



Memorandum

TO: Planning Commission

FROM: Chu Chang, Acting Planning Director

SUBJECT: SEE BELOW

DATE: May 5, 2021

SUPPLEMENTAL

SUBJECT: File Nos. GP20-008 and C21-001: General Plan amendments associated with the Berryessa BART Urban Village (BBUV) Plan, adoption of the BBUV Plan, and Conforming Rezoning

File No. PDC17-051: A Planned Development Zoning (“The Flea Market southside rezoning”), 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 on approximately 61.5-gross acre site located at 1590 Berryessa Road (Assessor Parcel Numbers 254-17-052, 053, 007, 084, 095)

Location: The Berryessa BART Urban Village (File Nos. GP20-008 and C21-001) is generally located in the north-east area of the City of San José with the US Hwy 101 to the south, Interstate 680 to the east, and Interstate 880 to the west. The Flea Market southside rezoning (File No. PDC17-051) is located south of Berryessa Road between the BART tracks alignment to the east and Coyote Creek to the west (1590 Berryessa Road).

REASON FOR SUPPLEMENTAL

At its March 24, 2021 meeting, the Planning Commission continued the hearing on items 8.a (File Nos. GP20-008 and C21-001) and 8.b (File No. PDC17-051) on its agenda – the adoption of the Berryessa BART Urban Village Plan with associated General Plan amendments and the Flea Market South rezoning respectively – to its May 12, 2021 meeting. The Commission also directed staff to return on May 12 to report on the feasibility of a “community benefit agreement” (CBA) to potentially address the future displacement of the Flea Market vendors.

This Supplemental Memorandum provides information to the Planning Commission about the nature and process for negotiating and entering into a CBA and requirements for development agreements. This Memorandum also provides additional information on the relationship between the Flea Market site’s existing land use entitlement and the proposed rezoning, which the

May 5, 2021

Subject: Project File Nos. PDC17-051, GP20-008 and C21-001

Page 2

Planning Commission could consider as it deliberates over a recommendation to City Council. Furthermore, this Memorandum provides information on an educational event hosted by Catalyze SV on April 15, 2021, between the March 24 hearing and continued hearing on May 12, related to the proposed Flea Market South rezoning.

BACKGROUND

Several speakers at the March 24, 2021 Planning Commission meeting urged the City to enter into a CBA with the Flea Market developer or require the developer to enter into such an agreement. Some of the speakers also stated that the City is entering into a CBA with Google for the Downtown West development proposal as an example of what the City or developer could do with the Flea Market South project. Public comments at the meeting were primarily concerned with the eventual closure of the Flea Market and the impact that such a closure would have on the vendors' businesses, income, families, and employees. Although the speakers suggested a CBA, there were no specifics mentioned about agreement terms or any related negotiations between the vendors and the Flea Market property owner. When asked by the Chair whether any of the vendor representatives had approached the property owner, one of the representatives responded that they had not approached the owner to discuss their concerns. The vendors were asked by the Commission Chair to do so before the May 12, 2021 continued hearing. The Planning Commission also directed staff to report on the feasibility of a (CBA) to potentially assist with the future displacement of the Flea Market vendors.

ANALYSIS

Community Benefit Agreements

A CBA is a contract signed between a community group or groups and a real estate developer that requires the developer to provide specific amenities and/or compensation to the local community. Typically, negotiations between a CBA group or coalition and a developer begin after a project application has been filed but prior to governmental approval.

The successful negotiation of a CBA relies heavily upon a community-based organization or coalition to adequately express the concerns and desires of the community they serve along with a developer who is motivated and agrees to negotiate the terms of such an agreement. The organizations representing various community interests in the negotiation of CBAs have generally included community, environmental, faith-based, and labor organizations.

CBAs are private, contractual agreements. Because a CBA is intended as a legally binding contract between a community group or groups and a developer, it can be enforced only by the parties that signed it. To date, staff is aware of no case law regarding the validity and enforceability of CBAs.

Government agencies may play a role in CBA negotiations if asked to do so by the parties. Government officials may, for example, facilitate CBA negotiations and encourage cooperation between the community groups and the developer. As stated previously, the CBA is an agreement negotiated and entered into voluntarily by a community group(s) and a

May 5, 2021

Subject: Project File Nos. PDC17-051, GP20-008 and C21-001

Page 3

developer/landowner that should reflect the unique interests and resolution of issues by the private parties.

Development Agreements

Occasionally, there are terms that would benefit a community or neighborhood that would generally be included in a CBA that can be incorporated as part of a development agreement with a city. California state law authorizes development agreements as two-party agreements between a developer and/or landowner (those with an equitable interest in the real property; hereinafter collectively “developer”) and a local government agency (Government Code sections 65864-65869.5).

In California, development agreements are recognized primarily as a method by which local governments can provide that, upon approval of a project, the developer may proceed in accordance with existing policies, rules, and regulations, and subject to conditions of approval. Such an approval is intended to strengthen the planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development (Government Code section 65864).

