.

*Analysis: The Flea Market project is within the 5-mile radius of the Berryessa BART station. The Planned Development Zoning includes land use densities to promote transit ridership and multimodal connections to the BART station.*

## CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

### Environmental Analysis for Proposed Rezoning

The City of San José, as the lead agency for the proposed project, prepared a Draft Environmental Impact Report (DEIR), which was circulated for public review and comment from October 2, 2020 to December 1, 2020. In response to public requests, the City extended the initial 45-day public circulation period that ended on November 16, 2020 by 15 additional days. The City prepared a First Amendment to the DEIR that provides responses to public comments submitted during the public circulation period and revisions to the text of the DEIR. The First Amendment together with the DEIR constitute the Final Environmental Impact Report (FEIR) for the proposed project. The following discussion outlines the environmental impacts discussed in the DEIR.

### *Identified Significant Unavoidable Impacts*

The DEIR found that the project would result in the following significant and unavoidable impacts:

- 1) Impact AIR-2: Operational air quality. Operational period air emissions would exceed Bay Area Air Quality Management District (BAAQMD) thresholds for Reactive Organic Gases, Nitrogen Oxide, and Particulate Matter (PM<sub>10</sub>).
- 2) Impact CUL-1: Cultural resources - demolition of San Jose Flea Market: The project would demolish the Flea Market structures and open space, which are eligible for listing in the California Register of Historical Resources (CRHR) and eligible for local listing as a City Landmark.

The DEIR includes mitigation measures to address these impacts. Mitigation MM AIR-2.1 addresses operational air quality by requiring approval of a Transportation Demand Management (TDM) program prior to Planned Development Permit issuance. Mitigation MM CUL-1.1 addresses demolition of the San Jose Flea Market by requiring documentation of the culture and use of the site. However, neither of these mitigation measures would reduce these impacts to a less than significant level.

Statement of Overriding Considerations in the proposed CEQA resolution finds that benefits of the project outweigh its significant adverse environmental impact. Specifically, it finds that the significant, unavoidable impacts of the project are acceptable because: i) the project would develop high-density commercial and residential uses adjacent to the Berryessa BART station, leveraging the proximity to high-frequency transit increase transit use and reduce per-capita vehicle miles traveled (and in turn per-capita GHG emissions) for residents and uses of the site; and ii) the project will be consistent with the vision, goals, and policies of the Berryessa BART Urban Village (BBUV) Plan and advance Envision San Jose 2040 General Plan goals for complete communities, with high-density residential in close proximity to existing and future commercial/retail uses.

### *Environmental Impacts and Mitigation Measures*

In addition to the significant and unavoidable impacts described above, the DEIR identified the following impacts that would be reduced to a less than significant level with the implementation of mitigation measures:

- Impact AIR-1: Construction period air quality, particularly from construction equipment, dust, and volatile organic compounds on exterior architectural coatings
- Impact BIO-1: Impacts to special-status fish from dewatering and modification or reconstruction of outfalls
- Impact BIO-2: Encroachment into Santa Clara Valley Habitat Conservation Plan riparian corridor setbacks
- Impact BIO-3: Invasive plant species impacts on riparian habitat
- Impact BIO-4: Increased bird strikes due to glass facades and interior/exterior lighting for the proposed buildings
- Impact BIO-5: Tree removal
- Impact BIO-6: Impacts to nesting migratory birds during the breeding season during construction
- Impact CUL-2: Potential impacts to sub-surface archaeological resources during construction
- Impact HAZ-1: Potential soil contamination from underground and aboveground storage tanks

- Impact HAZ-2: Potential impacts from the disposal of existing hazardous materials on site
- Impact HAZ-3: Potential impacts from contaminated soil imported to the project site
- Impact HAZ-4: Impacts from encountering residual concentrations of chemicals during construction that could expose construction workers, neighboring uses, and the environment to hazardous materials
- Impact HAZ-5: Construction and operation of the project could uncover groundwater monitoring wells, historic water supply wells, and septic systems associated with previous development
- Impact NOI-1: Construction noise would impact adjacent residents for a period greater than one year

As part of the certification of the Final EIR, the City Council will need to approve a related Mitigation Monitoring and Reporting Program (MMRP) for the proposed project. A copy of the signed MMRP is attached to the proposed CEQA resolution.

### ***CEQA Alternatives***

As required under CEQA, the DEIR evaluated three alternatives, including a no project alternative. These alternatives are summarized as follows:

No Project Alternative: No redevelopment of the project site and continued operation of the San Jose Flea Market in its current configuration.

Existing Entitlement Alternative: This alternative would develop the remaining development permitted on the site under the approved Planned Development zoning (PDC03-108). The remaining development capacity for the project site is 1,818 residential units and 247,042 square feet of commercial development. This alternative would include demolition of the San Jose Flea Market.

Reduced Footprint Alternative: This alternative would retain the San Jose Flea Market and develop only 16-acres on the southern portion of the site with up to 395 residential units and up to 1.875 million square feet of commercial office development.

### ***Circulation and Public Comments***

The DEIR circulated for public review and comment from October 2, 2020 to December 1, 2020. Comments were submitted by several individuals and the following agencies and organizations: the California Department of Transportation (Caltrans), County of Santa Clara Roads and Airports Department, Bay Area Air Quality Management District, County of Santa Clara Parks and Recreation, Santa Clara Valley Transportation Authority, Valley Water, Hispanic Chamber of Commerce of Silicon Valley, Santa Clara Valley Audubon Society, SOMOS Mayfair, Soft Lights, Albertson's Companies, and the Pacific Gas & Electric Company. Issues raised in these comment letters include, but are not limited to the following:

- Adequacy of notification and public outreach efforts for the project and environmental review process, especially to the San Jose Flea Market vendors;
- Encroachments of the proposed roadway network and improvements into the 35' riparian corridor setback required by the Santa Clara Valley Habitat Conservation Plan and reductions in riparian setbacks in the City's Riparian Corridor Protection and Bird-Safe Design Policy;
- Adequacy of alternatives evaluated, including recommended design alternatives for preserving at least a portion of the San Jose Flea Market operations or off-site relocation;
- Requests for an analysis of transit delay due to traffic congestion from the project;
- Requests for additional mitigation measures during construction de-watering to avoid pollutants from entering adjacent creeks or groundwater;
- A request for an economic impact analysis to evaluate impacts of the project on the San Jose Flea Market vendors and surrounding community;
- Concerns about light and glare impacts, especially to the adjacent riparian habitat;



In response to comments concerning encroachment into the riparian setback, the applicant modified the conceptual project design to remove permanently disturbed areas within the 35' Santa Clara Valley Habitat Conservation Plan setbacks except for an approximately 110 sq. ft. portion of a roundabout.

The City responded to all comments received on the DEIR and incorporated them into the First Amendment to the DEIR. The First Amendment, taken together with the Draft SEIR, constitutes the Final EIR. The DEIR and First Amendment to the DEIR are available for review on the project page on the City's Active EIRs website at: <https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/the-san-jose-flea-market-southside-rezoning>.

### ***EIR Recirculation Unnecessary***

The comments received do not identify substantive inadequacies in the DEIR or new previously unidentified significant impacts that require recirculation. The recirculation of an EIR is required when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review but before certification. "Information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an DEIR is not "significant" unless the DEIR is changed in a way that deprives the public of meaningful opportunity to comment on a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (CEQA Guidelines Section 15088.5).

In accordance with CEQA Guidelines Section 15088, the First Amendment to the DEIR for the project includes written responses to all comments received during the public review period for the DEIR. As required by Section 15132 of the CEQA Guidelines, the responses in the First Amendment to the DEIR address significant environmental points and comments on the content and adequacy of the EIR. The responses and comments provide clarification and refinement of information presented in the DEIR and, in some cases, correct or update information in the DEIR. No significant new information has been added to the EIR since publication of the DEIR; therefore, the EIR does not need to be recirculated.

### **Environmental Analysis for Proposed TDP Amendment**

The City conducted project level CEQA analysis of the US 101/Oakland/Mabury TDP in 2007 through preparation of the Final Environmental Impact Report for the King and Dobbin Transit Village and US-101/Oakland/Mabury Transportation Development Policy Environmental Impact Report (Resolution No. 74195.1). Subsequent to this action, a TDP amendment on June 2, 2015 was adopted by City Council (Resolution No. 77365). The Addendum concluded that the implementation of the proposed update to the US-101/Oakland/Mabury Transportation Development Policy would not result in any new significant impacts, impacts that are cumulatively considerable, or will directly or indirectly cause substantial adverse effects on the environment beyond those disclosed and evaluated in the Final EIRs. As part of this project, the TDP will be further amended to include a trip credit for the Traffic Mitigation Payments already received under the previous land use entitlements. No changes to physical improvements anticipated in the King and Dobbin Transit Village and US-101/Oakland/Mabury Transportation Development Policy Environmental Impact Report and Addenda are proposed as part of this fee credit. Therefore, the fee credit is consistent with the Final EIR of the TDP. Based on the analysis above, the City prepared a Determination of Consistency with the US 101/Oakland/Mabury/Transportation Development Policy and Addenda thereto (Resolution no. 74195.1).

## **PUBLIC OUTREACH**

Staff followed [Council Policy 6-30: Public Outreach Policy](#) to inform the public of the proposed project. A notice was posted on the property, and staff created a webpage to provide information and updates on the project, <https://www.sanjoseca.gov/index.aspx?nid=6161>. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

### **Community Meeting**

A community meeting for the rezoning and Environmental Impact Report (EIR) scoping meeting was held on August 16, 2018, at the Vinci Park Elementary School where approximately 50 members of the public attended. Those in attendance were generally supportive of the project but expressed concerns with the scale of the proposed development and associated impacts in various issues from traffic to building heights. City staff stated that those issues would be analyzed and addressed over the course of the BBUV Plan preparation, which would inform the size and scale of the development in the proposed rezoning. The BBUV Plan addressed comments from the community regarding the proposed rezoning application, as discussed below.

### **Community Outreach and Engagement for the BBUV Plan**

The proposed rezoning was analyzed as part of planning process for the BBUV Plan. The City conducted extensive community outreach and civic engagement during the BBUV Plan preparation. The City held three community workshops with the community at three key milestones of the planning process. The first workshop was held on November 15, 2018 and discussed the Plan goals and objectives. The second workshop was held on May 2, 2019 and discussed the concept plans and proposed development strategies. The third workshop was divided on a series of three Zoom webinars held on October 15, 2020, October 22, 2020, and October 26, 2020, due to Covid-related restrictions for hosting community meetings. The third workshop discussed the final BBUV Plan draft. The vast majority of the comments and community feedback received in all three workshops was of broad support for the BBUV Plan and the proposed development included in the rezoning as part of the Plan.

### **Correspondence with existing Flea Market Vendors**

Attached to this report are the information provided by the applicant regarding meetings with the existing tenants or vendors of the San Jose Flea Market. The applicant held an open house with the vendors on December 6th, 2020 during which vendors could stop by and learn about planning around the BART Station, the proposed rezoning, and discuss the future of the Flea Market. A flyer was distributed to each vendor to advertised December 6th and December 20<sup>th</sup>, 2020. The applicant was available from 10am to 1pm and a Spanish translator was available to answer questions. Approximately 80 people stopped by during the 3-hour period. Another open house with the same format was held from 8am to 10am on December 20th. The open house meetings were held at different location within the San Jose Flea Market grounds.

The City also provided the applicant with the copies of formal notices for the Planning Commission and City Council hearings of this rezoning to be distributed to the Flea Market vendors. Per City's policy, the applicant also installed large boards on the property, in all major roads or entrances, regarding the proposed rezoning application. The boards were installed in 2018 when the City began to analyze the proposed rezoning and they remain on site today.

The City reached out to the project's applicant to confirm whether or not there is a formal agreement between the City, the property owner, and the vendors regarding relocation and notification to the vendors. The applicant confirmed that such formal agreement does not exist. The applicant states that the Flea Market ownership (for 15 years) has made the public commitment to the vendors and to the City Council that ownership will provide at least one-year advance notice to the vendors if the Flea Market is going to close or relocate. The applicant states that such commitment stands today. The applicant also states that they have communicated with the vendors continuously regarding this commitment as they meet with them. The applicant states that there is no timeline for future development currently, therefore, the one-year notification has not occurred yet. The applicant states that the Flea Market ownership is working hard to keep the market successful through 2021 and beyond.

**Project Manager:** Charla Gomez

**Approved by:** /s/ , Deputy Director for Rosalynn Hughey, Planning Director

<b>ATTACHMENTS:</b>	
Exhibit A:	Vicinity Map
Exhibit B:	Proposed Land Use Map
Exhibit C:	General Plan Map
Exhibit D:	Draft Zoning Ordinance
Exhibit E:	Draft Development Standards
Exhibit F:	Planned Development Zoning Plan Set
Exhibit G:	Draft CEQA Resolution and MMRP
Exhibit H:	Draft Ordinance Repealing Section 14.30.035 of Chapter 14.30 of Title 14
Exhibit I:	Draft Resolution Amending US-101/Oakland/Mabury TDP
Exhibit J:	Proposed Amendment to US-101/Oakland/Mabury TDP
Exhibit K:	Public Correspondence

<b>Owner:</b>	<b>Applicant:</b>	<b>Applicant's Representative:</b>
Berryessa FM Development LLC. The Flea Market Inc. 1590 Berryessa Rd San Jose, CA 95133	Berryessa FM Development LLC. The Flea Market Inc. 1590 Berryessa Rd San Jose, CA 95133	Erik E. Schoennauer, THE SCHOENNAUER COMPANY, LLC. 2051 Junction Ave., Suite 100 San Jose, CA 95131

## **PDC17-051 List of Attachments**

Exhibit A:	<a href="#"><u>Vicinity Map</u></a>
Exhibit B:	<a href="#"><u>Proposed Land Use Map</u></a>
Exhibit C:	<a href="#"><u>General Plan Map</u></a>
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Exhibit E:	<a href="#"><u>Draft Development Standards</u></a>
Exhibit F:	<a href="#"><u>Planned Development Zoning Plan Set</u></a>
Exhibit G:	<a href="#"><u>Draft CEQA Resolution and MMRP</u></a>
Exhibit H:	<a href="#"><u>Draft Ordinance Repealing Section 14.30.035 of Chapter 14.30 of Title 14</u></a>
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Exhibit K:	<a href="#"><u>Public Correspondence</u></a>

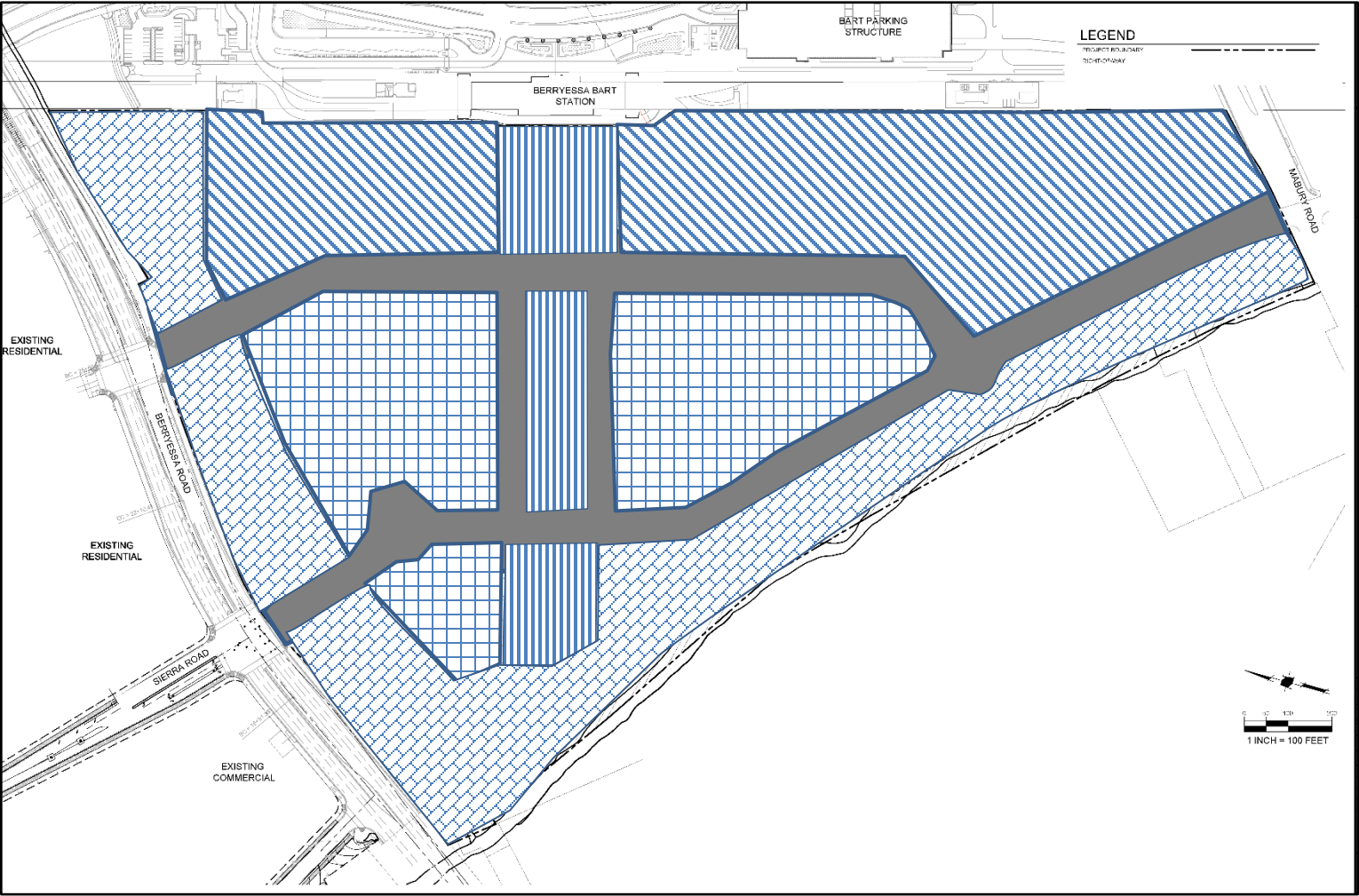
[Correspondence Received After March 17, 2021](#)

## Exhibit “C” Berryessa BART Urban Village (BBUV) Land Use Map










# Exhibit “B” Proposed Land Use Map



## PERMITTED USES

HATCH PATTERN	LAND USE	AREA	PERCENT
	RIPARIAN CORRIDOR/ OPEN SPACE	±17.1 AC	27.8%
	PUBLIC OPEN SPACE/ PRIVATELY OWNED, PUBLICLY ACCESSIBLE OPEN SPACE	±4.9 AC	8.0%
	PUBLIC STREET RIGHT-OF-WAY DEDICATION	±10.0 AC	16.3%
	PERMITTED USES OF THE CP COMMERCIAL PEDESTRIAN ZONING DISTRICT, OFFICE AND RESEARCH & DEVELOPEMENT	±16.4 AC	26.5%
	PERMITTED USES OF THE RM MULTIPLE RESIDENCE AND CP COMMERCIAL PEDESTRIAN ZONING DISTRICTS	±13.1 AC	21.3%
GROSS SITE AREA:		±61.5 AC	100%

NOTE: SIZE AND LOCATION OF PUBLIC RIGHT-OF-WAY IS APPROXIMATE AND MAY BE REFINED AS PROJECT PROGRESSES.



