

**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 [JoseJosé](#) 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 [JoseJosé](#) 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 dwelling units per acre (DuDU/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 DuDU/Acre combined with other development in the areas identified for residential use 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-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 the 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 feet -to 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 polices 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, José](#) 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 Markets 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 José](#) 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 José](#), 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 within 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 José](#) 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 José](#). 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.