Government Code section 65865(c) states in relevant part: “Every city... shall upon request of an applicant, by resolution or ordinance, establish procedures and requirements for the consideration of development agreements upon application by, or on behalf of, the property owner or other person having a legal or equitable interest in the property.”

The required contents of development agreements are specified in Government Code section 65865.2 and include duration of the agreement, permitted uses of the property, density or intensity of use, maximum height and size of buildings, and the reservation or dedication of land for public purposes. Government Code section 65865.2 also states that development agreements may include conditions, terms, restrictions, and requirements for subsequent discretionary actions so long as such conditions do not prevent development of the land for the uses at the density or intensity set forth in the agreement, and may specify the time within which the project or phases of the project must be commenced and completed. The development agreement may also include terms and conditions relating to applicant financing of necessary public facilities and subsequent reimbursement over time.

Chapter 18.02 of the San José Municipal Code (SJMC) establishes the City’s process for the consideration of applications for development agreements by developers and property owners (those with an equitable interest in the property). SJMC section 18.02.020 specifies: “The City of San José may, at its sole discretion, enter into a binding development agreement with any qualified applicant for the development of such property pursuant to and in accordance with these regulations.”

In sum, development agreements are an agreement that is requested and applied for by a developer. It is an entirely voluntary and negotiated agreement between the developer and the local agency. In the development agreement process, the developer and the local agency negotiate an exchange of benefits and obligations to satisfy the various needs and desires of both parties. Development agreements are the only mechanism under California law where there is no nexus to the impacts of the development required for the conditions of development and benefits from the developer. Development agreements are not required to be entered into by the parties if

May 5, 2021

Subject: Project File Nos. PDC17-051, GP20-008 and C21-001

Page 4

they do not agree on terms. Rather, they are negotiated and executed by both parties and, if both parties reach agreement, the agreement is adopted by ordinance of the City Council and executed by both parties.

Because the Flea Market owner has not applied to the City to negotiate a development agreement, this avenue for the possible negotiation of provisions that may address community benefits including the vendors' concerns is not currently available.

Further Consideration on the Existing and Proposed Flea Market Zoning

As the Planning Commission deliberates its recommendation to Council on the proposed Flea Market South zoning, it is important to understand the entitlement history of the property, the conformity with General Plan goals, and Council direction to rezone the Flea Market property to further support the BART investment, and the implications of not rezoning the property and allowing the 2009 zoning to remain.

The Flea Market was first rezoned by the City Council in 2007 (PDC03-108). This zoning was for the entire Flea Market, including both the portions on the north and south side of Berryessa Road. The rezoning allowed up to 2,818 dwelling units and 365,622 square feet of commercial development. The 2007 zoning did not plan for the retention of the Flea Market use on the property, but it was anticipated that build out of the site would occur over many years allowing the Flea Market to continue operation for some time. Since approval of this rezoning, only the portion on the north side of Berryessa road has been redeveloped. This 2007 rezoning was approved when BART was still in the planning phases and 13 years from completion. This rezoning allowed residential densities that were too low to fully support BART ridership at the Berryessa Station. Furthermore, the rezoning did not allow significant high intensity commercial uses such as offices, which would contribute the most towards BART ridership. It has been well documented in planning research that high intensity employment uses, within a short walk of transit, generate the highest level of transit use of any land use.

In 2009, the City Council approved a subsequent rezoning of the entire Flea Market property (PDC09-006), which replaced the Council approved 2007 zoning. This 2009 zoning retained the commercial and residential development capacities of the 2007 zoning, but removed the prohibition on vehicle related uses and detached and attached single family homes that was included in the 2007 zoning. This zoning change allowed for the development of the single family detached and attached homes that now reside on the northern portion of the former Flea Market property.

In November of 2011, the City Council approved the Envision San Jose 2040 General Plan. Recognizing that the 2009 rezoning approved by Council for the Flea Market did not allow the intensity and mix of uses that supported the planned BART investment, the General Plan included Land Use Policy LU-2.4, which states:

“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.”

May 5, 2021

Subject: Project File Nos. PDC17-051, GP20-008 and C21-001

Page 5

No significant infrastructure improvements have been constructed on the south side of Berryessa Road since adoption of the Envision San José 2040 General Plan in 2011. In 2016, the property owner submitted a new rezoning (PDC16-001) to modify the land uses on the north side of Berryessa Road. The impetus for this rezoning was that the school district determined that it no longer needed an elementary school site within the Flea Market property, so the property owner wanted to redistribute the location of residential and public park land uses on the site. Consistent with General Plan Policy LU 2.4 above, the City Council approved the proposed rezoning with a condition requiring the property owner to subsequently rezone the Flea Market site south of Berryessa Road to allow between 1.5 and 2.2 million square feet of commercial/retail/industrial space.

The current proposed rezoning (PDC17-051) is consistent with Council direction in 2016 and implements General Plan Policy LU 2.4. The proposed rezoning significantly increases the intensity of development and the amount of commercial development to further support BART ridership at the recently opened Berryessa Station. The proposed rezoning would increase the planned residential development approved in the existing zoning from 2,468 units to 3,450 units and would increase the commercial development from 315,022 sq. ft. to up to 3.4 million sq. ft. with a minimum of 1.5 million sq. ft. required. As discussed in the March 24, 2021 Planning Commission staff report, the proposed rezoning is also consistent with the proposed Berryessa BART Urban Village plan which plans for high intensity commercial office development adjacent to the BART station, with high density residential development surrounding this commercial development.