## Exhibit "A" Vicinity Map



## 4. Open Space & Placemaking

### Introduction

This Chapter guides creation of new publicly-accessible open spaces and placemaking elements within the Berryessa BART Urban Village. This chapter identifies opportunities for new parks, plazas, and public art that can enrich recreational experience and quality of life for existing residents and future residents as further development occurs in the Urban Village. At the same time, this chapter highlights the location and character of Coyote and Penitencia Creeks as existing open space assets that offer public recreation opportunities within the defined boundaries of the Urban Village and that can be integrated towards an open space system that works for the entire Urban Village as a whole. The goal is to capitalize on this open space system to provide cultural amenities and recreational experiences that enrich the quality of life for existing and future residents as well as visitors. A holistically-designed open space system will:

- Ensure the proper functioning of active and passive recreation uses within the Urban Village
- Foster vitality and success of residential and commercial developments
- Enhance the sense of place by reinforcing Coyote and Penitencia Creeks as landmarks that reinforce community identity
- Ensure a seamless connection with an enjoyable, attractive, walkable, and bikeable public realm
- Enable the functioning of alternative transportation modes through its integrated trail system

Sections of this Chapter provide guidance on the development of parks, open space, and trails; placemaking and public art; and wayfinding elements.

### Parks, Open Space, and Trails

Whether as recreational parks or riparian corridors, open spaces greatly contribute to the positive identity, visual character, and appeal of a place. Together with high-quality native landscaping, green stormwater infrastructure, street furniture, and public art, open spaces can provide much needed opportunities for community recreation and social interaction.

The Berryessa BART Urban Village Plan's vision for dense development limits sites for open space and large recreational sites and the need for parks and recreational opportunities will increase with this new development. The village is partially framed by natural assets such as Coyote Creek and Penitencia Creek. These riparian corridors have existing or planned trails that will link to the City's growing Trail Network; offering additional recreation and open spaces beyond the Urban Village.

The Berryessa BART Urban Village is envisioned to have a vibrant and well-connected parks and open space network. The existing road and streetscape, as well as the BART tracks, discourage pedestrian and bike access. This Plan promotes pedestrian and bicycle connections throughout the Urban Village, with sidewalks, paths and bikeways leading to the two trail systems, parks, plazas, and open spaces. As San

## Chapter 4 – Open Space &amp; Placemaking

José focuses on the design of denser development patterns in Urban Villages, opportunities for open space must be identified to provide adequate open space for the anticipated future growth.

The four districts have varying opportunities for open space and recreation (Figure 4-1 illustrates the existing assets and opportunity sites in the Berryessa BART Urban Village):

- The Flea Market South District will have several opportunities for open space including a plaza just west of the BART station, an central park area, and family-friendly park with off-street connections to the Coyote Creek and Penitencia Creek trails and open space. Both trail systems are developed within the riparian channel zones and offer visual open space to residents. Opportunities to enjoy passive or active use of the riparian zones will often be limited to the paved trail area.
- The Facchino District is envisioned to have a neighborhood-serving park, joining two other neighborhood-serving parks currently under development north of Berryessa Road.
- The Berryessa and Lundy District has a small footprint and will support smaller plazas or pocket parks.
- The East District has a smaller footprint and will support smaller plazas or pocket parks.

### Existing Assets

The Berryessa BART Urban Village currently suffers from a shortage of public parks and recreational opportunities relative to the number of residents, workers, and visitors to the area. Within the Urban Village, the recreational assets are:

- **Coyote Creek** runs generally north-south for the length of the City of San José, with a completed Master Plan for a Coyote Creek Trail system. The Coyote Creek Trail is planned and partially developed, ultimately extending from the San Francisco Bay to the City of San José's southern boundary providing views of the waterway, and urban and rural settings. This trail is currently partially developed through the Urban Village. The public can access the trail system from south of Chessington Drive to Berryessa Road (0.25 mile). At this time, there is no regional recreation/travel potential until further development to the north and south, which is consistent with an approved Master Plan. The Coyote Creek Trail system is designated as part of the Bay Area Ridge Trail and is a designated National Recreational Trail.
- **Penitencia Creek** consists of four miles of paved and gravel sections and following Penitencia Creek from Coyote Creek, through Penitencia Creek County Park, Berryessa Park, and partially through Alum Rock Park. The trail has been constructed from King Road to the Berryessa/North San José BART Station. Opening of the trail is planned once the station is operational. There is no existing master plan for the trail segment from the BART Station to Coyote Creek. Valley Water is working on restoring and enhancing a continuous riparian corridor between Coyote Creek and Upper Penitencia Creek, including habitat enhancement and flood management strategies. Valley Water is also coordinating with the City's Park and Recreation Department in finding a suitable alignment for a connected trail that will not have a detrimental effect on the

creek habitat. The Penitencia Creek Trail system is designated as part of the Bay Area Ridge Trail and is a designated National Recreational Trail.

- **Mercado Park** is a master planned 3.6-acre neighborhood-serving park that will consist of a large play lawn, two playgrounds, a picnic area, and other passive, active and contemplative spaces. The park is currently under construction and set to open in 2020.
- **Approved Park #1** is a planned 3.6-acre neighborhood-serving park directly adjacent to the Coyote Creek Trail at the corner of Bruzzone Way and Mercado Way. Planned improvements include a large play lawn, perimeter walking path, picnic area, dog park and other amenities.
- **Approved Park #2** is a planned 1-acre neighborhood-serving park located to the southeast quadrant of the Urban Village with Newbury Park Drive to its north and Dobbin Drive to its south. No site planning has occurred at this time.

There are also several recreational open space facilities just outside the Urban Village that can serve surrounding residents with off-street connectivity upon development of the trail systems. Given the auto-oriented nature of the neighborhood, residents may tend to travel outside of the Urban Village for recreational opportunities. Walking and biking to parks given the length of blocks and limited number of facilities, substantial portions of the Plan Area lack easy access to playgrounds, public sports courts, and quiet spaces for more contemplative activities. The closest parks, open spaces, and trails to the Berryessa BART Urban Village within approximately 0.5 miles of the Urban Village boundary are:

- **North Coyote Park** consists of 16.5 acres of passive open space along Coyote Creek.
- **San Jose Municipal Golf Course** is a 150.0-acre public golf course along planned Coyote Creek Trail.
- **Townsend Park** is 7.7 acres with a picnic area, three play areas including a water play feature, adult fitness area, two tennis courts, and a horseshoe pit.
- **Vinci Park** is a 2.6-acre park that abuts Vinci Park Elementary School. It has two onsite playgrounds, picnic area, lawns. Additionally, the public can also access a playground the school site.
- **Commodore Park** consists of 2.6 acres with two play areas, one adult fitness area, picnic area, and a parking lot and is adjacent to the Penitencia Creek.
- **Berryessa Community Garden** is a 1.8-acre community garden adjacent to the Penitencia Creek along open Penitencia Creek Trail.
- **Penitencia Creek County Park** is a linear park along the Penitencia Creek just outside of the Urban Village boundary that encompasses 163.0 acres and includes a nature center, picnic area, paths, and trails with Coyote Creek Trail developed within the park and open to the public.
- **Overfelt Gardens & Chinese Cultural Garden** is 32 acres featuring Asian cultural structures, such as statues and pavilions. In addition, there are picnic areas, restrooms, and a parking lot.

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- **Watson Park** is 26.6 acres with two play areas, a basketball court, soccer field, picnic area, restrooms, parking, and a dog park which is to be connected via future Coyote Creek Trail development.
- **Luna Park** is a 1.2-acre park that has a play area and picnic area.
- **Five Wounds Trail** is an identified route along excess railway right-of-way (pending completion of BART Development) with likely connection to Coyote Creek Trail near Watson Park.

### Opportunity Sites

Several opportunity sites for parks, open space, and trails have been identified in this Urban Village. These opportunity sites, if approved as park space, will undergo stakeholder and community engagement process for the future planning of the spaces. Community input is a core component of the planning for park development. Park spaces will be designed according to the guiding principles of ActivateSJ, the City's Parks Strategic Plan:

- Stewardship: Take care of what we have and invest for the future
- Nature: Protect, preserve and promote outdoor spaces for all people
- Equity & Access: Embrace people of all ages, cultures and abilities
- Identity: A premier parks, recreation and neighborhood services system
- Public Life: Promote community spaces for a safe, fun and healthy San José

Trail development will build upon the guiding principles and follow guidance via the San José Trail Program Toolkit for planning & design, Caltrans Highway Design Manual, VTA Bicycle Guidelines and other related documents that support San José's high standard for trail development.

The opportunity sites are listed below but are not limited to this list.

#### 1. BART Plaza

In the South Flea Market District, a plaza just west of the North San José/ Berryessa BART is planned. This plaza is envisioned as a largely hardscaped space to accommodate the thousands of transit users going to and from the BART station. This plaza could also include the operation of an urban market.

#### 2. Central Park

A second open space on the South Flea Market District just west of the BART Plaza is envisioned to be privately owned and maintained, but publicly accessible and may include some retail, an urban market, and a mix of hardscape and greenery. Public seating, games, and art are possible amenities to be provided on this opportunity site for residents, workers, and visitors to mingle.

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This site may also allow for markets and other seasonal events to draw a regional weekend audience.

**3. Creek Park**

A third recreational open space is envisioned for the South Flea Market District that would connect the BART Plaza and Central Park to the Coyote Creek Trail system. The Creek Park opportunity site is envisioned to be a family-friendly open space that connects the active residential and commercial district to regional trail connections.

**4. Coyote Creek & Upper Penitencia Creek**

Valley Water is these preparing flood management plans which would include restoration of habitat of local flora and fauna. The City collaborates with Valley Water to pursue recreation and trails as part of this work. Trails on both creeks will connect and provide an enjoyable and safe pedestrian and bicycle experience with lush native greenery, multi-use trails, safety lighting at under-crossings, gateway features, pedestrian bridges and interpretive signage. The interconnection between Coyote Creek and Penitencia Creek Trails is particularly challenging due to the existing (and to be preserved) Berryessa Road Under-Crossing and development of under-crossings beneath planned roadways. The Coyote Creek Trail master plan discusses the interconnection but further work required as flood management plans are developed, and new roadways were not known during trail master planning and accommodation is required.

**5. Facchino Park**

A neighborhood serving park is planned for the north end of the Facchino District. It is expected to offer recreational and passive improvements to compliment other park offerings in the Urban Village.

**6. Privately-Owned Public Open Space (POPOS)**

POPOS is identified as a potential strategy because the Berryessa & Lundy District has barriers to open space and lack direct access to open space. Due to the small footprint of this District, a POPOS is most appropriate in this area.

Additionally, two triangular open space areas (called Triangle Gateway Parks, just for reference, see map below) exist on the road that runs north/south between the commercial land and residential land on the Flea Market South District. One gateway park is located to the north of the Flea Market South District, adjacent to Penitencia Creek. The other gateway park is located towards the south of the Flea Market South District where the road meets Sierra Road. Note that both triangular open space areas are planned to have a stormwater management function and not a park recreation function, however, they will serve as visual placemaking elements (i.e rain gardens) that reinforce the open space system in the Flea Market South District.



Figure 4-1: Parks and Open Space Network



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**Goal OS-1: Create public parks and plazas that are attractive and vibrant and provide places and connections for community activities and interaction that contribute to the livability of the Berryessa BART Urban Village.**

**Policy OS-1.1:** Provide a system of parks and plazas that serves the needs of both the existing and future Berryessa BART Urban Village residents and surrounding community.

**Policy OS-1.2:** Ensure that parks and plazas attract residents and visitors by being highly-visible, highly-permeable, comfortable, well-designed, and pedestrian friendly.

**Policy OS-1.3:** Ensure that the riparian corridors along Penitencia and Coyote Creeks are restored, preserved, and enhanced, integrating a trail system that is not detrimental to the riparian corridors.

**Policy OS-1.4:** Ensure that parks and plazas are accessible for all people regardless of age ability, or income.

**Policy OS-1.5:** Neighborhood parks should be designed and configured in a manner that provides secure and usable and attractive open space and maximizes accessibility to the surrounding community.

**Policy OS-1.6:** Strengthen the interconnectivity of parks and recreational open spaces by utilizing the Coyote Creek and Penitencia Creek trails.

**Policy OS-1.7:** As properties near the Berryessa/North San José BART station develop with higher-intensity uses, the City, community, and private developers should facilitate the creation of pocket parks within new development.

**Policy OS-1.8:** Support the redevelopment of excess land (e.g., large landscaped buffers, setback areas, extra rights-of-way, etc.) into useable active or passive pocket parks through a joint use agreement with the property owner and the City of San José or other appropriate mechanism.

**Policy OS-1.9:** Integrate adequate shade using landscaping or shade structures in park designs.

**Policy OS-1.10:** Integrate green stormwater infrastructure into park designs to improve the quality of the adjacent and nearby creeks and to increase opportunities for public education.

**Policy OS-1.11:** Encourage the development of parks with active recreation areas, such as bocce courts, pickle ball courts, and basketball courts.

**Action Item >>** Seek supplemental financial resources for the design, construction, and maintenance of these important and area-defining gathering spaces.

**Goal OS-2: Promote the development of permanent, interim, and temporary public plazas in appropriate locations when opportunities arise.**

**Policy OS-2.1:** The existing San José Flea Market may continue operations as a transitional commercial use until construction for higher-intensity uses begins. The existing San Jose Flea Market also may be reconfigured and relocated into the BART Plaza and central park areas on the Flea Market District.

**Policy OS-2.2:** Locate plazas in areas that will support community events such as farmers' markets, art fairs, live music concerts, and other periodic special programming, which can be served by nearby parking.

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**Policy OS-2.3:** Locate plazas adjacent to commercial businesses such as retail, coffee shops, and restaurants. Encourage such uses to spill out into the plaza through features such as restaurant seating areas and outdoor displays of shop merchandise.

**Policy OS-2.4:** Integrate temporary or permanent art installations, and other decorative, colorful, or enlivening features, as part of any plaza.

**Policy OS-2.5:** Locate public plazas so that they will be completely visible from at least one street frontage and, where applicable, be at least 50 percent visible from a secondary street frontage.

**Policy OS-2.6:** Support holiday events, food or craft markets, temporary public art installations or exhibits, and even music and dancing, to make interim/temporary plazas vibrant centers of activity, and neighborhood and regional destinations.

**Policy OS-2.7:** Interim plazas should have a defined edge with large fixed objects and a durable material for the plaza surface. Movable furniture, umbrella shade, electrical access, heavy planters, granite blocks, and bollards (to mark the edge of the space) can be incorporated into the space. Any street furniture can be painted, stained, or treated with a water seal to enhance its visual appeal and longevity, and should be well maintained.

**Goal OS-3: Create publicly accessible, but privately owned and maintained urban plazas and paseos to provide the area with additional public spaces.**

**Policy OS-3.1:** As properties are developed and redeveloped, work with the community and private developers to facilitate the creation of publicly-accessible and highly-visible plaza(s) within the new development.

**Policy OS-3.2:** Privately-owned publicly accessible open spaces should clearly demonstrate a recreational benefit to the residents and visitors of the Urban Village and not just to commercial businesses that need outdoor seating areas.

**Policy OS-3.3:** Consider the reduction of required private open space in residential development when public open space is significantly increased, well designed, and useable.

**Policy OS-3.4:** Ensure that privately-owned, publicly accessible open spaces have adequate access easements, and the spaces are designed to be easily recognizable as publicly-accessible.

**Policy OS-3.5:** All new development shall incorporate some amount of publicly accessible open space, such as plazas and pocket parks, or small areas for seating, into their development that is privately owned and maintained

**Policy OS-3.6:** Privately-owned publicly accessible open spaces shall be on the ground level, maximize sunlight exposure, maintain a visual connection from the public realm, and be adjacent to at least one street, paseo, or public park edge.

**Policy OS-3.7:** Integrate art and cultural activities in commercial development and any Privately Owned Public Open Space.

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**Goal OS-4: Improve the riparian corridor along Coyote Creek and Penitencia Creek to restore the habitat of native plants, native fish and animals, and migratory birds in collaboration with Valley Water.**

**Policy OP-4.1:** Promote the use of native and/or drought tolerant vegetation in new parkland development and other sustainable landscaping practices (e.g., Bay-friendly landscaping) that minimize irrigation and runoff, promote surface infiltration, minimize the use of pesticides and fertilizers, and support regional habitat, including pollinators and bird species.

**Policy OP-4.2:** Explore the provision of passive recreation activities along the Coyote Creek and Penitencia Creek but outside the habitat areas or vegetated edge, as delineated in environmental studies such as the City's Riparian Corridor Policy Study and the Riparian Corridor Protection and Bird-Safe Design City Council Policy.

**Policy OP-4.3:** Utilize nature interpretive signage along the Coyote Creek and Penitencia Creek trails to educate residents and visitors about local flora and fauna, green stormwater infrastructure, importance of trash reduction, and integrated pest management practices.

**Policy OP-4.4:** Explore the integration of green stormwater infrastructure and flood management solutions into passive recreation opportunities.

### Types of Parks, Open Space, and Trails

With several parks nearby, several parks underway and two partially developed trails systems within the Urban Village, and several open space opportunity sites, open spaces within this Plan are envisioned either on publicly-owned (City or Valley Water) sites or privately-owned, public open spaces (POPOS). Whether publicly or privately owned, open spaces must create a system of opportunities for public life and recreation that meet the needs of the Urban Village residents. The following are descriptive guidelines for the types of open spaces envisioned in this urban environment.