The zoning of the Flea Market property currently remains the Planned Development zoning approved by the City Council in 2016. While the existing zoning is not consistent with current General Plan policies nor the proposed Berryessa BART Urban Village Plan, the developer can build according to the existing rezoning because it is already entitled (approved by the City Council). The existing zoning does not include the retention of the Flea Market use or address its relocation. Furthermore, the existing zoning allows average residential densities of 55 du/ac, which is lower than the minimum 75 du/ac recommend by BART's guidelines for transit supportive development at its stations. So, if the proposed rezoning of the Flea Market South site were denied by the Council, the developer could construct less residential and commercial on the site in accordance with the 2016 zoning.

Catalyze SV Berryessa Flea Market Educational Event

On April 15, 2021, Catalyze SV held an informational meeting regarding the proposed Flea Market rezoning, titled *Development without Displacement: A Future for All at the Berryessa Flea Market*. Speakers included Kurt Wheeler, Project Manager at Project for Public Spaces, Julian Gross with Renne Public Law Group; James Chang, Chief of Staff for City of Berkeley Councilmember Ben Bartlett; Jeffery Buchanan, Director of Public Policy at Working Partnerships USA; and recorded testimonials from Flea Market vendors.

James Chang spoke about his experience with the Berkeley Flea Market located at the Ashby BART station park-and-ride lot. Mr. Chang stated that when development was proposed at the Ashby BART station through BART's Transit Oriented Development program, the City worked

May 5, 2021

Subject: Project File Nos. PDC17-051, GP20-008 and C21-001

Page 6

with the property owner (BART) to enter into a Memorandum of Understanding (MOU) which established a process for the City of Berkeley and BART to cooperatively pursue transit oriented development at the Ashby BART station.

The MOU established a framework for development of the Ashby BART station, which included the City of Berkeley's Adeline Corridor Specific Plan. The Adeline Corridor Specific Plan, adopted by the Berkeley City Council in December 2020, includes objectives for redevelopment of the Ashby BART station parking lot to incorporate a large civic plaza that could be designed and programmed to accommodate the Berkeley Flea Market.

Unlike the San Jose Flea Market, the Berkeley Flea Market has about 100 vendors, and is located on public land that is owned by BART. This public land is a 4.4-acre surface parking lot used by the Berkeley Flea Market only on weekends; the land is not used on a permanent basis by the Berkeley Flea Market. This allows the lot to be used by BART commuters during the weekdays. There are no existing entitlements for development at the Ashby BART station site. The type of land ownership (publicly-owned), as well as the size and frequency of the Berkeley Flea Market operation, offered specific opportunities for its continued function as part of the Adeline Corridor Specific Plan.

While both the Berkeley and San José Flea Markets are culturally, ethnically, and economically significant assets, their conditions differ in terms of size, operation, land ownership, and development entitlement status, which effect relocation or permanency opportunities. In contrast to the Berkeley Flea Market, the San José Flea Market is located on private land adjacent to the Berryessa/North San José BART station which began operation in 2020. The San Jose Flea Market operates Wednesday through Sunday in what is left of the original 120-acre site — the 60.5-acre site south of Berryessa Road that is the subject of the proposed rezoning. The San Jose Flea Market occupies approximately 18 acres of net area within the 60.5-acre larger site. Approximately 700 vendors occupy these 18 acres. Outside the 18 acres of business operation, approximately five acres of parking, and the open space corridors of Penitencia and Coyote Creek, the balance of the site is largely an underutilized surface parking lot that remains empty most of the time.

May 5, 2021

Subject: Project File Nos. PDC17-051, GP20-008 and C21-001

Page 7

SUMMARY

The above information on Community Benefits Agreements was provided at the request of the Planning Commission. Staff then provided additional information on the existing and proposed Flea Market zoning, as well as information on the Berkeley Flea Market. The information in this memo is provided to assist the Planning Commission in making a recommendation on the proposed Flea Market rezoning (PDC17-051) to the City Council.

/s/

Chu Chang, Acting Planning Director
Planning, Building, and Code Enforcement

For questions, please contact Charla Gomez at (408) 793-5543 or charla.gomez@sanjoseca.gov



Memorandum

TO: PLANNING COMMISSION

FROM: Rosalynn Hughey

SUBJECT: File No. GP20-008 and C21-001

DATE: 3-24-21

COUNCIL DISTRICT: 4

Type of Permit	General Plan amendments associated with the Berryessa BART Urban Village (BBUV) Plan, adoption of the BBUV Plan, and Conforming Rezoning
Project Planner	Charla Gomez
CEQA Clearance	Addendum (File No. ER20-187) to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and Supplemental Environmental Impact Report to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No.77617), and Addenda thereto.
CEQA Planner	David Keyon

RECOMMENDATION

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

1. Consider the Initial Study/Addendum File No. ER20-187 to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution No. 76041) and the Supplemental Environmental Impact Report to the Envision San José 2040 General Plan Final Program Environmental Impact Report (Resolution 77617), and Addenda thereto in accordance with CEQA;
2. Adopt a resolution approving the following:
 - a. General Plan Amendment (GP20-008) to the Envision San José 2040 General Plan to amend the “Planned Job Capacity and Housing Growth Areas by Horizon” table in Appendix 5 and make changes to the Land Use/Transportation Diagram for properties within the boundaries of the Urban Village planning area as shown on the Berryessa BART Urban Village Land Use Diagram;
 - b. Adoption of the Berryessa BART Urban Village Plan as the guiding policy document for new development and identified public improvements within the urban village area; and
3. Approve an ordinance rezoning certain real property of approximately 28.9 gross acres (C21-001) located in the East District area of the Berryessa BART Urban Village Plan area

generally bounded by Berryessa Road to the north; Penitencia Creek, Salamoni Court and Berryessa Station Way to the east; Mabury Road to the south; and Santa Clara Valley Transportation Authority right-of-way to the west from the A(PD) Planned Development zoning district and IP Industrial Park zoning district to the PQP Public/Quasi-Public zoning district (APNs 254-17-008 and 254-17-110), from the A(PD) Planned Development zoning district to the CP Commercial Pedestrian zoning district (APN 254-17-111), from the IP Industrial Park zoning district to the PQP Public/Quasi-Public zoning district (APN: 254-17-083), and from the IP Industrial Park zoning district to the CP Commercial Pedestrian zoning district (APNs 254-17-112 and 254-17-113).

PROPERTY INFORMATION

Location	Generally bounded by Shore Drive to the north, Lundy Avenue to the east, Coyote Creek to the west, and Mabury Road to the south.
Growth Area	Berryessa BART Urban Village
Historic Resource	San Jose Flea Market site (eligible historic resource)
Council District	4
Acreage	Approximately 270 acres

PROJECT BACKGROUND

As shown on the attached vicinity map (Exhibit A), the Berryessa BART Urban Village is generally located in the north-east area of the City of San José with the US Hwy 101 to the south, Interstate 680 to the east, and Interstate 880 to the west. More specifically, the 270-acre Village is generally bounded by Shore Drive to the north, Lundy Avenue to the east, Coyote Creek to the west, and Mabury Road to the south. Coyote Creek runs north-south along the western boundary of the urban village, while Penitencia Creek travels east-west through the middle of the Urban Village. Berryessa Road runs east-west and divides the urban village north-south with six lanes of traffic, and the elevated Bay Area Rapid Transit (BART) tracks run north-south and divide the Urban Village east-west.

Detached single-family residences, medium-density housing including townhouses and two- to five-story residential apartment buildings are located within the BBUV. The existing residential uses include the development north of Berryessa Road, on the former Flea Market parking lot, built within the last two to ten years. The San José Flea Market, commercial strip-mall developments, and low-intensity industrial uses are also located within the BBUV boundary. There are several infrastructure projects in the area, most notably the Berryessa/North San José BART Station and potential highway interchange improvements that would provide direct access from the Urban Village to the US Highway 101. The vast majority of the Urban Village planning area is within a half-mile radius of the BART station.

The Berryessa BART Urban Village is a designated Regional Transit Urban Village plan in the Envision San José 2040 General Plan. Regional Transit Urban Villages are locations within San José with unique access to major transit facilities. The Berryessa/North San Jose BART station, located in the center of the Urban Village, is a regionally significant transit facility that connects San Jose with the larger Bay Area region and is projected to have 25,000 riders daily by 2030.

The proposed Berryessa BART Village Plan (BBUV) Plan was prepared by the City with community input to provide a policy framework that will guide new job and housing growth within the Urban Village boundary. The Plan concentrates residential density and commercial development in areas within walking distance from the BART station, while preserving existing neighborhoods. This Plan will also provide guidance as to the characteristics of future development, including buildings, parks, plazas, placemaking elements, streetscape, and circulation. The Plan provides capacity for the development of 14,000 new jobs (roughly 4,200,000 square feet of commercial space) and 5,100 new dwelling units. The BBUV Plan allocates the employment and housing capacities into four distinct sub-areas called Districts. The four Districts include the Flea Market South District, the East District, the Facchino District, and the Berryessa and Lundy District.

The concentration of planned capacities adjacent to the BART station will result in high-rise commercial and residential buildings, with mid-rise and low-rise mixed-use development further away from the station that will be more compatible with the existing neighborhoods. The Plan generally allocates land to commercial uses separately from residential uses; however, they are adjacent to each other in a horizontal mixed-use format. The Plan visions a live-work-play, 24/7 urban environment with placemaking activities that make this area of San Jose a unique destination and place to work and live.

The adoption of the BBUV Plan will allow development projects to move forward with entitlements that are consistent with the goals, policies, standards, guidelines, action items and implementation strategies identified in the Urban Village Plan.