#### Traditional Parks

Traditional parks are landscaped open spaces with neighborhood-serving amenities. They may include amenities such as picnic areas, children's play areas, dog parks, and sports courts. For land to be officially designated as parkland, the City must first own the property. New residential or mixed-use residential commercial development is subject to fulfill a parkland obligation to dedicate three acres of land to the City for every 1,000-people added to the community by the project. The total obligation, in land or funding, is based on the number and type of new residential units built. When land dedication is not feasible or desired, a project can fulfill its obligation by paying an equivalent park impact in-lieu fee, construct new or rehabilitate existing recreational amenities, or through a combination of these options.

#### Multi-purpose Plazas

Plazas are designed to provide visually-engaging daily gathering places for community members to socialize, as well as space for neighborhood events. Features such as art installations, fountains, and planters with unique plantings and flowers, would draw people to these lively, urban focal points. These spaces could be used for commercial activity such as outdoor seating for restaurants and cafés, and make available space for mobile food/retail pop-ups, and small farmers' markets. Plazas would be spaces open

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to the public, and could be owned, developed, and maintained privately or publicly. A plaza location should contribute towards the area's strong, positive, and unique identity, and should enhance the system of open spaces and pedestrian flow within the Urban Village.

*Guidelines*

1. The minimum recommended size of private, publicly-accessible plazas is 2,000 square feet, with appropriate width and length dimensions to support recreation and provide sufficient street furniture, trees and landscaping, public art, and green stormwater infrastructure, as appropriate.
2. Plazas should be larger if framed by existing or planned retail establishment that can routinely enliven the space and support regular food and bike traffic. The plaza should tend towards a smaller size if simply serving morning and evening commuters that are not likely to dwell in the area.
3. The size of all plazas should be appropriate to their context and the level of anticipated use.
4. Public plazas should be completely visible from at least one street frontage and where applicable, be visible from a secondary street frontage.
5. The sidewalk frontage of a plaza should generally be free of obstructions. In addition, plazas that front on a street intersection are required to maintain a clear area within 15 feet of the intersection.
6. Prepare plazas for pop-up retail at the time of design and construction. Include bollards, power outlets, clips on the ground, lighting, overhead infrastructure as appropriate, and plug and play for music performances, with associated water supply for routine cleaning.
7. Provide a variety of seating opportunities such as traditional benches as well as fixed and mobile chairs. Mobile chairs will give the users the ability to rotate the chairs for sunlight or shade.
8. Provide publicly-accessible and privately-maintained restrooms or arrangements for access to adjacent sites.

*Interim and Temporary Public Plazas*

Interim and temporary public plazas are otherwise underutilized urban spaces that use temporary materials, such as paint, signage, or movable planters to create an active space for a short period of time. Programming for temporary plazas can include art installations, food trucks, live music, outdoor movies, music performances, and pop-up retail. These public spaces can have community and economic benefits and can be used to develop and test community ideas and support for temporary use of public spaces before a formal public improvement project is implemented.

**Chapter 4 – Open Space & Placemaking***Guidelines*

1. Design of a temporary plaza configuration should consider freight loading, accommodation of bike racks, and plaza drainage.

*Pocket Parks*

Pocket parks contain landscaped areas and neighborhood-serving amenities. Pocket parks are typically built on single lots, often irregularly-shaped pieces of land. Pocket parks would ideally be owned and maintained by private development. They may be constructed by residential or mixed-use developers on private property and then made accessible to the public. Pocket parks are intended to have areas to socialize, sit and relax, may include small children's play areas.

*Guidelines*

1. Pocket parks should be a minimum of 2,000 square feet in size.
2. Pocket parks should reflect the design and placemaking elements of the surrounding urban character through use of architectural styles, signage, color, texture, choice of materials, and other elements.
3. New residential and commercial uses should be encouraged to locate building entrances, windows, outdoor seating, patios, and balconies to overlook park spaces.
4. Pocket parks shall be highly-visible and accessible from adjacent streets.
5. Pocket parks shall have direct sunlight, sufficient shade during the warm months, and a generous amount of seating.
6. A dog park could be considered as a part of a pocket park, where appropriate.
7. Pocket parks should have movable chairs and tables to allow flexibility in seating arrangements.
8. Pocket parks should integrate green stormwater infrastructure as part of public improvements.

*Paseos*

Paseos are generally provided in two formats: passive or active linear space. A paseo can function primarily as a green buffer that visually screens more intensive development from an abutting primarily single-family neighborhood while providing circulation paths, or can provide an opportunity for other activities that are possible in a linear space such as seating areas and public art display. Paseos are particularly important to consider and design as new, mid-rise urban development is proposed, to ensure the livability of abutting residential neighborhoods, and maintain and enhance connectivity through the Village, between new and established uses.



**Chapter 4 – Open Space & Placemaking***Guidelines*

1. Ensure an appropriate scale of the width of the paseo to the height of adjoining new development to avoid the “canyon” effect, and so users of the paseo have access to sky views and sunlight. Typically, a paseo should be a minimum of 20 feet wide between buildings.
2. Keep paseos within four vertical feet of sidewalk level to ensure visibility and accessibility.
3. To ensure pedestrian safety, consider pedestrian lighting (e.g., bollards). No light source shall be directed skyward.
4. Construct green alleys/paseos with low-impact and permeable paving materials to efficiently manage any stormwater runoff and minimize the “heat island” effect of large areas of paving.
5. The dual use of paseos and Emergency Vehicle Access (EVA)/loading and unloading is potentially acceptable; however, the primary design of the space should be for green open space and not as an ancillary use to an emergency roadway.
6. Make paseos accessible to people with disabilities.
7. Align and connect the ends of paseos with streets, other paseos, or paths in public spaces.
8. Preserve public access at all times in paseos.
9. Use paseos to create routes to the BART station.
10. Design paseos with end-to-end visibility from connecting public spaces.

**Placemaking & Public Art**

In addition to creating inviting and accessible public spaces with appropriate amenities, the incorporation of color, design and public art can play a key role in placemaking in the Berryessa BART Urban Village. Enhancement of open space, pedestrian access, aesthetic amenities, and commercial presence will work in tandem to create a “sense of place”, making the Urban Village a desirable destination. Public art and streetscape amenities can play a vital role in establishing an identity of an Urban Village, particularly near the BART station where residents and visitors spend time eating at an area restaurant, browsing the shops, or enjoying the art displays. Public art and other design elements can reflect and respond to the modern character of existing structures in the urban village, integrate with existing and new commercial activities, reinforce the area’s walkability, and enhance the identity of this urban community.

There are many opportunities to weave public art, color, and architectural design elements into the public areas of this Urban Village to help make it a destination. Residents and participants in public meetings for the Urban Village highlighted an interest in incorporating elements of the culture and history of the San José Flea Market on the site. Public art can be incorporated into new commercial and residential development, BART stations, plazas, and into the public rights-of-way, including green stormwater infrastructure, sidewalks, and potentially any median or bulb-out areas. Public art in this urban village could be designed as separate, more traditional sculptures or murals, and could also be incorporated into the infrastructure and amenities of areas such as sidewalks, future plazas or parklets, wayfinding elements, banners, stormwater and transit systems, and lighting fixtures. Public art can be

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either temporary or long-term, and can include a range of artistic expression, both visual (paintings and light displays) and audio (musical events and performances) within parks or plazas. The community's interest in the San José Flea Market can be promoted through retaining elements such as the wagon wheel/horseshoe seating from the flea market as well as public art integrated into landscaping planters, fountains or other decoration within the public right-of-way, and other publicly-accessible plazas and seating areas.

Business owners can play a role as well in taking care to maintain building façades, upgrade existing signage, and help “take ownership” of their local piece of the public realm. Planter-based landscaping near commercial businesses and elsewhere in the public right-of-way can include seasonal flowering plants, in addition to other year-round green plantings.

Community members can help identify opportunities for public art and provide input to inform the design and programming of the art. Business owners, property owners, and residents can initiate public art projects or event programming, obtaining guidance from the City when needed. Artists should be integrated early into the design of public infrastructure and private development as they can identify new ways of project delivery to enhance the outcome of the art. The addition of successful public art would contribute to the development of Village as a great place with its own memorable identity.

Public Art can be suitable along trail alignments. The large scale of Lupe the Mammoth along the Lower Guadalupe River Trail offers an interpretive and destination experience. The artwork is along the trail and does not limit or prevent public access, and also accommodates circulation by City and Valley Water service vehicles and anticipated operations. The Coyote Creek Trail can benefit from public art as a gateway feature to the Urban Village should a suitable site be defined. Public art along trails should appeal to a broad audience.

#### Goal OS-5: Use placemaking to foster a vibrant public life in the Berryessa BART Urban Village.

**Policy OS-5.1:** Collaborate with community partners and engage the surrounding community to cultivate self-sustaining neighborhood-centric art and artist engagement that reflects the history and cultural values of the area and surrounding community. Consider targeted outreach to area schools to help engage students to create and display art.

**Policy OS-5.2:** Encourage local business owners and resident groups to initiate cultural events that help foster a strong arts community in the Urban Village.

**Policy OS-5.3:** Support the activation of public spaces with events and other activities that enhance the character, identity, and attractiveness of the Urban Village.

**Policy OS-5.4:** Support the formation of Special Districts (i.e. Community Benefit District, CBD) to fund public art, street furniture, wayfinding, events, and other aesthetically pleasing placemaking improvements.

**Policy OS-5.5:** Design the BART plaza with shade, power and data to accommodate performance and temporary art installations.

**Policy OS-5.6:** Designate a space for pop-up entrepreneurs in active pedestrian spaces or plazas.

**Policy OS-5.7:** Encourage business owners along the commercial street frontage to properly maintain

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their building façades, consider adding additional shade and color elements (e.g., awnings), upgrade their signage, and “take ownership” of maintaining plantings and flowers in the sidewalk and right-of-way areas proximate to their establishments.

**Policy OS-5.8:** For large development parcels (e.g. over 2 acres), encourage the engagement of a placemaking consultant to help design and program public spaces.

**Goal OS-6: Promote a diverse and stimulating art presence to enrich the identity of the Berryessa BART Urban Village, enhance the walking experience, and improve the economic vitality of this Village.**

**Policy OS-6.1:** Employ public art to provide as aesthetic cover of the utilities and concrete wall located at the west end of the BART station and under the BART train tracks.

**Policy OS-6.2:** All development projects should integrate public art on site.

**Policy OS-6.3:** Ensure that public art is considered in development of publicly-accessible open spaces and public facilities, including sidewalks, streets, parks, plazas, transit stops, wayfinding systems, trail network, bicycle racks, light poles, community facilities, and stormwater management areas.

**Policy OS-6.4:** Create and locate public art to play a significant role in new development and implementation of all types of projects including commercial, multifamily residential, common open spaces, transportation facilities, and stormwater management systems.

**Policy OS-6.5:** Include artists early in the design of public infrastructure and private development to help create a sense of place and enhance the quality of experience in the area.

**Policy OS-6.6:** Design public art to enhance both day and nighttime activities.

**Action Item >>** Work with VTA, developers, and the community to explore possible public art options to activate the west entrance of the Berryessa/North San José BART Station.

### Guidelines

The following are intended to provide guidelines for the community, and public and private development to integrate art into publicly-accessible spaces to help establish and strengthen a sense of place in the Berryessa BART Urban Village.

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1. Design public art to celebrate the history and cultural diversity of the community.
2. Consider art as a large-scale and character-defining element of the Urban Village.
3. Integrate art with parks, plazas, play areas, or public spaces/rights-of-way.
4. Incorporate art into pedestrian bridges and passageways to create a unique experience and welcoming place.
5. Consider small-grain details in placemaking, such as special paving in new landscapes, or tiled edging/accents in concrete planter boxes.
6. Ensure that public art projects are included in the most significant development projects early in project development.
7. Incorporate iconic, destination-quality artwork, particularly in commercial development and open spaces where the scale of the location may support larger-scale artwork.
8. Unify major streets by incorporating design elements into the streetscape such as surface treatment and crosswalks, special lighting, unique seating, specially-treated bike racks and utility covers, and utility boxes with public art.
9. Incorporate interactive art projects and designate locations to accommodate a program of changing temporarily-placed artwork.
10. Use public art in wayfinding as an element of continuity across the urban village.
11. Use art, color, and design to create rhythm, harmony, and visual sequence both within this urban village, and to create strong connections between the existing neighborhood, new developments, and the BART station development.
12. Employ temporary and interactive placemaking that varies a user's experience of a space at different times of the year.
13. Use art to promote social and cultural interaction, such as design of open spaces to encourage pop-up eateries serving a range of food from different cultures.
14. Use art to celebrate community rituals, such as special events to celebrate cultural, religious, or spiritual activities.
15. Preserve and reuse existing character-defining elements of the Flea Market including wagon wheel/horseshoe benches and small scale stages and areas for dance.
16. Incorporate innovative art features for green stormwater infrastructure, such as decorative downspouts/ rainwater leaders, aesthetic concrete cover of bioretention planters, or visual displays.
17. Incorporate the Urban Village's natural history into public art, for example, colorful Chinook Salmon crosswalks, Coyote sculptures, or creek-life inspired utility art boxes.

## Wayfinding

This Plan supports the development of a comprehensive wayfinding and community identification sign system for the Berryessa BART Urban Village. The transit-centric nature of the Urban Village necessitates a strong wayfinding program that can facilitate interest and movement beyond the transit station onto both sides of the BART tracks equally and to all the Urban Village amenities. Given the location of the BART station in the center of the Urban Village, wayfinding and signage would be useful in directing travelers to other destinations and points of interest in the Berryessa BART Urban Village and the larger community.

As discussed earlier in this chapter, several parks and the Coyote Creek and Penitencia Creek trails are located within walking distance of the Urban Village. Signage to and from the recreational resources and planned development is essential in creating a connected and lively Urban Village.

All community identification and wayfinding signage and systems must conform to City Council Policy 9-3, Community Identification Signs and Wayfinding.

**Goal OS-7: Develop a comprehensive signage system that reinforces the historic and cultural identity of the Berryessa BART Urban Village within its surrounding neighborhood context and brings a uniform, recognizable look to this Urban Village.**

**Policy OS-7.1:** Reflect the culture and history of the San José Flea Market in the design of the wayfinding and community identification signs.

**Policy OS-7.2:** Place clear and eye-catching signage around and under the BART tracks to encourage interconnectivity between the east and west of the BART station.

**Policy OS-7.3:** As appropriate, signage should include intuitive, widely understood symbology, and accommodations should be made for wheelchair users and the visually-impaired.

**Policy OS-7.4:** Promote transit use, trail use, mobility hubs, and social hubs planned for the Berryessa BART Urban Village through signage.

**Policy OS-7.5:** Encourage a pedestrian-friendly environment that extends beyond the Urban Village boundary by providing optimally-placed and reassuring wayfinding signage throughout the Berryessa BART Urban Village.

**Action Item >>** Work with the community, BART, business owners, and private developers to facilitate the creation of a comprehensive wayfinding and community identification sign system for the Berryessa BART Urban Village.

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### Guidelines

1. Design signs to be consistent with the comprehensive wayfinding and community identification sign system for the Urban Village.
2. Ensure each sign has an objective, rationale, content, illumination, and is made of appropriate materials.
3. Include icons and graphics on signage where feasible to traverse potential language barriers.
4. Use a distinctive color scheme to associate with each of the categories of the sign system.
5. Relate signage graphics to the San Jose Trails Signage and Mileage Markers Guidelines (sign inventory) when directing the community to these resources.

### Types of Signage

Below is a description of the different types of signs that should be included in a comprehensive signage and wayfinding system.

#### Visitor Information Kiosks

Locate Visitor Information Kiosks in highly-visible areas at gateways to the Urban Village, the BART station, and paseo entry points or other spaces where pedestrians may begin their exploration. Also include information about upcoming events happening in the Berryessa BART Urban Village at the information kiosks.

#### Pedestrian Directional Signs

Pedestrian directional signs would orient and direct individuals on foot throughout the Urban Village to the BART station, as well as various amenities and destinations in the Urban Village and surrounding neighborhoods. Extend the wayfinding system from parking areas, transit nodes, and bike paths and trails. Provide detailed maps that highlight visitor amenities, attractions, public transit, and retail areas.

#### Shared-Use Path Signs

Directional signs for paseos shared by pedestrians, cyclists, and other users. Clearly identify key bike paths that connect to the Berryessa BART Urban Village. Point out bike- and pedestrian-related amenities and services within and nearby the Urban Village such as restrooms, rest areas, transit connections, and restaurants.

#### Community Identification Signs (Interpretive Signs and Panels)

Signs that communicate historic or culturally relevant information about an area, site, structure, or building. Design signs to recall and celebrate the history and culture of the San José Flea Market, and be informative, accurate, and graphically pleasing.

#### Trail Signs

Identity, Guidance, Rules, Wayfinding, and Warning signs shall adhere to the San Jose Trail Program Signage and Mileage Marker Guidelines for installations along the trail corridors.



**Chapter 4 – Open Space & Placemaking****Banners**

Cloth, vinyl, or other flexible signs or colored panels that are used in various locations in San José and are typically installed to hang from street light poles. Banners are typically used to unify and enliven the streetscape. Design banners to add color and vibrancy primarily to the Urban Village's commercial areas. Consider banners that can be changed to highlight different seasons or events.

**Vehicular Directional and Parking Signs**

Signs serving to direct vehicular traffic to key destinations within and beyond the Urban Village. Ensure vehicular signage is also appropriate and useable by bicyclists traveling in the public roadways. Include identification and directional signs for parking throughout the Urban Village for both vehicular parking and bicycle parking.

## Introduction

The Land Use Chapter describes how the Berryessa BART Urban Village Plan accommodates the housing and job capacities assigned in the General Plan. The Plan organizes housing and employment growth to support the vision for the Urban Village as a thriving mixed-use, walkable, and transit-oriented community anchored by the Berryessa/North San José BART station. The station will be the catalyst to transform the area into a hub of employment and housing growth with regional significance. The organization of land uses considers the presence of existing neighborhoods, commercial development, and open spaces around the planning area. The land use chapter also provides Goals and Policies for the planned growth consistent with the vision for the Urban Village Plan.