General Plan Horizons and Residential Entitlements

The Envision San José 2040 General Plan identifies specific Growth Areas with a defined development capacity for each area and places each Growth Area into one of three Horizons for the phasing of residential development to support efficient use of land and delivery of City services, and minimize potential environmental impacts. The BBUV is located in Horizon 1, and the City Council identified preparation of an Urban Village plan as a priority as part of the first Four-Year Review of the General Plan. With the adoption of the BBUV Plan, residential and residential mixed-use projects can move forward if they are in conformance with the adopted Urban Village Plan.

General Plan Amendments

General Plan Amendments associated with the adoption the BBUV Plan include changes to General Plan land use designations on properties within the boundaries of the Urban Village planning area. Specifically, changes to land use designations are proposed in the Flea Market South District, Facchino District, East District area, and Flea Market North area within the BBUV boundary as shown on the proposed BBUV Plan land use diagram (see Exhibit B).

Reallocation of 1,702 planned units from Horizon 3 Urban Villages area are also proposed to support the number of new housing units planned for in the BBUV Plan. Additionally, 5,598 planned jobs are proposed to be shifted from the Berryessa BART Urban Village to the adjacent Mabury Employment Growth Area to better align the new planned commercial growth planned for in the BBUV Plan. These changes are reflected in proposed modifications to the “Planned Job Capacity and Housing Growth Areas by Horizon” table in Appendix 5 of the General Plan. (see Exhibit E)

To comply with State law (SB 1333) requiring conformity of zoning with the general plan, the conforming rezoning of the East District property is one of the actions to be taken with the adoption of the BBUV Plan, while the rezoning of the Flea Market South District will follow as a separate item immediately after consideration of the BBUV Plan adoption. As further discussed in the Zoning Ordinance Conformance analysis below, the proposed changes to land use designations on properties in the Facchino District of the BBUV will not take effect until a conforming rezoning ordinance is adopted by the City Council. All of the proposed rezoning actions can only be approved after the adoption of the General Plan amendments including the BBUV Plan. Therefore, the analysis of the rezoning actions below for the East District assumes the adoption of the BBUV Plan and evaluates consistency of the rezoning with that Plan.

Conforming Rezonings

City-initiated rezonings (C21-001) are proposed in the East District area of the BBUV Plan to align the Zoning Ordinance and the General Plan. Through adoption of the BBUV Plan, the General Plan land use designations in the East District area are proposed to change from the Urban Village and Light Industrial designations to the Transportation & Utilities, Public/Quasi-Public (PQP), and Urban Village designations (see Exhibit B). Conforming rezonings on six properties in the East District area from the A(PD) Planned Development Zoning District and IP Industrial Park Zoning District to the Public/Quasi-Public Zoning District and CP Commercial Pedestrian Zoning District will bring conformance between the City's Zoning Ordinance and the General Plan land use map adopted in the BBUV Plan. (see Exhibit C)

ANALYSIS

The Berryessa BART Urban Village (BBUV) Plan includes goals, policies, standards, guidelines and action items to guide new development and private and public investment to achieve the vision of the Plan, consistent with the Urban Village Strategy outlined in the Envision San José 2040 General Plan.

Urban Village Plan Summary

The BBUV Plan includes nine chapters, as follows:

1. **Introduction:** Describes the planning area and Plan purpose, provides an overview of the planning process, and outlines the organization of the Plan document.
2. **Vision:** Articulates the Plan's vision statement and describes the overarching guiding principles used to formulate the Plan's policies, standards, and guidelines. Conveys a community-preferred future for the Berryessa BART Urban Village Plan.
3. **Land Use:** Describes anticipated growth and identifies the Districts vision, which guided the land use designations that are depicted on the land use map for the Urban Village.
4. **Open Space and Placemaking:** Identifies opportunities for new parks, plazas, and public art, and guides the creation of new publicly-accessible open spaces and placemaking elements within the BBUV. The chapter highlights the existing BBUV open space assets, including Penitencia Creek and Coyote Creek, and offers opportunities to integrate these assets further into the open space system of the BBUV.
5. **Urban Design:** Presents an overarching design concept for the Village, identifies visions and principles, general standards, use-specific standards, and guidelines to realize the concept, and provides design guidelines and standards for private development.

6. Circulation and Streetscape: The chapter promotes connectivity for riders, pedestrians, cyclists, and motorists to leverage the BART station as an asset. It reviews the existing conditions and highlights a range of recommendations to improve multimodal access; identifies goals, policies, and action items related to the circulation network; and presents streetscape design, placemaking design, and design guidelines to guide public realm improvements.
7. Parking: This chapter discusses parking management strategies and policies designed to better manage parking supply and demand in the BBUV plan area, promote the use of non-automobile transportation options, and avoid parking spillover into surrounding neighborhoods. The Chapter requires the implementation of mandatory TDM measures and additional TDM measures for future development in the BBUV as an integral component of a district parking solution, which aims to reduce single-occupancy vehicle trips to 35% of the total trips leaving the BBUV's Districts by 2040.
8. Sustainability & Resiliency: This chapter highlights the importance of sustainability as a community value and outlines policies pertaining to energy, water, waste, building materials, environmental quality, ecosystem protection, and community resilience. The chapter includes a Sustainability Framework which identifies six topic areas to focus the BBUV sustainability vision including: Land Use/Urban Design, Circulation and Accessibility, Ecological Resources and Open Space, Energy, Water, and Stormwater.
9. Implementation: This Chapter provides the framework for the implementation of the Berryessa BART Urban Village Plan. Implementation of the Plan refers to identifying strategies that will fund the construction of physical infrastructure, improvements, and amenities that as a whole build the Plan's vision and meet its many goals.