## Planned Growth and Objectives

Consistent with General Plan Implementation Policy IP-5.1, the Berryessa BART Urban Village identifies the locations and intensities of the jobs and housing capacities established in the General Plan for this area. Appendix 5 of the Envision San Jose 2040 General Plan calls for 22,100 jobs and 6,516 housing units within the boundaries of the Urban Village. Using the General Plan's assumption of one job for every 300 square feet, 22,100 jobs represent approximately 6,630,000 million square feet (MSF) of commercial development.

The City used a test-fit analysis to accommodate the jobs and housing capacities in the Urban Village planning area. The analysis was necessary considering the limited opportunities to fit new development within the Urban Village boundary as well as the need to preserve existing neighborhoods, as expressed in the community workshops. A key outcome of the analysis was that the planned growth set in the General Plan would have an urban form that is incompatible with the existing urban fabric, with very tall buildings overwhelming the existing single-family residential neighborhoods. As a result, the City adjusted the planned growth as described below.

## Employment Growth

The Berryessa/North San José BART station is located in the center of the planning area and will foster strong employment growth. The BART system provides regional transit infrastructure and connects the station in Berryessa with the North San José employment hub and other job centers in the Bay Area.

The Urban Village had a planned employment capacity of 22,100 new jobs equivalent to approximately 6,630,000 MSF of commercial development. Based on the recommendations of the test-fit analysis, the employment capacity was reduced to 14,000 new jobs equivalent to approximately 4,200,000 MSF. This capacity would result in mid-rise commercial buildings with lower heights that are more compatible with the surrounding neighborhoods. The reduction in planned employment capacity represents approximately 2,280,000 MSF of commercial uses less than the original amount in the General Plan, which was reallocated to other General Plan growth areas in San Jose with the approval of this Village Plan by the City Council.

## Housing Growth

Appendix 5 of the Envision San Jose 2040 General Plan provides that the Berryessa BART Urban Village has a planned capacity of 6,561 housing units. From that capacity, 1,416 units are already entitled or built and the balance of 5,100 units are available for entitlement in new projects. The Plan allocates the remaining 5,100 units in different sites available for development within the planning area. A total of 5,100 new units in the Plan is significant and will help the City achieve its goal of building or entitling 25,000 new units, 10,000 of them affordable by 2022. This number of new units also supports a robust real estate market demand for housing in San Jose, as well as the projected residential densities desired to support BART ridership adequately.

## Districts

The urban fabric of the Berryessa BART Urban Village has limited areas for new development, with neighborhoods recently developed covering most of the land area within the urban village boundary. During the community workshops, residents expressed a strong desire to preserve existing neighborhoods and the need to concentrate growth on available sites. This Plan allocates such growth to those limited areas, identified as four distinct opportunity sites called *Districts*. The four Districts are large enough and have sufficient redevelopment opportunities to accommodate all of the planned job and housing capacities within this Urban Village Plan. The Districts are called: the Facchino District, the Flea Market South District, the East District, and the Berryessa & Lundy District (See Figure 3-1). The Plan distributes jobs and housing capacities based on each District's land size, urban context, and development potential. The planned capacities for each District are based on the test-fit analysis and development is anticipated to be generally consistent with the planned capacities for the districts.

The Districts referred to in this land-use chapter have no relationship to zoning districts. The Berryessa BART Urban Village introduces the notion of Districts as land-use planning approach to better accommodate growth and shape each opportunity site with a unique urban design. Each District has specific site planning challenges and development opportunities. Also, features such as existing roads, the BART tracks, or the natural boundaries of the riparian corridors separate and define each District. All existing neighborhoods will be preserved in the planning area, and the opportunities for new development within each District are large enough to accommodate the planned growth. The notion of Districts is, therefore, a useful planning strategy to help visualize future development and to allocate housing and job capacities,



Figure 3-1: Districts

### Facchino District

The Facchino District is located in the northern portion of the Urban Village, bounded by an existing single-family residential neighborhood to the north and west, BART tracks to the east, Berryessa Road to the south, and medium-density residential to the west along Berryessa Road. Development in this District is envisioned with a mix of commercial and residential uses. Townhomes will serve as a transition buffer with the existing single-family residential areas to the north and west. Mid-rise multifamily residential will step up gradually towards Berryessa Road and to the BART tracks.

The location of the planned residential uses in the District provides privacy and compatibility with the existing residential areas, allowing the concentration of commercial uses along Berryessa Road, where it



is most suitable for employment and commercial activity. A planned neighborhood park is envisioned in the northeast portion of the District, which would help to buffer and serve as a transition area between single-family homes and the medium-density residential development. The park would be public and serve both existing and future residents. The planned capacity for the Facchino District is approximately 340,000 square feet of commercial uses and 820 dwelling units.

### Flea Market South District

The Flea Market South District is bounded by Penitencia Creek and Berryessa Road to the north, the BART tracks and station to the east, Mabury Road to the south, and Coyote Creek to the west. The existing San José Flea Market site and associated parking areas occupy most of this District's area, excluding the land covered by the Coyote and Penitencia open space corridors. The Flea Market site has direct access to the Berryessa/North San José BART station with two entrances north and south of the station. On a land area basis, the Flea Market South District is the largest in the Berryessa BART Urban Village and has the potential to accommodate most of the housing and job capacities. Therefore, the Flea Market South District's target capacities are ~~up to~~ 3,000 dwelling units and ~~up to~~ 3.0 million square feet (MSF) of commercial development; however greater development capacities could be supported.

The Plan allocates an equal distribution of commercial and residential land to provide a fair jobs-housing balance and adequately fit the capacities of this District. The land designated for residential is located on the northwestern portion of the District fronting the Coyote and Penitencia Creeks, nearby but not directly adjacent to the BART tracks. This location allows residential development to enjoy vistas along the open space corridors and maintain privacy. The land designated as commercial is planned along the BART tracks. Commercial development on this land will benefit the most from its proximity to the BART station as there is a direct correlation between high-transit ridership and the proximity to employment opportunities.

### East District

The East District is located east of the BART station on the opposite side of the Flea Market site. The main entrance to the station and all BART facilities, including parking, are in this District. The East District has only two sites currently available for development. The northern site is located east of the BART station, and it is bounded by Penitencia Creek to the north, the existing single-family residential neighborhoods to the east and south, and Station Way to the west. The BART station utilizes this site for surface parking, however, it is anticipated that it will be redeveloped in the future. The southern site is located along Mabury Road, and the BART parking garage bounds it to the north, Station Way to the east, Mabury Road to the south, and BART tracks to the west. The planned capacities for the East District are approximately 710,000 square feet of commercial development and 570 dwelling units, distributed between the two sites.

The East District is generally envisioned to be developed with the southern site facing Maybury Road as commercial, and the northern site as residential. Based on land size, a commercial project on the southern

site can fit the full commercial capacity of 710,000 square feet, while the northern site can fit the full residential capacity of 570 units, consistent with the desired urban form for this District. However, each site could also accommodate a share of the commercial and residential capacities for this District, using a vertical or horizontal mixed-use development approach.

Of all the four Districts in the Berryessa BART Urban Village, the East District is the only one developed with roads and infrastructure completed as part of the recent construction of the BART station. The City anticipates that most of the areas in this District will remain unchanged; however, the existing parking structure serving the BART station could be repurposed in the future as other modes of mobility can support transit ridership. In the eventuality that this parking structure or other transit facilities are no longer necessary, the City could consider additional redevelopment opportunities in this area for high-density commercial or residential uses. At that point, the City will study additional jobs and housing capacities for this District.

### **Berryessa & Lundy District**

The Berryessa & Lundy District is located in the northeast section of the Urban Village at the intersection of Berryessa Road and Lundy Avenue. The District is bounded by Penitencia Creek to the west and bordered by existing single-family homes on the other three sides. The recommended capacities for this District are approximately 130,000 square feet of commercial and 710 dwelling units, generally distributed on the four corner areas of the intersection, based on each area's total land size. Medium-density residential or mid-rise commercial development is generally envisioned in this District. Projects can be developed as vertical mixed-use, with residential uses on top of neighborhood-serving commercial on the ground-floor, or, where larger sites allow, projects can be developed as horizontal mixed-use. This District also offers the possibility to have 100% commercial projects.

### **Land Use Policy Overview**

The primary objective of the Berryessa BART Urban Village land use policy is to support mixed-use development capable of fostering a robust sense of community typical of a regional transit Urban Village. Residential development is envisioned as medium-to-high density housing projects. Commercial development is envisioned for small-to-large commercial land uses such as office, retail, service, restaurants, and entertainment that can serve the new community of the Urban Village or beyond. In terms of employment, the Plan envisions commercial uses that can provide opportunities for local as well as regional jobs. Development projects with office or research and development (R&D) space for high-tech or biotech jobs often require large floor plates and meet the jobs density envisioned for the Plan (1/300 square feet). These uses can greatly benefit from and support mass transit such as BART because of their characteristically high employment density. In general, the Plan also supports the development of professional offices and a mix of service and institutional uses that can generate multiple jobs locally.



This Plan does not support land uses that are auto-oriented and have the potential to generate significant traffic (see General Plan Policy LU-1.7 and Policy LU-1.8). These uses create a direct conflict with the pedestrian-oriented character of the Urban Village and do not support transit ridership. Existing auto-oriented uses such as gas stations may continue their operations; however, they are considered temporary uses to be replaced over time by more pedestrian and transit-supportive uses. Additionally, most heavy and light industrial uses are prohibited within the Urban Village boundary. The exception is research and development (R&D) uses that support the employment capacity of the Plan. Industrial uses attracted to the BART station's synergies and the Urban Village community shall be considered outside the Urban Village boundary, south of Mabury Road and west of Coyote Creek.

### Interim Uses

The City anticipates interim land uses that could occur prior to the development of commercial projects that fully support the employment capacity envisioned in this Plan. Interim uses provide economical use of commercial land in the short-term until the market can support the envisioned land uses. For this Village Plan, *interim uses* are defined as: "*Lower-intensity commercial uses that do not require new construction of structures on permanent foundations or new public infrastructure, and therefore can be redeveloped to support the construction of commercial buildings that meet the employment capacity and commercial FARs envisioned in the Village Plan.* " Because Interim land uses do not involve the construction of permanent buildings, commercial FARs are not applicable (see Policy LU-2.3). Interim land uses can be distinguished in the Plan as *new interim uses* or *existing interim uses*.

~~Examples of new interim land uses that could be allowed include~~ Land uses such as Urban Market, public markets, farmer's markets, ~~swap-meets~~, seasonal sales such as for Halloween or Christmas, temporary entertainment, or civic, educational, and other types of placemaking uses are allowed as permanent uses in the designated open space or placemaking areas identified in the BBUV open space chapter. These land uses are not planned in the commercially designated areas of the Plan and therefore do not count towards the FAR requirements of any District, unless they are planned as formal retail uses to occupy ground-floor areas (see Policy LU-2.4). The potential relocation of the existing San Jose Flea Market as a new interim use on commercial land for the Flea Market South District is supported by this plan, desirable, however this Plan also supports the Flea Market operating as a permanent it is permanently allowed as a placemaking use in the BART plaza and central open space designated placemaking areas identified in the BBUV open space chapter. (See Policy LU-2.6).

Examples of *existing* interim uses include the current Flea Market operation and associated surface parking areas, as well the existing surface parking for BART in the East District. ~~The potential relocation of the existing San Jose Flea Market as a new interim use on commercial land for that District is highly desirable (See Policy LU-2.6).~~ Other examples of *existing* interim uses include auto-oriented commercial uses in the four areas of the Berryessa and Lundy intersection. These areas are envisioned for redevelopment with projects that meet the planned capacities for this District. The Plan prohibits surface parking in general, unless it is proposed as a *new interim use* associated with certain land uses (See Policy LU-2.4 and Policy LU-2.7)

## Land Use Designations

As previously discussed, growth in the Berryessa BART Urban Village Plan is organized into four Districts or opportunity areas to concentrate new development in specific areas and preserve existing neighborhoods. The proposed land-use plan and the corresponding land use designations support a distinct identity and urban form in each District. At the same time, they also ensure consistency and compatibility with existing residential areas. Commercial land use designations will foster new employment opportunities near the BART station, while residential land use designations will support the development of compact, walkable, and mixed-use housing projects that will benefit from proximity to the BART station as well as employment opportunities within the urban village area. All envisioned commercial and residential land use designations would support transit ridership overall.

The proposed land use designations in this Plan come from the designations recommended in the 2040 General Plan for Urban Village plans. The *Land Use Plan* in Figure 3-2 shows the distribution of land use designations within the Berryessa BART Urban Village planning area. They are also supportive of the development intensities and urban form policies laid out in the Urban Design Chapter. For reference, the *Height Diagram*, in particular, shows the maximum height limits (See Figure 3-3).

All land use designations support the planned jobs and housing capacities for this Village Plan. As a general principle, this Urban Village Plan allows a range of commercial Floor Area Ratio (FAR) and residential density (dwelling units per acre) in each land use designation. The commercial and residential capacities assigned to each District are a *goal* or *target* to achieve within the provided ranges, with the capacity target generally falling in the middle of the range. This approach allows for flexibility of individual projects coming to the City for approval with commercial FAR and residential densities below or above the provided targets, with the cumulative development of many projects “evening out” and meeting the envisioned capacities in each District overtime (See Policy LU-1.3). As a result, entitlements of projects can receive any residential density and commercial FAR allowed within each range of a given land use designation. It must be noted that if a development proposal within a given District were to result in the capacity of that District being exceeded, then an updated environmental analysis would need to be conducted and the Plan amended by the City Council.

Regarding the criteria for the allowed range in each of the land use designations below, the minimum residential densities and minimum commercial FARs support projects that are commercially feasible today and represent a desirable minimal building height. The top range of commercial FARs is consistent and support the maximum building heights in each District. All areas set aside for public parks, riparian corridors, flood control management purposes, or dedicated to street right-of-way were excluded when intensities in each District were established.

For the purposes of calculating a proposed project’s minimum and maximum densities under the land use designations below, residential density should be calculated on a net basis, with public right of way and parks excluded from the density calculation. Commercial FAR’s should be calculated only using the building square footage, and public right of way, surface parking lots or parking structures, either stand alone or imbedded within a building, should not be included (see Policy LU-1.4).

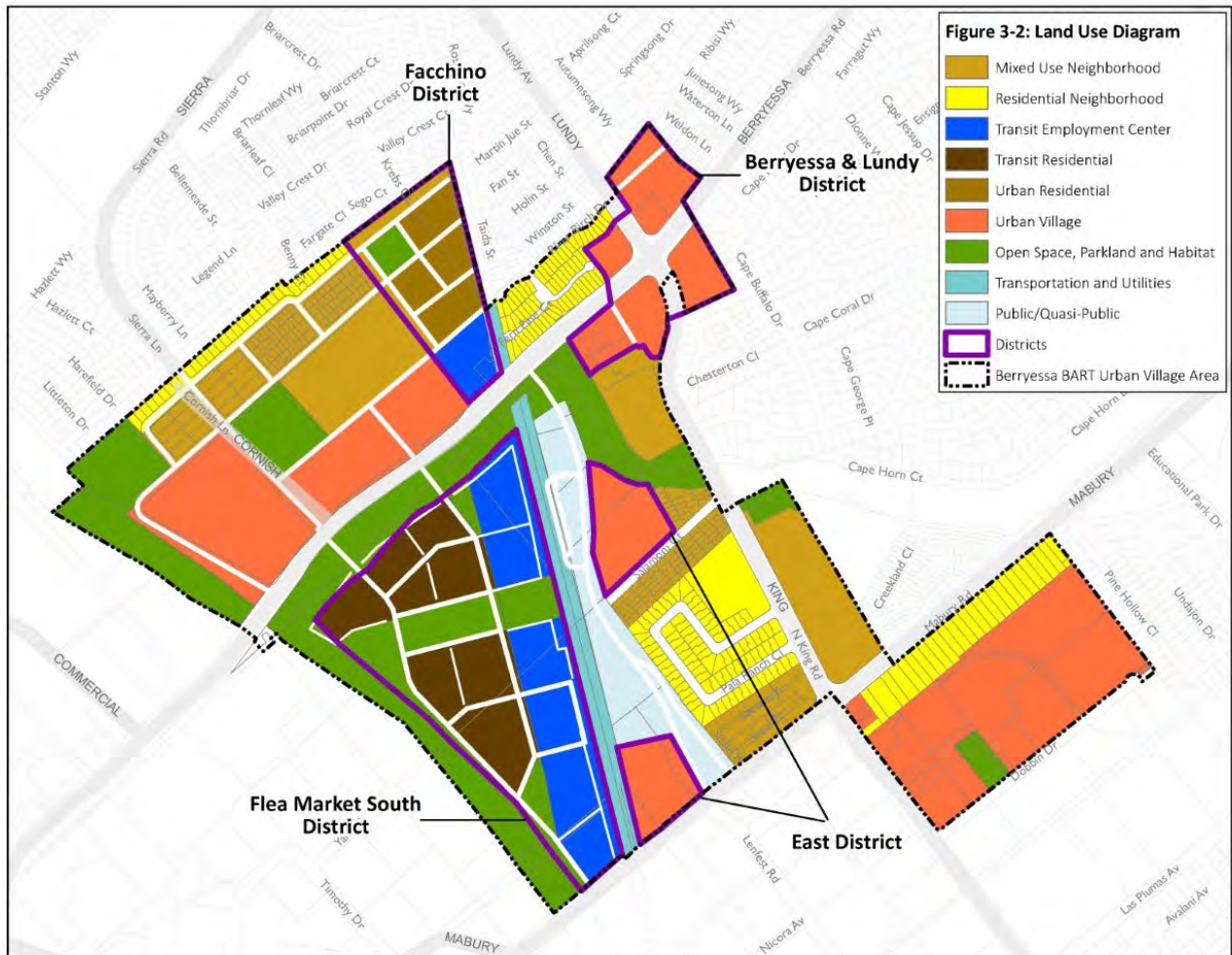


Figure 3-2: Land Use Plan

*Note: "The land use designations of the Facchino District will not take effect until the effective date of a conforming rezoning for that District that is approved by the City Council."*

### Urban Village

Residential Density – Varies by District as follows:

East District: 75 – 300 DU/AC

Berryessa & Lundy District: 55-125 DU/AC

Other Areas within the Urban Village: 55 – 95 DU/AC

Commercial FAR's - Varies by District as follows<sup>1</sup>:

<sup>1</sup> Commercial FARs on each of land use designations are net FARs and implemented on a building basis, excluding parking (both surface and parking garage) and public right-of-way.

**Chapter 3 – Land Use**

Berryessa & Lundy District: Minimum commercial FAR 0.2 required for ground floor commercial uses.

Berryessa & Lundy District: Commercial FAR up to 5.0 (100% commercial projects)

East District: Commercial FAR 3.5 to 5.5 (100% commercial project)

Other Areas within the Urban Village: Commercial FAR up to 3.5 (100% commercial projects)

The Urban Village land use designation in the General Plan supports a wide range of commercial uses, including retail sales and services, professional and general offices, and institutional uses as standalone uses or in a mixed-use format, as well as residential uses in a mixed-use format. Residential and commercial mixed-use projects can be vertical mixed-use with residential above retail for example, or, where a larger site allows, they can be mixed horizontally, with commercial and residential uses built adjacent to each other on one site.

The Urban Village land use designation can be found in the East District, the Berryessa & Lundy District, and areas outside these Districts. For new growth, this land use designation has been refined in this Plan to meet the development intensities envisioned in each District based on size, growth capacity, and desired urban form. For the East District, the Urban Village designation allows a range of residential density between 75 and 300 DU/AC. For the Berryessa and Lundy District, the Urban Village designation allows a range of residential density between 55 and 125 DU/AC, applicable to residential projects on top of ground-floor neighborhood commercial space with a minimum commercial FAR of 0.2.

Since the Urban Village land use designation in the General Plan allows 100% commercial projects, this Plan provides commercial FARs for those types of projects. For the Berryessa & Lundy District, projects can have a commercial FAR up to 5.0, applicable to all four corner areas of the Berryessa Road and Lundy Road intersection. For the East District, the range of commercial FARs is 3.5 to 5.5 FAR which supports between 521,000 and 818,000 square of space approximately. The East District could also be developed on a vertical or horizontal mixed-use approach with variable FARs under the Urban Village land use designation (see Policy 1.5).

Outside those Districts but within the boundaries of the Urban Village Plan, the Urban Village land use designation can be found north of Berryessa Road in the northwest quadrant of the planning area. This land use designation can also be found in a large residential area in the south at the intersection of Mabury Road and King Road. Outside the Districts, all areas with the Urban Village designation were recently developed. As such, the Plan anticipates that those areas will remain unchanged for the horizon of the Plan. If parcel-specific infill projects were proposed in those areas, residential densities and commercial intensities generally in comparable to those of adjacent properties shall control, with commercial FAR's not to exceed 3.5. (See additional direction in Policy LU-4.1) and residential densities not to exceed 95 DU/AC, but not be less than 55 DU/AC.

### Transit Employment Center

Commercial FAR vary by District as follows:<sup>2</sup>

Franchino District: Commercial FAR 3.0 to 5.0

Flea Market South District: Commercial FAR 3.5 to 10

The Transit Employment Center land use designation in the General Plan is best suited for areas of intense employment growth. Within this Urban Village plan, the Transit Employment Center designation is applied to areas within walking distance of the Berryessa/North San José BART Station, which are envisioned for intensive job creation. Uses allowed in this designation include retail and service commercial uses on the first two floors, office, research and development (R&D), as well as other supportive commercial uses such as personal services. In particular, this Village Plan envisions types of businesses with high employee densities that would place a premium on being adjacent to the BART Station and would support BART ridership. Flex office space with large floor plate formats that are highly adaptable to current or future decentralized employment needs is highly desirable.

Despite the intense commercial character of this land use designation, there are certain industrial and other uses allowed by the General Plan in this land use designation that are not allowed in this Village Plan. For example, warehouses are not considered a supportive commercial use because they command a low density of jobs per square foot (See Policy LU- 1.2). Overall, the focus on the Transit Employment designation in the Berryessa BART Urban Village is high-density employment growth, typically associated with office uses. Therefore, office/R&D uses are the only industrial uses that are allowed in this Urban Village.

This Plan has adjusted the range of FARs under the Transit Employment Center designation to generally support the desired urban form and development intensities of each District that has this designation. The range of commercial FAR for the Franchino District is 3.0 to 5.0 FAR, supporting between 288,000 and 480,000 square feet of space approximately. The range of commercial FAR for the Flea Market South District is 3.5 to 10 FAR. The overall FAR range in the Flea Market South District supports approximately between 1,500,000 and 3,400,000 square feet of commercial space. Minimum commercial FARs are envisioned to be implemented on a building basis, excluding parking (both surface and parking garage), roads, and public right-of-way (See Policy LU-1.4). Additional flexibility in maximum FARs is allowed, provided that future development shape the desired urban form in each District, focusing on the development of towers on key locations (See Policy LU-1.6).

### Transit Residential

*Flea Market District only*

Residential Density: 95 - 500 DU/AC

Commercial FAR 2.5 to 4.5 (100% stand-alone commercial projects)

The Transit Residential designation of the General Plan authorizes new high-density, residential, or mixed-use residential development in sites located within walking distance of mass transit, such as the Berryessa/North San José Station. Transit Residential is typically associated with high-density residential development, with vertical integration of commercial retail on the first floor, which supports a pedestrian-

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<sup>2</sup> Commercial FARs on each of land use designations are net FARs and implemented on a building basis, excluding parking (both surface and parking garage) and public right-of-way.



## Chapter 3 – Land Use

oriented environment. This designation also supports intensive commercial employment uses in the General Plan, such as office, retail, hotels, hospitals, and private community gathering facilities. While Transit Residential is envisioned in this Village Plan to support multifamily residential uses preferably, including mixed-use residential with ground-floor commercial, coworking space, or other community amenities (See General Plan Policy LU-1.1). Like the General Plan land use designation, this Plan allows 100% commercial projects in the Transit Residential land use designation. The Transit Residential designation in the land use plan only applies to the Flea Market South District. This District contains the largest proportion of available land for development in the planning area, and only that District can support residential uses at the highest intensity and building height in the Plan.

The Transit Residential designation in this Plan facilitates the construction of both for-sale and rental housing products, and the range of residential density from 95 to 500 DU/AC for the Flea Market South District supports both. For-sale or condominiums projects are generally larger in area than rental apartments and therefore require a lower density; thus, a density of 95 DU/AC was considered to support for-sale housing products and condominiums (See General Plan Policy LU-6.5). It is anticipated that most of the housing products in the Flea Market District will be rental apartments, and a density of 150 DU/AC should support the rental apartment market. Using a density of 150 DU/AC, the Flea Market District would support the construction of approximately 2,145 residential units while the maximum density of 500 DU/AC would support about 7,150 units. Residential density in this designation is net DU/AC because all areas set aside for public parks, riparian corridors, flood control management purposes, or dedicated to street right-of-way have been excluded (See General Plan Policy LU-1.4).

## Urban Residential

*Facchino District Only*

Residential 75 to 250 DU/AC

Commercial FAR 2.0 to 4.0 for 100% stand-alone commercial projects<sup>3</sup>

This designation in the General Plan is suitable for portions of Urban Village areas with medium-density residential development. The Urban Residential designation also allows for scaling-down building heights towards low-density residential neighborhoods. The Urban Residential designation is most appropriate for the residential character of the Facchino District. This land use designation will enable a transition between medium-density residential and the adjacent single-family homes to the north and west. Urban Residential will also allow compatibility with the commercial development fronting Berryessa Road and the new high-density residential on the District's western boundary.

Urban Residential is envisioned in this Village Plan to support mid-rise multifamily residential uses preferably, including mixed-use residential with ground-floor neighborhood-serving commercial uses or other community amenities (See General Plan Policy LU-1.1). However, the General Plan generally allows commercial uses under Urban Residential, so this Village Plan would also allow 100% commercial projects that support transit ridership, such as coworking space, cultural activities, or community services to nearby residents. The Urban Residential land use designation in the Berryessa BART Urban Village supports a residential density that ranges from 75 to 250 DU/AC in the Facchino District. For context, the

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<sup>3</sup> Commercial FARs on each of land use designations are net FARs and implemented on a building basis, excluding parking (both surface and parking garage) and public right-of-way.



## Chapter 3 – Land Use

minimum density of 75 DU/AC supports the development of approximately 320 units and the maximum density of 250 DU/AC supports the development of approximately 1,062 units, using the area designated as Urban Residential in the land use plan. For condos and for-sale residential the Plan allows a density range of 95-100 DUs considering the larger size of those units (See General Plan Policy LU-6.5).

### Mixed-Use Neighborhood

*Franchino District and other areas outside of the Districts*

Residential density up to 30 Du/AC

Commercial FAR 0.25 to 2.0

The Mixed-Use Neighborhood designation in the General Plan is intended for development primarily with either townhouse or small lot single-family and also to existing neighborhoods that were historically developed with a wide variety of housing types and residential densities. For existing residential areas (outside the Districts), the Mixed-Use Neighborhood designation is applied north of Berryessa Road and along King Road. These areas are envisioned to be preserved for the horizon of the Plan. If redevelopment occurs in the future, the governing density and FARs established in the General Plan for this designation will apply to those areas.

For new development, the Mixed-Use Neighborhood designation is applied to specific areas in the Facchino district only. The goal of the Plan is to concentrate planned growth in District areas, which results in mid- and high-density residential development in most Districts. In the Facchino District, a limited amount of residential uses under the Mixed-Use Neighborhood designation will serve as a transitional buffer between the mid-density residential in the District and the adjacent single-family residential neighborhoods. This transitional buffer will minimize the height impacts of tall residential buildings on adjacent homes. The Mixed Use Neighborhood designation has an allowable residential density of up to 30 DU/AC.

### Residential Neighborhood

*Areas outside of the Districts*

Residential 8 DU/AC, FAR up to 0.7

The Residential Neighborhood land use designation is applied to areas outside of the four Districts, but within the Urban Village boundaries. This land use designation is particularly suitable for the existing residential areas that are already developed with a mix of single-family residences, duplexes, and apartments as indicated on the Land Use Plan (Figure 3-2).

The Residential Neighborhood land use designation is applied to areas within the Urban Village that are outside of the Districts and are already developed with uses consistent with this land use designation. The Residential Neighborhood land use designation intends to preserve the character of the existing neighborhoods only. Some *infill projects* may be permitted under the Residential Neighborhood designation if such projects strictly conform to the prevailing neighborhood character and fit the existing urban fabric, as defined by density, lot size and shape, building massing, and other considerations. *Infill projects* in this Plan refer to individual projects on existing parcels, and not to new large-scale developments such as those planned in the four Districts of the Urban Village. For reference, the Residential Neighborhood land use designation in the General Plan calls for a residential density of 8 DU/AC or as needed to match existing neighborhood character, and a FAR up to 0.7 (1 to 2.5 stories).

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Therefore, this Plan uses the same development intensities of the General Plan as an overall land use policy in this land use designation.

### Public/Quasi-Public

Density/ FAR: N/A

The Public/Quasi-Public category is used in the General Plan to designate public land uses. Those uses include schools, colleges, corporation yards, homeless shelters, supportive housing for the homeless, libraries, fire stations, water treatment facilities, convention centers and auditoriums, museums and cultural spaces, governmental offices, and airports. Also, some private entities, including private schools, daycare centers, and hospitals, may be considered under this designation. The Public/Quasi-Public category also applies to facilities of any organization involved in the provision of public services such as gas, water, electricity, and telecommunications facilities that are consistent in character with established public land uses.

The appropriate intensity of development can vary considerably depending on the potential impacts on surrounding uses and the particular Public/Quasi-Public use developed on the site. All the areas designated as Public/Quasi-Public within the Urban Village reflect existing uses or uses already under development. The only areas in this Village Plan that are designated as Public/Quasi-Public are related to the BART facilities and operation in the East District. BART facilities include bus stop areas and a police station that supports the security of the BART areas in the East District.

### Transportation and Utilities

Density/ FAR: N/A

Lands with this designation have transportation or utility corridors as primary uses. This designation is mostly applied to active or inactive railroad lines and high-voltage power line corridors. But it is also appropriate for other similar infrastructure corridors that are not either in the public right-of-way or on lands designated as Public/Quasi-Public. All the areas designated as Transportation and Utilities within the Urban Village reflect existing uses or uses already under development. The only areas in this Village Plan with the Transportation and Utilities land use designation are the BART station and its tracks.

### Open Space, Parkland and Habitat

Density/ FAR: N/A

Properties with an Open Space, Parkland, and Habitat land use designation can be publicly or privately-owned and are typically devoted to open space, parks, recreation areas, trails, habitat buffers, nature preserves, and other permanent open space areas. New development on lands within this designation is prohibited. The exceptions are improvements such as trails or multi-use paths that support the function of such areas or compatible placemaking commercial uses such as kiosks and commercial vendors that activate the open space subject to other applicable laws and policies for such uses of these areas. Such placemaking uses should not include the development of permanent structures and should be readily removable. Overall, allowed uses under this designation must minimize potential environmental and visual impacts. Within the Urban Village, areas with this land use designation include the Coyote Creek riparian corridor, the Penitencia Creek riparian corridor, and designated parks.

## Building Heights

The land use designations and corresponding development intensities specified in the land use chapter are consistent with the urban form and design policies discussed in this Plan in Chapter 5 Urban Design. Each District has different building heights, which were established to meet the vision, character, and the desired urban form in each District (See Figure 5-4 Building Heights Diagram in Urban Design Chapter).

A signature land use policy of this Plan calls to intensify development in specific sites of the Urban Village while reinforcing the urban design vision for the Plan. The land-use plan and the urban design framework identify those sites as “Towers.” Sites designated as “Towers” are the tallest buildings in the area plan that are envisioned to concentrate residential or commercial development intensity. To accomplish this, the Village Plan has flexible residential densities or commercial FARs on those specific sites designated as “Towers” (See General Plan Policy LU-1.6) provided that buildings do not exceed the maximum heights established in the Plan.

## Land Use Goals and Policies

The section below includes land use goals and policies specific to the Berryessa BART Urban Village Plan. These goals and policies supplement the general goals and policies of the General Plan, and are intended to further implement the General Plan’s Urban Village Strategy for this Village.

### Vibrant Urban Village

**Goal LU-1: Grow the Berryessa BART Urban Village into an economically vibrant area that fosters a balance of employment generation and residential development, both essential to support BART transit ridership at the Berryessa/North San José Station.**

**Policy LU-1.1:** Prioritize the development of residential projects in land use designations that support the residential capacities of each District. While other land uses are not strictly prohibited under the residential land use designations, the goal is to foster the development of residential development in specific areas of each District.

**Policy LU-1.2:** Develop commercial projects adjacent to the BART station, and on lands planned for employment uses, at intensities that support the employment capacities and jobs-density envisioned by this Plan, and support BART ridership.

**Policy LU-1.3:** Allow a range of commercial FARs and residential densities specific to each District. Permitted land uses under each land use designation shall support the commercial FARs and residential densities of each District.

**Policy LU-1.4:** Ensure that the minimum commercial FARs and minimum residential densities on each of land use designations are net FARs and densities. Minimum commercial FARs shall be implemented on a building basis, excluding parking (both surface and parking garage) and public right-of-way. Residential densities shall be implemented on a net basis and exclude public rights of way, public parks, riparian set

## Chapter 3 – Land Use

back and flood control areas. Overall, commercial FARs and minimum residential densities shall not be averaged within each District or among blocks within a District.

**Policy LU-1.5:** Allow the East District to be developed with mixed-use development on both the northern and the southern sites. Each site could have different commercial FARs and residential densities, as long as both sites support the employment and residential capacities planned for this District. Ensure that employment-intensive and BART-supportive commercial uses are included in the southern site.

**Policy LU-1.6:** Provide flexibility to allocate more commercial FAR or residential density on certain areas of the Urban Village to support the urban design envisioned in each District, with emphasis in the development of "Towers," provided that such FARs do not exceed the maximum building heights for those areas (See Figure 3-3 Building Height Diagram).

**Policy LU-1.7:** Prohibit self-storage, mini-storage, and "big box" building formats, including large buildings for entertainment such as movie theaters.

**Policy LU-1.8:** Prohibit new drive-through, gas stations, large-format retail, and auto-centric uses within the Berryessa BART Urban Village.

**Goal LU-2: Attract innovative, leading-edge technology industries to the Urban Village, by encouraging placemaking that complements and reinforces the vitality of a tech-hub, and establishes the Village as a unique and desirable business address.**

**Policy LU-2.1:** Allow temporary entertainment, civic, cultural, and other placemaking uses such as an Urban Market in the public right-of-way to activate the area, draw visitors, and serve residents at various times of day, evening and weekends, as permitted and authorized in accordance with local law.

**Policy LU-2.2:** Allow neighborhood community, coworking, entertainment, civic, cultural, and other placemaking uses in the ground-floor level of commercial or multifamily residential buildings. Such uses will activate the area, draw visitors, and serve residents.

**Policy LU-2.3:** Allow new *interim uses* as temporary uses prior to the redevelopment of property consistent with this Plan. New interim uses are defined in the Plan as **lower-intensity commercial uses** that do not require new construction of structures on permanent foundations or new public infrastructure, and therefore can be redeveloped to support the construction of commercial buildings that meet the employment capacity and commercial FARs envisioned in the Village Plan.

**Policy LU-2.4:** Allow entertainment, civic, cultural, and other placemaking uses such as an Urban Market as permanent uses ~~interim uses~~ in the Flea Market South and East District, but only on the BART plaza and central open space of such District, as identified in the BBUV open space chapter. Interim uses do not involve the construction of buildings, and therefore commercial FARs do not apply to interim uses. These land uses are not planned in the commercially designated areas of the Plan and therefore do not count towards the FAR requirements of any District, unless they are planned as formal retail uses to occupy ground-floor areas.

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**Policy LU-2.5:** Allow the operation of a seasonal or temporary farmer's market as an *interim use* in the Transit Employment Center land use designation of the Flea Market South District.

**Policy LU-2.6:** Allow the current operation of the existing San José Flea Market in the present site as an *interim use* in the Flea Market South District. Support the relocation of the San Jose Flea Market operation into the Transit Employment Center land use designation as a new *interim use* in the Flea Market South District.

**Policy LU-2.7:** Prohibit new surface parking in the Urban Village, unless it is approved to support the functioning of entertainment, civic, cultural, placemaking, or other *interim uses*, as defined in the Interim Land Use Section of this Chapter and Policy LU-2-3 above. Surface parking is only allowed in the Transit Employment Center designation of the Flea Market South District to support *interim uses*.