Appendix 1 – BBUV Transportation Demand Management (TDM) Plan. This appendix discusses the various TDM measures available for compliance with the parking policies in the Plan.

Appendix 2 – BBUV Transportation Management Association (TMA) Preliminary Business Plan. This appendix discusses a preliminary feasibility analysis with the funding sources, revenues, and costs associated with the formation of a BBUV TMA. The BBUV TMA is an organization that will be instrumental in the administration of the BBUV TDM plan, which implements BBUV's district parking policies.

Adoption of the proposed Urban Village Plan and associated General Plan Amendment and Conforming Rezoning was analyzed with respect to:

- 1) Envision San José 2040 General Plan
- 2) Title 20 of the Municipal Code (Zoning Ordinance)
- 3) Senate Bill 330
- 4) California Environmental Quality Act (CEQA)

Envision San José 2040 General Plan Conformance

The following describes this Plan's consistency with the Envision San José 2040 General Plan Major Strategies, goals, and policies:

1. **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 goals. The General Plan establishes the Urban Village concept to create a policy framework to direct most new job and housing growth to occur within walkable and bike-friendly Urban Villages that have good access to transit and other existing infrastructure and facilities. San José Urban Villages are planned for a balanced mix of job and housing growth at relatively high densities with greater emphasis placed upon building complete communities at each Urban Village location while also supporting use of the local transit system.
2. **Major Strategy #3: Focused Growth:** The Focused Growth Major Strategy plans for new residential and commercial growth capacity in specifically identified "Growth Areas" (Urban Villages, Specific Plan areas, Employment Areas, Downtown) while the majority of the City is not planned for additional growth or intensification. The strategy focuses new growth into areas of San José that will enable the achievement of economic growth, fiscal sustainability, and environmental stewardship goals, while supporting the development of new, attractive urban neighborhoods. While the Focused Growth strategy directs and promotes growth within identified Growth Areas, it also strictly limits new residential development through neighborhood infill outside of these Growth Areas to preserve and enhance the quality of established neighborhoods, to reduce environmental and fiscal impacts, and to strengthen the City's Urban Growth Boundary.

Analysis: *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 and Focused Growth Major Strategies. 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).*

In addition, the BBUV Plan 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. Concentrating commercial development in close proximity to the BART station minimizes building height impacts on existing neighborhoods and favors transit ridership. Overall, a horizontal mixed-use development pattern facilitates construction of residential and commercial projects independent from each other, yet close to each other in a horizontal mixed-use fashion. This development pattern also 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.

The following describes how each of the chapters of the Urban Village Plan are consistent with General Plan goals and policies.

Chapter 1 and Chapter 2: Introduction and Vision

Community Partnership Policy CE-2.3: Support continuation of existing and formation of new community and neighborhood-based organizations to encourage and facilitate effective public engagement in policy and land use decisions.

Analysis: *Community input gathered during the planning process provided the basis for overarching vision and guiding principles for the BBUV Plan. The vision statement represents the community values that will shape future development and transformation of the Berryessa BART Urban Village around the following principles:*

- *Principle 1 – Connectivity and Accessibility*
- *Principle 2 – Foster Alternative Forms of Transportation*
- *Principle 3 – Sustainability as an Overarching Principle*
- *Principle 4 – Open Space Enhancement and Protection*
- *Principle 5 – A Mixed-use, Mixed-income Urban Village*

Chapter 3: Land Use

1. **Innovative Economy - Land Use and Employment Policy E-1.2:** Plan for the retention and expansion of a strategic mix of employment activities at appropriate locations throughout the City to support a balanced economic base, including industrial suppliers and services, commercial/retail support services, clean technologies, life sciences, as well as high technology manufacturers and other related industries.
2. **Innovative Economy - Land Use and Employment Policy IE-1.6:** Plan land uses, infrastructure development, and other initiatives to maximize utilization of existing and planned transit systems including fixed rail (e.g., High-Speed Rail, BART and Caltrain), Light-Rail and Bus Rapid Transit facilities, promote development potential proximate to these transit system investments compatible with their full utilization.
3. **Land Use – Efficient Use of Residential and Mixed-Use Lands Policy LU-10.1:** Develop land use plans and implementation tools that result in the construction of mixed-use development in appropriate places throughout the City as a means to establish walkable, complete communities.
4. **Implementation – Urban Village Planning Policy IP-5.1(1):** Job and Housing Growth Capacity: Identify suitable areas for retail and other employment uses, giving careful consideration to existing and future demand for retail space, the appropriate location and design of retail spaces, opportunities for large-scale and small-scale retail uses, and adequate and appropriate sites for other employment uses consistent with the total planned job capacity for the particular Growth Area. Identify suitable areas for residential development, capable of supporting the full amount of planned residential growth capacity. Apply corresponding Land Use / Transportation Diagram or zoning designations to support the proposed employment and residential density ranges.
5. **Implementation – Urban Village Planning Policy IP-5.1(2):** Identify potential adjustments to the identified Urban Village Boundaries and potential modifications to the Land Use / Transportation Diagram as necessary to best utilize existing land use growth capacity, address neighborhood context, and promote economic development through the identification of optimal sites for retail and other employment uses. Provide adequate job growth capacity for retail, office and other employment uses to accommodate both the