**Action Item 1 » *If needed, t****"The City should work with the businesses that would be displaced from the redevelopment of the Flea Market to assist them with finding other tenant spaces within the general area in which they could locate their business."*

**Goal LU-3: Foster mixed-use development that is pedestrian-focused, enhances the quality of life for residents in surrounding communities, and supports public transit.**

**Policy LU-3.1:** Encourage ground-floor active uses in the Transit Employment Center land use designation in the Facchino District along Berryessa Road, with direct pedestrian access from Berryessa Road. (For a definition of Active Uses see the Definitions section at the end of the Chapter.)

**Policy LU-3.2:** Require ground-floor active uses in the Urban Residential land use designation in the Facchino District.

**Policy LU-3.3:** Encourage ground-floor commercial development (including business supportive uses) facing the Green Street in the Transit Employment Center land use designation in the Flea Market South District, including activating land uses that support transit ridership, walking, and biking. Such uses shall have direct pedestrian access from a public road (see Green Street road design in the Circulation Chapter), and direct pedestrian access to the plaza in front of the BART station.

**Policy LU-3.4:** Support ground-floor neighborhood commercial uses in the Transit Residential land use designation in the Flea Market South District. Such commercial development shall have direct pedestrian access from any public street.

**Policy LU-3.5:** Development in the Flea Market South District shall have ground-floor active uses that front the central open space, including retail storefronts, restaurants, or sidewalk seating. Those land uses shall support pedestrian traffic, placemaking, and transit ridership.

**Policy LU-3.6:** Ensure that mixed-use or 100% commercial development in the Berryessa & Lundy District has ground-floor neighborhood commercial and active uses for at least 50% of the frontage along Berryessa and Lundy Roads.

**Policy LU-3.7:** For development in the East District encourage ground-floor commercial and active uses fronting Mabury Road and Station Way.

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**Policy LU-3.8:** For development within the northern site in the East District encourage ground-floor neighborhood commercial and active uses along Station Way.

**Policy LU-3.9:** Ground floor commercial and active use spaces provided under the policies above shall be consistent with the Citywide Design Standards for Parking Garage Design, Commercial Frontages, and Mitigating Blank Walls.

### Preserve Character of Existing Neighborhoods

**Goal LU-4: Protect the residential and mixed-use character of existing neighborhoods within the Urban Village boundary and integrate them with the new urban fabric of the Districts in the Urban Village.**

**Policy LU-4.1:** Allow new commercial *infill projects* within of the existing neighborhoods on a parcel-by-parcel basis, if project scale, building massing, and land uses are comparable with those of adjacent properties. Residential infill projects consistent with densities supported by the sites General Plan Land Use Designation, as outlined in this Chapter above, shall also be supported.

**Policy LU-4.2:** Existing motor vehicle uses, including gas stations, auto-repair, automobile sale and rental lots, and auto parts sales within the existing neighborhoods are allowed as *existing interim uses* and shall be redeveloped with pedestrian and transit-supportive uses over time. Expansion of these uses is prohibited.

### Transit-Oriented Development – Multi-Modal Accessibility

**Goal LU-5: Foster land uses that support transit ridership and enhance the multi-modal accessibility of the Berryessa/North San José BART station.**

**Policy LU-5.1:** Ensure that all land uses in the Berryessa BART Urban Village support pedestrian activity, multi-modal accessibility, and an urban character radiating from the BART station.

**Policy LU-5.2:** To support the multi-modal circulation system planned for the Berryessa BART Urban Village Plan, new residential and commercial development shall be consistent with the Citywide Design Standards for the pedestrian and bicycle orientation of buildings and site plans.

**Policy LU-5.3:** Future multi-modal connections under the BART tracks (including motor vehicle connections) shall be consistent with the circulation system developed for the Berryessa BART Urban Village Plan and block layout of the Flea Market South District.

### Parking Footprint

**Goal LU-6: Reduce the impacts of parking to foster the development of a pedestrian-oriented urban environment consistent with the vision for a Regional Transit Urban Village plan.**

**Policy LU-6.1:** Plan and design any parking structure to have ground-floor commercial, neighborhood-serving community commercial, community amenity spaces, or civic/cultural space on any side of the parking structure facing the public rights-of-way of the Sierra Road extension, the Main Streets facing the central open space, and the Green Street, all in the Flea Market South District. The provision of these



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ground floor spaces shall be consistent with the San José Citywide Design Standards and Guidelines for ground floor uses in parking garages.

**Policy LU-6.2:** Require parking structures located within the Transit Residential land use designation to be incorporated as part of multifamily residential blocks or buildings. Parking shall not be visible from any public-right-of-way, and parking structures shall be "wrapped" by housing units.

**Policy LU-6.3** Locate parking structures for commercial development behind office/R&D towers, so they are adjacent to the BART track line (applicable to the Flea Market South District only).

**Policy LU 6.4** Ensure that the footprint of parking structures for commercial development does not exceed more than 50% of the net developable area of commercial blocks in the Flea Market South District.

**Policy LU-6.5:** Discourage *stand-alone parking structures* in all Districts. This Policy excludes the existing BART parking structure in the East District. (For a definition of stand-alone parking structures see the definitions section at the end of this chapter.)

**Policy LU-6.6:** Encourage parking to be provided in at least one underground level first and not occupy more than the first three floors, if provided on podiums of commercial or residential buildings. Parking shall not be visible from the street or mid-block connection.

**Policy LU-6.7:** If provided within podiums of commercial or residential buildings, ground-floor parking shall not be visible from the street. Portions of the building adjacent to the street should be occupied by the primary land use (for example, residential or commercial uses) or active uses, as supported and/or required by this plan.

## Diversity of Housing

**Goal LU-7: Support a range of housing types within the Berryessa BART Urban Village and facilitate development to achieve the planned residential capacities.**

**Policy LU-7.1:** Ensure that the Inclusionary Housing Ordinance, Commercial Linkage Fee Ordinance, Rent Stabilization Program, Apartment Rent Ordinance, Tenant Protection Ordinance, Ellis Act Ordinance, and other City housing laws and policies are implemented (including amendments thereto from time to time).

**Policy LU-7.2:** Encourage a mix of unit sizes and types within multi-family residential development to accommodate a diversity of household types within the Urban Village, including singles and family households

**Policy LU-7.3:** Encourage the development of affordable-by-design using, for example, innovative construction techniques, smaller unit sizes, micro-units, co-op housing, and inter-generational housing.

**Policy LU-7.4** Encourage the development of senior housing, family housing, and housing for the developmentally disabled and formerly homeless within the Urban Village and with easy access to transit options.

**Policy LU-7.5** Encourage the development of condominiums and other forms of ownership housing in the Flea Market and Facchino Districts.

**Goal LU-8: Twenty five percent of the new dwelling units built within the Berryessa BART Urban Village are affordable to very low, low, and moderate-income households.**

*Policy LU-8.1:* Encourage the integration of market-rate and deed-restricted affordable units on-site within a housing development.

*Policy LU-8.2:* If projects are proposed as 100% affordable, they should be designed and built with a comparable construction quality as market-rate housing projects. Affordable housing projects should be seamlessly integrated with market-rate projects from the architecture and urban design standpoints.

*Policy LU-8.3:* Focus the City's affordable housing resources into the Berryessa BART Urban Village to further achievement of the Goal that 25% of the housing in the Village is affordable.

## Definitions

Active Uses - Uses and occupancy types that encourage actual or visual engagement between building tenants and the public. Examples include but are not limited to retail storefronts, bars and restaurants, entertainment venues and businesses, personal services businesses, art galleries, gyms and fitness studios, offices, salons, etc.

Stand-Alone Parking Structures - Individual buildings with two or more parking levels, structurally independent, designed with the primary purpose to concentrate, manage, and store automobile parking (temporary or permanent). Stand-Alone Parking is planned, designed, and built to operate on its own. Stand-Alone Parking does not include parking structures provided to serve a commercial or residential development.

## 4. Open Space & Placemaking

### Introduction

This Chapter guides creation of new publicly-accessible open spaces and placemaking elements within the Berryessa BART Urban Village. This chapter identifies opportunities for new parks, plazas, and public art that can enrich recreational experience and quality of life for existing residents and future residents as further development occurs in the Urban Village. At the same time, this chapter highlights the location and character of Coyote and Penitencia Creeks as existing open space assets that offer public recreation opportunities within the defined boundaries of the Urban Village and that can be integrated towards an open space system that works for the entire Urban Village as a whole. The goal is to capitalize on this open space system to provide cultural amenities and recreational experiences that enrich the quality of life for existing and future residents as well as visitors. A holistically-designed open space system will:

- Ensure the proper functioning of active and passive recreation uses within the Urban Village
- Foster vitality and success of residential and commercial developments
- Enhance the sense of place by reinforcing Coyote and Penitencia Creeks as landmarks that reinforce community identity
- Ensure a seamless connection with an enjoyable, attractive, walkable, and bikeable public realm
- Enable the functioning of alternative transportation modes through its integrated trail system

Sections of this Chapter provide guidance on the development of parks, open space, and trails; placemaking and public art; and wayfinding elements.

### Parks, Open Space, and Trails

Whether as recreational parks or riparian corridors, open spaces greatly contribute to the positive identity, visual character, and appeal of a place. Together with high-quality native landscaping, green stormwater infrastructure, street furniture, and public art, open spaces can provide much needed opportunities for community recreation and social interaction.

The Berryessa BART Urban Village Plan's vision for dense development limits sites for open space and large recreational sites and the need for parks and recreational opportunities will increase with this new development. The village is partially framed by natural assets such as Coyote Creek and Penitencia Creek. These riparian corridors have existing or planned trails that will link to the City's growing Trail Network; offering additional recreation and open spaces beyond the Urban Village.

The Berryessa BART Urban Village is envisioned to have a vibrant and well-connected parks and open space network. The existing road and streetscape, as well as the BART tracks, discourage pedestrian and bike access. This Plan promotes pedestrian and bicycle connections throughout the Urban Village, with sidewalks, paths and bikeways leading to the two trail systems, parks, plazas, and open spaces. As San

## Chapter 4 – Open Space &amp; Placemaking

José focuses on the design of denser development patterns in Urban Villages, opportunities for open space must be identified to provide adequate open space for the anticipated future growth.

The four districts have varying opportunities for open space and recreation (Figure 4-1 illustrates the existing assets and opportunity sites in the Berryessa BART Urban Village):

- The Flea Market South District will have several opportunities for open space including a plaza just west of the BART station, an central park area, and family-friendly park with off-street connections to the Coyote Creek and Penitencia Creek trails and open space. Both trail systems are developed within the riparian channel zones and offer visual open space to residents. Opportunities to enjoy passive or active use of the riparian zones will often be limited to the paved trail area.
- The Facchino District is envisioned to have a neighborhood-serving park, joining two other neighborhood-serving parks currently under development north of Berryessa Road.
- The Berryessa and Lundy District has a small footprint and will support smaller plazas or pocket parks.
- The East District has a smaller footprint and will support smaller plazas or pocket parks.

### Existing Assets

The Berryessa BART Urban Village currently suffers from a shortage of public parks and recreational opportunities relative to the number of residents, workers, and visitors to the area. Within the Urban Village, the recreational assets are:

- **Coyote Creek** runs generally north-south for the length of the City of San José, with a completed Master Plan for a Coyote Creek Trail system. The Coyote Creek Trail is planned and partially developed, ultimately extending from the San Francisco Bay to the City of San José's southern boundary providing views of the waterway, and urban and rural settings. This trail is currently partially developed through the Urban Village. The public can access the trail system from south of Chessington Drive to Berryessa Road (0.25 mile). At this time, there is no regional recreation/travel potential until further development to the north and south, which is consistent with an approved Master Plan. The Coyote Creek Trail system is designated as part of the Bay Area Ridge Trail and is a designated National Recreational Trail.
- **Penitencia Creek** consists of four miles of paved and gravel sections and following Penitencia Creek from Coyote Creek, through Penitencia Creek County Park, Berryessa Park, and partially through Alum Rock Park. The trail has been constructed from King Road to the Berryessa/North San José BART Station. Opening of the trail is planned once the station is operational. There is no existing master plan for the trail segment from the BART Station to Coyote Creek. Valley Water is working on restoring and enhancing a continuous riparian corridor between Coyote Creek and Upper Penitencia Creek, including habitat enhancement and flood management strategies. Valley Water is also coordinating with the City's Park and Recreation Department in finding a suitable alignment for a connected trail that will not have a detrimental effect on the

creek habitat. The Penitencia Creek Trail system is designated as part of the Bay Area Ridge Trail and is a designated National Recreational Trail.

- **Mercado Park** is a master planned 3.6-acre neighborhood-serving park that will consist of a large play lawn, two playgrounds, a picnic area, and other passive, active and contemplative spaces. The park is currently under construction and set to open in 2020.
- **Approved Park #1** is a planned 3.6-acre neighborhood-serving park directly adjacent to the Coyote Creek Trail at the corner of Bruzzone Way and Mercado Way. Planned improvements include a large play lawn, perimeter walking path, picnic area, dog park and other amenities.
- **Approved Park #2** is a planned 1-acre neighborhood-serving park located to the southeast quadrant of the Urban Village with Newbury Park Drive to its north and Dobbin Drive to its south. No site planning has occurred at this time.

There are also several recreational open space facilities just outside the Urban Village that can serve surrounding residents with off-street connectivity upon development of the trail systems. Given the auto-oriented nature of the neighborhood, residents may tend to travel outside of the Urban Village for recreational opportunities. Walking and biking to parks given the length of blocks and limited number of facilities, substantial portions of the Plan Area lack easy access to playgrounds, public sports courts, and quiet spaces for more contemplative activities. The closest parks, open spaces, and trails to the Berryessa BART Urban Village within approximately 0.5 miles of the Urban Village boundary are:

- **North Coyote Park** consists of 16.5 acres of passive open space along Coyote Creek.
- **San Jose Municipal Golf Course** is a 150.0-acre public golf course along planned Coyote Creek Trail.
- **Townsend Park** is 7.7 acres with a picnic area, three play areas including a water play feature, adult fitness area, two tennis courts, and a horseshoe pit.
- **Vinci Park** is a 2.6-acre park that abuts Vinci Park Elementary School. It has two onsite playgrounds, picnic area, lawns. Additionally, the public can also access a playground the school site.
- **Commodore Park** consists of 2.6 acres with two play areas, one adult fitness area, picnic area, and a parking lot and is adjacent to the Penitencia Creek.
- **Berryessa Community Garden** is a 1.8-acre community garden adjacent to the Penitencia Creek along open Penitencia Creek Trail.
- **Penitencia Creek County Park** is a linear park along the Penitencia Creek just outside of the Urban Village boundary that encompasses 163.0 acres and includes a nature center, picnic area, paths, and trails with Coyote Creek Trail developed within the park and open to the public.
- **Overfelt Gardens & Chinese Cultural Garden** is 32 acres featuring Asian cultural structures, such as statues and pavilions. In addition, there are picnic areas, restrooms, and a parking lot.

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- **Watson Park** is 26.6 acres with two play areas, a basketball court, soccer field, picnic area, restrooms, parking, and a dog park which is to be connected via future Coyote Creek Trail development.
- **Luna Park** is a 1.2-acre park that has a play area and picnic area.
- **Five Wounds Trail** is an identified route along excess railway right-of-way (pending completion of BART Development) with likely connection to Coyote Creek Trail near Watson Park.

### Opportunity Sites

Several opportunity sites for parks, open space, and trails have been identified in this Urban Village. These opportunity sites, if approved as park space, will undergo stakeholder and community engagement process for the future planning of the spaces. Community input is a core component of the planning for park development. Park spaces will be designed according to the guiding principles of ActivateSJ, the City's Parks Strategic Plan:

- Stewardship: Take care of what we have and invest for the future
- Nature: Protect, preserve and promote outdoor spaces for all people
- Equity & Access: Embrace people of all ages, cultures and abilities
- Identity: A premier parks, recreation and neighborhood services system
- Public Life: Promote community spaces for a safe, fun and healthy San José

Trail development will build upon the guiding principles and follow guidance via the San José Trail Program Toolkit for planning & design, Caltrans Highway Design Manual, VTA Bicycle Guidelines and other related documents that support San José's high standard for trail development.

The opportunity sites are listed below but are not limited to this list.

#### 1. BART Plaza

In the South Flea Market District, a plaza just west of the North San José/ Berryessa BART is planned. This plaza is envisioned as a largely hardscaped space to accommodate the thousands of transit users going to and from the BART station. This plaza could also include the operation of an urban market.

#### 2. Central Park

A second open space on the South Flea Market District just west of the BART Plaza is envisioned to be privately owned and maintained, but publicly accessible and may include some retail, an urban market, and a mix of hardscape and greenery. Public seating, games, and art are possible amenities to be provided on this opportunity site for residents, workers, and visitors to mingle.



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This site may also allow for markets and other seasonal events to draw a regional weekend audience.

**3. Creek Park**

A third recreational open space is envisioned for the South Flea Market District that would connect the BART Plaza and Central Park to the Coyote Creek Trail system. The Creek Park opportunity site is envisioned to be a family-friendly open space that connects the active residential and commercial district to regional trail connections.

**4. Coyote Creek & Upper Penitencia Creek**

Valley Water is these preparing flood management plans which would include restoration of habitat of local flora and fauna. The City collaborates with Valley Water to pursue recreation and trails as part of this work. Trails on both creeks will connect and provide an enjoyable and safe pedestrian and bicycle experience with lush native greenery, multi-use trails, safety lighting at under-crossings, gateway features, pedestrian bridges and interpretive signage. The interconnection between Coyote Creek and Penitencia Creek Trails is particularly challenging due to the existing (and to be preserved) Berryessa Road Under-Crossing and development of under-crossings beneath planned roadways. The Coyote Creek Trail master plan discusses the interconnection but further work required as flood management plans are developed, and new roadways were not known during trail master planning and accommodation is required.

**5. Facchino Park**

A neighborhood serving park is planned for the north end of the Facchino District. It is expected to offer recreational and passive improvements to compliment other park offerings in the Urban Village.

**6. Privately-Owned Public Open Space (POPOS)**

POPOS is identified as a potential strategy because the Berryessa & Lundy District has barriers to open space and lack direct access to open space. Due to the small footprint of this District, a POPOS is most appropriate in this area.

Additionally, two triangular open space areas (called Triangle Gateway Parks, just for reference, see map below) exist on the road that runs north/south between the commercial land and residential land on the Flea Market South District. One gateway park is located to the north of the Flea Market South District, adjacent to Penitencia Creek. The other gateway park is located towards the south of the Flea Market South District where the road meets Sierra Road. Note that both triangular open space areas are planned to have a stormwater management function and not a park recreation function, however, they will serve as visual placemaking elements (i.e rain gardens) that reinforce the open space system in the Flea Market South District.

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Figure 4-1: Parks and Open Space Network



## Chapter 4 – Open Space &amp; Placemaking

**Goal OS-1: Create public parks and plazas that are attractive and vibrant and provide places and connections for community activities and interaction that contribute to the livability of the Berryessa BART Urban Village.**

**Policy OS-1.1:** Provide a system of parks and plazas that serves the needs of both the existing and future Berryessa BART Urban Village residents and surrounding community.

**Policy OS-1.2:** Ensure that parks and plazas attract residents and visitors by being highly-visible, highly-permeable, comfortable, well-designed, and pedestrian friendly.

**Policy OS-1.3:** Ensure that the riparian corridors along Penitencia and Coyote Creeks are restored, preserved, and enhanced, integrating a trail system that is not detrimental to the riparian corridors.

**Policy OS-1.4:** Ensure that parks and plazas are accessible for all people regardless of age ability, or income.

**Policy OS-1.5:** Neighborhood parks should be designed and configured in a manner that provides secure and usable and attractive open space and maximizes accessibility to the surrounding community.

**Policy OS-1.6:** Strengthen the interconnectivity of parks and recreational open spaces by utilizing the Coyote Creek and Penitencia Creek trails.

**Policy OS-1.7:** As properties near the Berryessa/North San José BART station develop with higher-intensity uses, the City, community, and private developers should facilitate the creation of pocket parks within new development.

**Policy OS-1.8:** Support the redevelopment of excess land (e.g., large landscaped buffers, setback areas, extra rights-of-way, etc.) into useable active or passive pocket parks through a joint use agreement with the property owner and the City of San José or other appropriate mechanism.

**Policy OS-1.9:** Integrate adequate shade using landscaping or shade structures in park designs.

**Policy OS-1.10:** Integrate green stormwater infrastructure into park designs to improve the quality of the adjacent and nearby creeks and to increase opportunities for public education.

**Policy OS-1.11:** Encourage the development of parks with active recreation areas, such as bocce courts, pickle ball courts, and basketball courts.

**Action Item >>** Seek supplemental financial resources for the design, construction, and maintenance of these important and area-defining gathering spaces.

**Goal OS-2: Promote the development of permanent, interim, and temporary public plazas in appropriate locations when opportunities arise.**

**Policy OS-2.1:** The existing San José Flea Market may continue operations as a transitional commercial use until construction for higher-intensity uses begins. The existing San Jose Flea Market also may be reconfigured and relocated into the BART Plaza and central park areas on the Flea Market District.

**Policy OS-2.2:** Locate plazas in areas that will support community events such as farmers' markets, art fairs, live music concerts, and other periodic special programming, which can be served by nearby parking.

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**Policy OS-2.3:** Locate plazas adjacent to commercial businesses such as retail, coffee shops, and restaurants. Encourage such uses to spill out into the plaza through features such as restaurant seating areas and outdoor displays of shop merchandise.

**Policy OS-2.4:** Integrate temporary or permanent art installations, and other decorative, colorful, or enlivening features, as part of any plaza.

**Policy OS-2.5:** Locate public plazas so that they will be completely visible from at least one street frontage and, where applicable, be at least 50 percent visible from a secondary street frontage.

**Policy OS-2.6:** Support holiday events, food or craft markets, temporary public art installations or exhibits, and even music and dancing, to make interim/temporary plazas vibrant centers of activity, and neighborhood and regional destinations.

**Policy OS-2.7:** Interim plazas should have a defined edge with large fixed objects and a durable material for the plaza surface. Movable furniture, umbrella shade, electrical access, heavy planters, granite blocks, and bollards (to mark the edge of the space) can be incorporated into the space. Any street furniture can be painted, stained, or treated with a water seal to enhance its visual appeal and longevity, and should be well maintained.

**Goal OS-3: Create publicly accessible, but privately owned and maintained urban plazas and paseos to provide the area with additional public spaces.**

**Policy OS-3.1:** As properties are developed and redeveloped, work with the community and private developers to facilitate the creation of publicly-accessible and highly-visible plaza(s) within the new development.

**Policy OS-3.2:** Privately-owned publicly accessible open spaces should clearly demonstrate a recreational benefit to the residents and visitors of the Urban Village and not just to commercial businesses that need outdoor seating areas.

**Policy OS-3.3:** Consider the reduction of required private open space in residential development when public open space is significantly increased, well designed, and useable.

**Policy OS-3.4:** Ensure that privately-owned, publicly accessible open spaces have adequate access easements, and the spaces are designed to be easily recognizable as publicly-accessible.

**Policy OS-3.5:** All new development shall incorporate some amount of publicly accessible open space, such as plazas and pocket parks, or small areas for seating, into their development that is privately owned and maintained

**Policy OS-3.6:** Privately-owned publicly accessible open spaces shall be on the ground level, maximize sunlight exposure, maintain a visual connection from the public realm, and be adjacent to at least one street, paseo, or public park edge.

**Policy OS-3.7:** Integrate art and cultural activities in commercial development and any Privately Owned Public Open Space.

## Chapter 4 – Open Space &amp; Placemaking

**Goal OS-4: Improve the riparian corridor along Coyote Creek and Penitencia Creek to restore the habitat of native plants, native fish and animals, and migratory birds in collaboration with Valley Water.**

**Policy OP-4.1:** Promote the use of native and/or drought tolerant vegetation in new parkland development and other sustainable landscaping practices (e.g., Bay-friendly landscaping) that minimize irrigation and runoff, promote surface infiltration, minimize the use of pesticides and fertilizers, and support regional habitat, including pollinators and bird species.

**Policy OP-4.2:** Explore the provision of passive recreation activities along the Coyote Creek and Penitencia Creek but outside the habitat areas or vegetated edge, as delineated in environmental studies such as the City's Riparian Corridor Policy Study and the Riparian Corridor Protection and Bird-Safe Design City Council Policy.

**Policy OP-4.3:** Utilize nature interpretive signage along the Coyote Creek and Penitencia Creek trails to educate residents and visitors about local flora and fauna, green stormwater infrastructure, importance of trash reduction, and integrated pest management practices.

**Policy OP-4.4:** Explore the integration of green stormwater infrastructure and flood management solutions into passive recreation opportunities.

### Types of Parks, Open Space, and Trails

With several parks nearby, several parks underway and two partially developed trails systems within the Urban Village, and several open space opportunity sites, open spaces within this Plan are envisioned either on publicly-owned (City or Valley Water) sites or privately-owned, public open spaces (POPOS). Whether publicly or privately owned, open spaces must create a system of opportunities for public life and recreation that meet the needs of the Urban Village residents. The following are descriptive guidelines for the types of open spaces envisioned in this urban environment.

#### Traditional Parks

Traditional parks are landscaped open spaces with neighborhood-serving amenities. They may include amenities such as picnic areas, children's play areas, dog parks, and sports courts. For land to be officially designated as parkland, the City must first own the property. New residential or mixed-use residential commercial development is subject to fulfill a parkland obligation to dedicate three acres of land to the City for every 1,000-people added to the community by the project. The total obligation, in land or funding, is based on the number and type of new residential units built. When land dedication is not feasible or desired, a project can fulfill its obligation by paying an equivalent park impact in-lieu fee, construct new or rehabilitate existing recreational amenities, or through a combination of these options.

#### Multi-purpose Plazas

Plazas are designed to provide visually-engaging daily gathering places for community members to socialize, as well as space for neighborhood events. Features such as art installations, fountains, and planters with unique plantings and flowers, would draw people to these lively, urban focal points. These spaces could be used for commercial activity such as outdoor seating for restaurants and cafés, and make available space for mobile food/retail pop-ups, and small farmers' markets. Plazas would be spaces open



**Chapter 4 – Open Space & Placemaking**

to the public, and could be owned, developed, and maintained privately or publicly. A plaza location should contribute towards the area's strong, positive, and unique identity, and should enhance the system of open spaces and pedestrian flow within the Urban Village.

*Guidelines*

1. The minimum recommended size of private, publicly-accessible plazas is 2,000 square feet, with appropriate width and length dimensions to support recreation and provide sufficient street furniture, trees and landscaping, public art, and green stormwater infrastructure, as appropriate.
2. Plazas should be larger if framed by existing or planned retail establishment that can routinely enliven the space and support regular food and bike traffic. The plaza should tend towards a smaller size if simply serving morning and evening commuters that are not likely to dwell in the area.
3. The size of all plazas should be appropriate to their context and the level of anticipated use.
4. Public plazas should be completely visible from at least one street frontage and where applicable, be visible from a secondary street frontage.
5. The sidewalk frontage of a plaza should generally be free of obstructions. In addition, plazas that front on a street intersection are required to maintain a clear area within 15 feet of the intersection.
6. Prepare plazas for pop-up retail at the time of design and construction. Include bollards, power outlets, clips on the ground, lighting, overhead infrastructure as appropriate, and plug and play for music performances, with associated water supply for routine cleaning.
7. Provide a variety of seating opportunities such as traditional benches as well as fixed and mobile chairs. Mobile chairs will give the users the ability to rotate the chairs for sunlight or shade.
8. Provide publicly-accessible and privately-maintained restrooms or arrangements for access to adjacent sites.

*Interim and Temporary Public Plazas*

Interim and temporary public plazas are otherwise underutilized urban spaces that use temporary materials, such as paint, signage, or movable planters to create an active space for a short period of time. Programming for temporary plazas can include art installations, food trucks, live music, outdoor movies, music performances, and pop-up retail. These public spaces can have community and economic benefits and can be used to develop and test community ideas and support for temporary use of public spaces before a formal public improvement project is implemented.



**Chapter 4 – Open Space & Placemaking***Guidelines*

1. Design of a temporary plaza configuration should consider freight loading, accommodation of bike racks, and plaza drainage.

*Pocket Parks*

Pocket parks contain landscaped areas and neighborhood-serving amenities. Pocket parks are typically built on single lots, often irregularly-shaped pieces of land. Pocket parks would ideally be owned and maintained by private development. They may be constructed by residential or mixed-use developers on private property and then made accessible to the public. Pocket parks are intended to have areas to socialize, sit and relax, may include small children's play areas.

*Guidelines*

1. Pocket parks should be a minimum of 2,000 square feet in size.
2. Pocket parks should reflect the design and placemaking elements of the surrounding urban character through use of architectural styles, signage, color, texture, choice of materials, and other elements.
3. New residential and commercial uses should be encouraged to locate building entrances, windows, outdoor seating, patios, and balconies to overlook park spaces.
4. Pocket parks shall be highly-visible and accessible from adjacent streets.
5. Pocket parks shall have direct sunlight, sufficient shade during the warm months, and a generous amount of seating.
6. A dog park could be considered as a part of a pocket park, where appropriate.
7. Pocket parks should have movable chairs and tables to allow flexibility in seating arrangements.
8. Pocket parks should integrate green stormwater infrastructure as part of public improvements.

*Paseos*

Paseos are generally provided in two formats: passive or active linear space. A paseo can function primarily as a green buffer that visually screens more intensive development from an abutting primarily single-family neighborhood while providing circulation paths, or can provide an opportunity for other activities that are possible in a linear space such as seating areas and public art display. Paseos are particularly important to consider and design as new, mid-rise urban development is proposed, to ensure the livability of abutting residential neighborhoods, and maintain and enhance connectivity through the Village, between new and established uses.

**Chapter 4 – Open Space & Placemaking***Guidelines*

1. Ensure an appropriate scale of the width of the paseo to the height of adjoining new development to avoid the “canyon” effect, and so users of the paseo have access to sky views and sunlight. Typically, a paseo should be a minimum of 20 feet wide between buildings.
2. Keep paseos within four vertical feet of sidewalk level to ensure visibility and accessibility.
3. To ensure pedestrian safety, consider pedestrian lighting (e.g., bollards). No light source shall be directed skyward.
4. Construct green alleys/paseos with low-impact and permeable paving materials to efficiently manage any stormwater runoff and minimize the “heat island” effect of large areas of paving.
5. The dual use of paseos and Emergency Vehicle Access (EVA)/loading and unloading is potentially acceptable; however, the primary design of the space should be for green open space and not as an ancillary use to an emergency roadway.
6. Make paseos accessible to people with disabilities.
7. Align and connect the ends of paseos with streets, other paseos, or paths in public spaces.
8. Preserve public access at all times in paseos.
9. Use paseos to create routes to the BART station.
10. Design paseos with end-to-end visibility from connecting public spaces.

**Placemaking & Public Art**

In addition to creating inviting and accessible public spaces with appropriate amenities, the incorporation of color, design and public art can play a key role in placemaking in the Berryessa BART Urban Village. Enhancement of open space, pedestrian access, aesthetic amenities, and commercial presence will work in tandem to create a “sense of place”, making the Urban Village a desirable destination. Public art and streetscape amenities can play a vital role in establishing an identity of an Urban Village, particularly near the BART station where residents and visitors spend time eating at an area restaurant, browsing the shops, or enjoying the art displays. Public art and other design elements can reflect and respond to the modern character of existing structures in the urban village, integrate with existing and new commercial activities, reinforce the area’s walkability, and enhance the identity of this urban community.

There are many opportunities to weave public art, color, and architectural design elements into the public areas of this Urban Village to help make it a destination. Residents and participants in public meetings for the Urban Village highlighted an interest in incorporating elements of the culture and history of the San José Flea Market on the site. Public art can be incorporated into new commercial and residential development, BART stations, plazas, and into the public rights-of-way, including green stormwater infrastructure, sidewalks, and potentially any median or bulb-out areas. Public art in this urban village could be designed as separate, more traditional sculptures or murals, and could also be incorporated into the infrastructure and amenities of areas such as sidewalks, future plazas or parklets, wayfinding elements, banners, stormwater and transit systems, and lighting fixtures. Public art can be

## Chapter 4 – Open Space &amp; Placemaking

either temporary or long-term, and can include a range of artistic expression, both visual (paintings and light displays) and audio (musical events and performances) within parks or plazas. The community's interest in the San José Flea Market can be promoted through retaining elements such as the wagon wheel/horseshoe seating from the flea market as well as public art integrated into landscaping planters, fountains or other decoration within the public right-of-way, and other publicly-accessible plazas and seating areas.

Business owners can play a role as well in taking care to maintain building façades, upgrade existing signage, and help “take ownership” of their local piece of the public realm. Planter-based landscaping near commercial businesses and elsewhere in the public right-of-way can include seasonal flowering plants, in addition to other year-round green plantings.

Community members can help identify opportunities for public art and provide input to inform the design and programming of the art. Business owners, property owners, and residents can initiate public art projects or event programming, obtaining guidance from the City when needed. Artists should be integrated early into the design of public infrastructure and private development as they can identify new ways of project delivery to enhance the outcome of the art. The addition of successful public art would contribute to the development of Village as a great place with its own memorable identity.

Public Art can be suitable along trail alignments. The large scale of Lupe the Mammoth along the Lower Guadalupe River Trail offers an interpretive and destination experience. The artwork is along the trail and does not limit or prevent public access, and also accommodates circulation by City and Valley Water service vehicles and anticipated operations. The Coyote Creek Trail can benefit from public art as a gateway feature to the Urban Village should a suitable site be defined. Public art along trails should appeal to a broad audience.

#### Goal OS-5: Use placemaking to foster a vibrant public life in the Berryessa BART Urban Village.

**Policy OS-5.1:** Collaborate with community partners and engage the surrounding community to cultivate self-sustaining neighborhood-centric art and artist engagement that reflects the history and cultural values of the area and surrounding community. Consider targeted outreach to area schools to help engage students to create and display art.

**Policy OS-5.2:** Encourage local business owners and resident groups to initiate cultural events that help foster a strong arts community in the Urban Village.

**Policy OS-5.3:** Support the activation of public spaces with events and other activities that enhance the character, identity, and attractiveness of the Urban Village.

**Policy OS-5.4:** Support the formation of Special Districts (i.e. Community Benefit District, CBD) to fund public art, street furniture, wayfinding, events, and other aesthetically pleasing placemaking improvements.

**Policy OS-5.5:** Design the BART plaza with shade, power and data to accommodate performance and temporary art installations.

**Policy OS-5.6:** Designate a space for pop-up entrepreneurs in active pedestrian spaces or plazas.

**Policy OS-5.7:** Encourage business owners along the commercial street frontage to properly maintain

**Chapter 4 – Open Space & Placemaking**

their building façades, consider adding additional shade and color elements (e.g., awnings), upgrade their signage, and “take ownership” of maintaining plantings and flowers in the sidewalk and right-of-way areas proximate to their establishments.

**Policy OS-5.8:** For large development parcels (e.g. over 2 acres), encourage the engagement of a placemaking consultant to help design and program public spaces.

**Goal OS-6: Promote a diverse and stimulating art presence to enrich the identity of the Berryessa BART Urban Village, enhance the walking experience, and improve the economic vitality of this Village.**

**Policy OS-6.1:** Employ public art to provide as aesthetic cover of the utilities and concrete wall located at the west end of the BART station and under the BART train tracks.

**Policy OS-6.2:** All development projects should integrate public art on site.

**Policy OS-6.3:** Ensure that public art is considered in development of publicly-accessible open spaces and public facilities, including sidewalks, streets, parks, plazas, transit stops, wayfinding systems, trail network, bicycle racks, light poles, community facilities, and stormwater management areas.

**Policy OS-6.4:** Create and locate public art to play a significant role in new development and implementation of all types of projects including commercial, multifamily residential, common open spaces, transportation facilities, and stormwater management systems.

**Policy OS-6.5:** Include artists early in the design of public infrastructure and private development to help create a sense of place and enhance the quality of experience in the area.

**Policy OS-6.6:** Design public art to enhance both day and nighttime activities.

**Action Item >>** Work with VTA, developers, and the community to explore possible public art options to activate the west entrance of the Berryessa/North San José BART Station.