existing levels of activity plus the planned amount of growth for each job type category. Identify and designate existing land uses within the Urban Village Area boundaries, if any, which should be retained rather than made available for redevelopment.

6. Implementation – Urban Village Planning Policy IP-5.5: Employ the Urban Village Planning process to plan land uses that include adequate capacity for the full amount of planned job and housing growth, including identification of optimal sites for new retail development and careful consideration of appropriate minimum and maximum densities for residential and employment uses to insure that the Urban Village Area will provide sufficient capacity to support the full amount of planned job growth under this Envision Plan.

Analysis: A primary objective of the BBUV Plan (particularly Chapters 3) is to accommodate the employment and housing capacities assigned in Appendix 5 of the General Plan to this Urban Village. Per Appendix 5, the Berryessa BART Urban Village has a planned employment capacity of 22,100 new jobs equivalent to approximately 6,630,000 million square feet (MSF) of commercial development. Based on the recommendations of a test-fit analysis completed as part of the planning process, the BBUV Plan plans for the development of 14,000 new jobs (roughly 4,200,000 square feet of commercial space) and 5,100 new dwelling units. To support the intensity of development in the BBUV Plan, 1,702 housing units are proposed to be reallocated to the BBUV from Horizon 3 Urban Villages, and 5,598 planned jobs are proposed to be reallocated to the adjacent Mabury Employment Growth Area.

The planned capacity would result in mostly mid-rise buildings with heights that are compatible with the surrounding neighborhoods, and result in residential and commercial densities desired to support BART ridership adequately.

While the BBUV Plan does not propose modifications to the boundary of the Urban Village, the Plan does propose changes to the General Plan land use designations in the Flea Market South District, Facchino District, East District area, and Flea Market North area as shown on the proposed BBUV Plan land use diagram (Exhibit B). The changes in land use designations in this Urban Village accommodate the General Plan's planned jobs and housing capacity for the Berryessa BART Urban Village and creates a mixed-use, compact and bike-, pedestrian- and transit-friendly environment.

The BBUV land use plan was prepared considering; (1) the appropriate locations for mixed use, commercial, and residential uses; (2) how pedestrian, bicycle, and vehicular connections happen throughout the Urban Village area; and, (3) how and where public spaces and other amenities could occur. (See Exhibit B)

The BBUV Plan concentrates employment growth in areas within walking distance of the Berryessa/ North San José BART Station, which are envisioned for intensive job creation. The commercial Floor Area Ratio (FAR) allowed in the Transit Employment Center (TEC) land use designation in the BBUV Plan ranges from 3.0 to 10 FAR. This land use designation is strategically close to the BART station. The BBUV Plan concentrates housing growth adjacent to employment growth areas and within walking distance of the Berryessa/ North San José BART Station. The Plan includes a variety of residential land use designations with a broad range of densities, calibrated to meet the specific urban context of each sub-area or Districts within the Plan. Residential density range from as low as 8 DU/Acre to 500 DU/Acre to fit the site and context of each District and intensify housing and employment where it is most appropriate. The Flea Market South District (the largest opportunity site in the BBUV Plan) has a target build-out capacity of 3,000 housing units and, with a density range of 95 DU/Acre to 500 DU/Acre, could support even more units. Overall, the Plan recommends residential development to be built at

densities higher than the existing development pattern to foster transit ridership in the BART station.

Chapter 4: Parks, Plaza and Placemaking

1. Community Design – Function Policy CD-2.4, Function: Incorporate public spaces (squares, plazas, etc.) into private developments to encourage social interaction, particularly where such spaces promote symbiotic relationships between businesses, residents, and visitors.
2. Community Design – Urban Villages Design Policy CD-7.8: Encourage development along edges of public parks or plazas within or adjacent to Urban Villages to incorporate site and architectural design measures which promote access to and encourage use of the park and which minimize potentially negative shade and shadow impacts upon the park or plaza space.
3. Arts and Culture - High Impact Public Art Policy AC-2.2: Integrate planning for public art in other City planning efforts, including area specific planning processes, and Urban Village master planning processes.
4. Vibrant Neighborhoods - Cultural Opportunities Policy VN-4.3: Consider opportunities to include spaces that support arts and cultural activities in the planning and development of the Downtown, new Urban Village areas and other Growth Areas.
5. Parks, Open Space, and Recreation - High Quality Facilities and Programs Policy PR-1.9: As Urban Village areas redevelop, incorporate urban open space and parkland recreation areas through a combination of high-quality, publicly accessible outdoor spaces provided as part of new development projects; privately or, in limited instances, publicly owned and maintained pocket parks; neighborhood parks where possible; as well as through access to trails and other park and recreation amenities.
6. Implementation – Urban Village Planning Policy IP-5.1(4): Infrastructure: Identify locations for parks, plazas, public and quasi-public open spaces, and sites to potentially incorporate libraries, public safety facilities and other public uses, along with other infrastructure needs. A Village Plan should also consider the adequacy of public and private utilities to serve the planned growth capacity.