### Guidelines

The following are intended to provide guidelines for the community, and public and private development to integrate art into publicly-accessible spaces to help establish and strengthen a sense of place in the Berryessa BART Urban Village.

**Chapter 4 – Open Space & Placemaking**

1. Design public art to celebrate the history and cultural diversity of the community.
2. Consider art as a large-scale and character-defining element of the Urban Village.
3. Integrate art with parks, plazas, play areas, or public spaces/rights-of-way.
4. Incorporate art into pedestrian bridges and passageways to create a unique experience and welcoming place.
5. Consider small-grain details in placemaking, such as special paving in new landscapes, or tiled edging/accents in concrete planter boxes.
6. Ensure that public art projects are included in the most significant development projects early in project development.
7. Incorporate iconic, destination-quality artwork, particularly in commercial development and open spaces where the scale of the location may support larger-scale artwork.
8. Unify major streets by incorporating design elements into the streetscape such as surface treatment and crosswalks, special lighting, unique seating, specially-treated bike racks and utility covers, and utility boxes with public art.
9. Incorporate interactive art projects and designate locations to accommodate a program of changing temporarily-placed artwork.
10. Use public art in wayfinding as an element of continuity across the urban village.
11. Use art, color, and design to create rhythm, harmony, and visual sequence both within this urban village, and to create strong connections between the existing neighborhood, new developments, and the BART station development.
12. Employ temporary and interactive placemaking that varies a user's experience of a space at different times of the year.
13. Use art to promote social and cultural interaction, such as design of open spaces to encourage pop-up eateries serving a range of food from different cultures.
14. Use art to celebrate community rituals, such as special events to celebrate cultural, religious, or spiritual activities.
15. Preserve and reuse existing character-defining elements of the Flea Market including wagon wheel/horseshoe benches and small scale stages and areas for dance.
16. Incorporate innovative art features for green stormwater infrastructure, such as decorative downspouts/ rainwater leaders, aesthetic concrete cover of bioretention planters, or visual displays.
17. Incorporate the Urban Village's natural history into public art, for example, colorful Chinook Salmon crosswalks, Coyote sculptures, or creek-life inspired utility art boxes.

## Wayfinding

This Plan supports the development of a comprehensive wayfinding and community identification sign system for the Berryessa BART Urban Village. The transit-centric nature of the Urban Village necessitates a strong wayfinding program that can facilitate interest and movement beyond the transit station onto both sides of the BART tracks equally and to all the Urban Village amenities. Given the location of the BART station in the center of the Urban Village, wayfinding and signage would be useful in directing travelers to other destinations and points of interest in the Berryessa BART Urban Village and the larger community.

As discussed earlier in this chapter, several parks and the Coyote Creek and Penitencia Creek trails are located within walking distance of the Urban Village. Signage to and from the recreational resources and planned development is essential in creating a connected and lively Urban Village.

All community identification and wayfinding signage and systems must conform to City Council Policy 9-3, Community Identification Signs and Wayfinding.

**Goal OS-7: Develop a comprehensive signage system that reinforces the historic and cultural identity of the Berryessa BART Urban Village within its surrounding neighborhood context and brings a uniform, recognizable look to this Urban Village.**

**Policy OS-7.1:** Reflect the culture and history of the San José Flea Market in the design of the wayfinding and community identification signs.

**Policy OS-7.2:** Place clear and eye-catching signage around and under the BART tracks to encourage interconnectivity between the east and west of the BART station.

**Policy OS-7.3:** As appropriate, signage should include intuitive, widely understood symbology, and accommodations should be made for wheelchair users and the visually-impaired.

**Policy OS-7.4:** Promote transit use, trail use, mobility hubs, and social hubs planned for the Berryessa BART Urban Village through signage.

**Policy OS-7.5:** Encourage a pedestrian-friendly environment that extends beyond the Urban Village boundary by providing optimally-placed and reassuring wayfinding signage throughout the Berryessa BART Urban Village.

**Action Item >>** Work with the community, BART, business owners, and private developers to facilitate the creation of a comprehensive wayfinding and community identification sign system for the Berryessa BART Urban Village.



## Chapter 4 – Open Space & Placemaking

### Guidelines

1. Design signs to be consistent with the comprehensive wayfinding and community identification sign system for the Urban Village.
2. Ensure each sign has an objective, rationale, content, illumination, and is made of appropriate materials.
3. Include icons and graphics on signage where feasible to traverse potential language barriers.
4. Use a distinctive color scheme to associate with each of the categories of the sign system.
5. Relate signage graphics to the San Jose Trails Signage and Mileage Markers Guidelines (sign inventory) when directing the community to these resources.

### Types of Signage

Below is a description of the different types of signs that should be included in a comprehensive signage and wayfinding system.

#### Visitor Information Kiosks

Locate Visitor Information Kiosks in highly-visible areas at gateways to the Urban Village, the BART station, and paseo entry points or other spaces where pedestrians may begin their exploration. Also include information about upcoming events happening in the Berryessa BART Urban Village at the information kiosks.

#### Pedestrian Directional Signs

Pedestrian directional signs would orient and direct individuals on foot throughout the Urban Village to the BART station, as well as various amenities and destinations in the Urban Village and surrounding neighborhoods. Extend the wayfinding system from parking areas, transit nodes, and bike paths and trails. Provide detailed maps that highlight visitor amenities, attractions, public transit, and retail areas.

#### Shared-Use Path Signs

Directional signs for paseos shared by pedestrians, cyclists, and other users. Clearly identify key bike paths that connect to the Berryessa BART Urban Village. Point out bike- and pedestrian-related amenities and services within and nearby the Urban Village such as restrooms, rest areas, transit connections, and restaurants.

#### Community Identification Signs (Interpretive Signs and Panels)

Signs that communicate historic or culturally relevant information about an area, site, structure, or building. Design signs to recall and celebrate the history and culture of the San José Flea Market, and be informative, accurate, and graphically pleasing.

#### Trail Signs

Identity, Guidance, Rules, Wayfinding, and Warning signs shall adhere to the San Jose Trail Program Signage and Mileage Marker Guidelines for installations along the trail corridors.

**Chapter 4 – Open Space & Placemaking****Banners**

Cloth, vinyl, or other flexible signs or colored panels that are used in various locations in San José and are typically installed to hang from street light poles. Banners are typically used to unify and enliven the streetscape. Design banners to add color and vibrancy primarily to the Urban Village's commercial areas. Consider banners that can be changed to highlight different seasons or events.

**Vehicular Directional and Parking Signs**

Signs serving to direct vehicular traffic to key destinations within and beyond the Urban Village. Ensure vehicular signage is also appropriate and useable by bicyclists traveling in the public roadways. Include identification and directional signs for parking throughout the Urban Village for both vehicular parking and bicycle parking.

**FILE NO. PDC17-051**  
**1590 BERRYESSA ROAD (SAN JOSE FLEA MARKET)**  
**DEVELOPMENT STANDARDS**  
**DRAFT ~~0305/1624~~/2021**

*\*In any cases where the graphic plans and text may differ, this text takes precedence. \**

## **RESIDENTIAL AREAS**

### **Permitted Uses**

- Permitted uses of the R-M Multiple Residence Zoning District as set forth in Title 20 of the San José Municipal Code, as may be amended.
- Permitted and Administrative uses of the CP Commercial Pedestrian Zoning District as set forth in Title 20 of the San José Municipal Code, as may be amended.
- Live/Work units are allowed on public or arterial streets only, as designated in the Berryessa BART Urban Village (BBUV) Plan circulation chapter. Live/Work units must be in compliance with Section 20.80.740 of the San Jose Municipal Code, as may be amended.
- Existing Flea Market-related uses allowed as interim uses consistent with the Berryessa BART Urban Village Plan land use policies.
- Supportive housing as defined in Section 50675.14 of the Health and Safety Code.

### **Conditional and Special Uses**

- Special and Conditional uses of the R-M Multiple Residence Zoning District as set forth in Title 20 of the San José Municipal Code, as may be amended, with the issuance of a Planned Development Permit or Planned Development Permit Amendment.
- Special and Conditional uses of the CP Commercial Pedestrian Zoning District as set forth in Title 20 of the San José Municipal Code, as may be amended, with the issuance of a Planned Development Permit or Planned Development Permit Amendment.

### **Prohibited Uses**

- Detached single-family, two-family, townhomes.
- Hospitals
- Vehicle-related uses as enumerated in Zoning Ordinance Table 20-90, as may be amended
- Cemeteries, mortuary, and funeral services
- Live/Work units are not allowed on the main streets located along the central open space in the Flea Market South District of the Berryessa BART Urban Village Plan. Live/Work units must be in compliance with Section 20.80.170 of the San Jose Municipal Code, as may be amended.

- Residential care/service facilities for 7 people or more persons, and single-room occupancy hotels.

## **Development Standards**

### **Density**

- Minimum of 1,700 multifamily residential units and up to 3,450 units.
- Residential development as low as 95 Du/Acre may be permitted if it can be demonstrated to the satisfaction of the Director of Planning, Building and Code Enforcement that residential development at a density as low as 95 Du/Acre combined with other development in the areas identified for residential on the Land Use Plan (Sheet 2.3) would not inhibit the attainment of a minimum aggregate of 1,700 residential units with an overall average density of 150 DU/acre net.

### **Building Height**

- Building heights shall be consistent with the height limits described in the Urban Design chapter of the Berryessa BART Urban Village Plan, as may be amended. (Note: Include in the final submittal the building height diagram of the BBUV Plan. This diagram is shown in the BBUV land use and urban design chapters).

### **Architecture & Site Design**

- Residential development shall be consistent with the goals, policies, and standards as described in the Urban Design chapter of Berryessa BART Urban Village Plan, as may be amended. Residential building design shall be consistent with the San José Citywide Design Standards and Guidelines, as may be amended.

### **Perimeter Setbacks**

- Residential development setbacks: Minimum 0 feet setback permitted, Maximum 3 feet (except portion of building perimeter with stoops). For building perimeter with stoops the setbacks are 6 -10 feet. All setbacks are measured from the frontage property lines.

### **Parking**

- Vehicle parking shall be designed in accordance with Title 20 of the San José Municipal Code, as may be amended.
- Motor vehicle parking supply, parking management, and parking reduction for each subsequent Planned Development Permit shall be governed by the goals, strategies, and parking policies described in the Berryessa BART Urban Village Plan parking chapter, as may be amended.
- Bicycle parking shall be provided as required per Title 20 of the San José Municipal Code, as may be amended.

### **Private Open Space**

- Projects shall provide private open space at a minimum of 30 square feet on at

least 50% of the residential units. Private open space is defined as direct access to a balcony, patio, deck, rear yard, or roof terrace.

- The private open space requirement is calculated based on the total number of units and each development (Planned Development Permit).

#### Signage

- Per the San José Municipal Code, Title 23, as may be amended.

## **COMMERCIAL AREAS**

### **Permitted Uses**

- Permitted and administrative uses of the CP Commercial Pedestrian Zoning District as set forth in Title 20 of the of the San Jose Municipal Code, as may be amended.
- Office and research and development (R&D) uses.

### **Conditional and Special Uses**

- Special and Conditional uses of the CP Commercial Pedestrian Zoning District as set forth in Title 20 of the San José Municipal Code, as may be amended, with the issuance of a Planned Development Permit or Planned Development Permit Amendment.

### **Prohibited Uses**

- Vehicle-related uses
- Private clubs/lodges
- Amusement arcades with more than 19 games
- Bowling establishments
- Storage
- Hospitals
- Cemeteries, mortuary, and funeral services
- Emergency residential shelters, residential care/service facilities for 7 people or more persons, and single-room occupancy hotels
- Live/Work units

### **Development Standards**

#### Commercial Development and Floor Area Ratio

- A minimum of 1,500,000 square feet and up to 3,400,000 square feet of commercial uses.
- Commercial development with a Floor Area Ratio (FAR) as low as 3.5 net, as defined in the Berryessa BART Urban Village Plan, may be permitted if it can be demonstrated to the satisfaction of the Director of Planning, Building and Code Enforcement that an FAR as low as 3.5 combined with other development FARs

in the areas identified for commercial on the Land Use Plan (Sheet 2.3) would not inhibit the attainment of a minimum aggregate of 1,500,000 square feet.

### Building Height

- Building heights shall be consistent with the goals, policies, and height limits described in the Urban Design chapter of the Berryessa BART Urban Village Plan. (Include in the final submittal the building height diagram of the BBUV Plan. This diagram is shown in the BBUV land use and urban design chapters. Note: One diagram will suffice for both commercial and residential areas.)

### Architecture & Site Design

- Commercial development shall be consistent with the goals, policies, standards and design guidelines of the Urban Design chapter of the Berryessa BART Urban Village Plan, as may be amended.

### Perimeter Setbacks

- Commercial development setbacks: Minimum 0 feet permitted, Maximum 3 feet along the Green Street as defined in the BBUV transportation and circulation system and zero-lot-line or zero setbacks along other streets. All setbacks are measured from the frontage property lines.

### Parking

- Vehicle parking shall be designed in accordance with Title 20 of the San José Municipal Code, as may be amended.
- Motor vehicle parking supply, parking management, and parking reduction for each subsequent Planned Development Permit shall be governed by the goals, strategies, and parking policies described in the Berryessa BART Urban Village Plan parking chapter, as may be amended.
- Bicycle parking shall be provided as required per Title 20 of the San José Municipal Code, as may be amended.

### Signage

- Per the San José Municipal Code, Title 23, as may be amended.

## **PUBLIC PARKS/PRIVATELY OWNED, PUBLICLY ACCESSIBLE OPEN SPACE/OPEN SPACE/RIPARIAN CORRIDOR AREAS**

### Permitted Uses

- All permitted uses per policies of the Berryessa BART Urban Village Plan Open Space chapter.
- Commercial uses (dining, retail, outdoor sales, farmers markets, Urban Market etc.) are permitted within these areas.
- Existing Flea Market-related uses in the current configuration are allowed as interim uses consistent with the Berryessa BART Urban Village Plan land use



- policies.
- New Flea Market-related uses as proposed as part of a new Urban Market in the designated BART Plaza and Central Open Space.

### **Prohibited Uses**

- All uses prohibited or not supported by the policies of the Berryessa BART Urban Village Plan Open Space chapter.

### **Development Standards**

- All proposed development, including buildings, placemaking uses, and related activities in the Public Parks/Open Space districts shall meet the intent, goals, and policies of the Berryessa BART Urban Village Plan, and as described in the Open Space chapter.

### **GENERAL NOTES**

- Portions of the existing Flea Market site may be removed at any time. Interim land use policies described in the Berryessa BART Urban Village Plan land use chapter are applicable.

### **ENVIRONMENTAL MITIGATION**

- Implement the mitigation measures identified in the certified San José Flea Market Planned Development Rezoning Project Environmental Impact Report for File No. PDC17-051, and related mitigation monitoring and reporting program, as may be amended.

### **CONDITIONS OF APPROVAL**

**The following conditions of approval shall apply to any and all land use permits and approvals for sites located within the zoning district that is the subject of this rezoning action.**

**Berryessa BART Urban Village (BBUV) Plan:** The subject rezoning is located in a designated Urban Village established under the Envision San Jose 2040 General Plan. Urban Villages are designated to provide a vibrant and inviting mixed-use setting to attract pedestrians, bicyclists, and transit users of all ages and to promote job growth and reduce impacts transportation, greenhouse gas emission, air quality impacts, and other environmental and other impacts. Development approved under this rezoning is

subject to the policies in Berryessa BART Urban Village Plan, including each of the following conditions related to transportation demand management:

### **Transportation Demand Management (TDM)**

1. Unbundle all off-street parking from the rental, lease, or sale of each residential unit in the project.
2. Price all off-street private parking spaces at market rate for users.
3. Consistent with the Berryessa BART Urban Village Parking and TDM plan and the anticipated Citywide Transportation Demand Management Policy, the project is required to implement the following Mandatory TDM measures:

- a) Form the Berryessa BART Urban Village Transportation Management Association (TMA) as applicable and as specified below in Subsections (e) through (g) below.
- b) Join as an active member of the TMA and participate in the TDM programs offered by the TMA.
- c) Transit Pass Subsidy: Provide contributions or incentives towards the equivalent cost of a VTA monthly pass for on-site residences and employees. The monthly contributions or incentives can be spent on VTA/BART fare tickets or monthly passes. The project shall meet this requirement by participating in the TDM program offered by the TMA, or by procuring the service on its own.
- d) Education, Marketing, and Outreach: Provide employees and/or residents with information on available travel options. The project shall meet this requirement by participating in the TDM program offered by the TMA, or by procuring the service on its own.

4. In addition to the Mandatory TDM measures, the project is required to implement a set of Additional TDM measures, selected from a menu of options based on the TDM Point System framework as defined in the Berryessa BART Urban Village Parking and TDM plan and the anticipated Citywide Transportation Demand Management Policy. The project is required to submit a project-level TDM Plan comprised of selected TDM measures at the Planned Development Permit stage.

**Transportation Management Association (TMA):**

- e.** The first development project to obtain a building permit within any of the four Districts in the BBUV Plan area established by that Plan shall, in conjunction with the City of San Jose, form the Berryessa BART Urban Village Transportation Management Association (TMA) in order to manage and administer the City-approved TDM Plans for development projects and uses with the four Districts in the BBUV Plan area. This TMA shall be established prior to occupancy of the first building. The TMA shall facilitate shared TDM services as appropriate; provide transportation-related marketing for TDM-related programs and services; coordinate annual monitoring, evaluation, and reporting to the City of San Jose in accordance with the relevant approvals and legally binding documents for each respective development project and use within the four Districts of the BBUV Plan area, with TMA approval prior to submittal to the City of San Jose. Appropriate funding mechanisms for the TMA shall be established no later than the date of occupancy of the first building following the BBUV Plan approval in any of the four BBUV Districts. The developer/property owner that forms the TMA shall be a member of the TMA and other developers/property owners of projects within the four Districts of the BBUV shall join the TMA for the purposes stated above.
- f.** Projects approved under subsequent PD permits are required to join the TMA established in Subsection (e) above, and property owners shall pay a portion of the costs of any adopted funding mechanism(s) to implement the City and TMA functions under the Parking and Transportation Management Entity.
- g.** Development approved under this rezoning shall work with the City and the TMA to make adjustments in the project-level TDM Plan as appropriate to meet the TDM compliance and monitoring requirements set forth in the anticipated Citywide Transportation Demand Management Policy.