Analysis: *The BBUV Plan recommends an open space system with parks and plazas, connected to the green corridors of Coyote and Penitencia Creeks. These green corridors are important assets for the community and will be fully preserved. The preservation of Coyote Creek and Penitencia Creek corridors is also critical to sustain regional watershed and ecological functions beyond the boundaries of the BBUV Plan.*

The Plan recommends a central open space in the Flea Market South District that extends from the BART station. This central open space will be the main amenity and placemaking area in the Plan, and supports “activating uses” such as vendor kiosks and community activities. It will also play a significant role in creating a pedestrian-oriented environment conducive to support BART ridership. Immediately adjacent to the BART station, the first component of this central open space is a public plaza surrounded by mid- to high-rise buildings, which are envisioned to have public art in the ground-level floors per design guidelines described in the BBUV urban design chapter. Additionally, a planned neighborhood park in the Facchino District will provide open space opportunities for residents and employees in this area of the urban village and help to serve as a transition area between single-family homes and medium-density residential development.

Chapter 5: Urban Design

1. Community Design – Urban Villages Design Policy CD-7.1: Support intensive development and uses within Urban Villages, while ensuring an appropriate interface with lower-intensity development in surrounding areas and the protection of appropriate historic resources.
2. Community Design – Urban Villages Design Policy CD-7.4: Identify a vision for urban design character consistent with development standards, including but not limited to building scale, relationship to the street, and setbacks, as part of the Urban Village planning process. Accommodate all planned employment and housing growth capacity within each Urban Village and consider how to accommodate projected employment growth demand by sector in each respective Urban Village Plan.
3. Community Design – Urban Villages Design Policy CD-7.5: Make minor modifications to Urban Village Area Boundaries through the Urban Village Plan process if those modifications reflect existing or planned development patterns or other physical or functional characteristics of the area.
4. Community Design – Attractive City Policy CD-1.11: To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Encourage inviting, transparent façades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.
5. Community Design – Attractive City Policy CD-1.14: Use the Urban Village Planning process to establish standards for their architecture, height, and massing.
6. Community Design – Function Policy CD-2.8: Size and configure mixed-use development to accommodate viable commercial spaces with appropriate floor-to-floor heights, tenant space configurations, window glazing, and other infrastructure for restaurants and retail uses to ensure appropriate flexibility for accommodating a variety of commercial tenants over time.
7. Community Design – Compatibility Policy CD-4.8: Include development standards in Urban Village Plans that establish streetscape consistency in terms of street sections, street-level massing, setbacks, building facades, and building heights.
8. Implementation – Urban Village Planning Policy IP-5.1(5): Urban Character: Include streetscape and building frontage design, pedestrian facility improvements and other urban design actions necessary to successfully implement the Village concept.

Analysis: *The urban design chapter introduces the notion of Districts or sub-areas in the Plan, an urban design strategy that provides distinct areas within the Plan with unique urban design character, building design, and land use intensities.*

The chapter describes overarching goals, urban design principles, and general standards that are applicable to the entire Plan, while it also discusses standards and guidelines that apply differently to residential and non-residential uses. Per recently approved State Bill (SB 330), residential standards and guidelines shall be objective, quantifiable and measurable. The law does not apply to non-residential development. Each District in the Plan has a unique urban design character, so the chapter describes place-specific standards such as setbacks that better respond to their unique urban context and ensures better compatibility with the surrounding neighborhoods. For residential design guidelines, the BBUV plan defers to the recently adopted

Citywide Design Guidelines, while commercial design guidelines are included in the chapter. Overall, the standards and guidelines support a pedestrian-oriented development with appropriate building massing/architecture, connectivity, interactive ground floor interface, neighborhood integrity, and sense of community.

The BBUV Height Limit Diagram (see Figure 1) in the Urban Design Chapter shows maximum heights, which includes variations depending on each District's character. Heights are adjusted to accentuate visual focal points (such as the BART station entrance) or to mitigate the scale and building height of development immediately adjacent to existing neighborhoods. For example, a row of new low-intensity housing in the north and west limits of the Fachinno District serves as a development buffer that integrates new development with adjacent single-family residences. Overall, the Height Diagram shows transitional height policies of the Plan that require a transition between higher story buildings to lower intensity uses, such as single-family residences.

The BBUV Plan does not propose changes to its boundary, as established in the Envision San José 2040 General Plan. Feedback received during the community engagement process supported preservation of surrounding neighborhoods, as well as concentration of new development on large opportunity sites available for redevelopment.

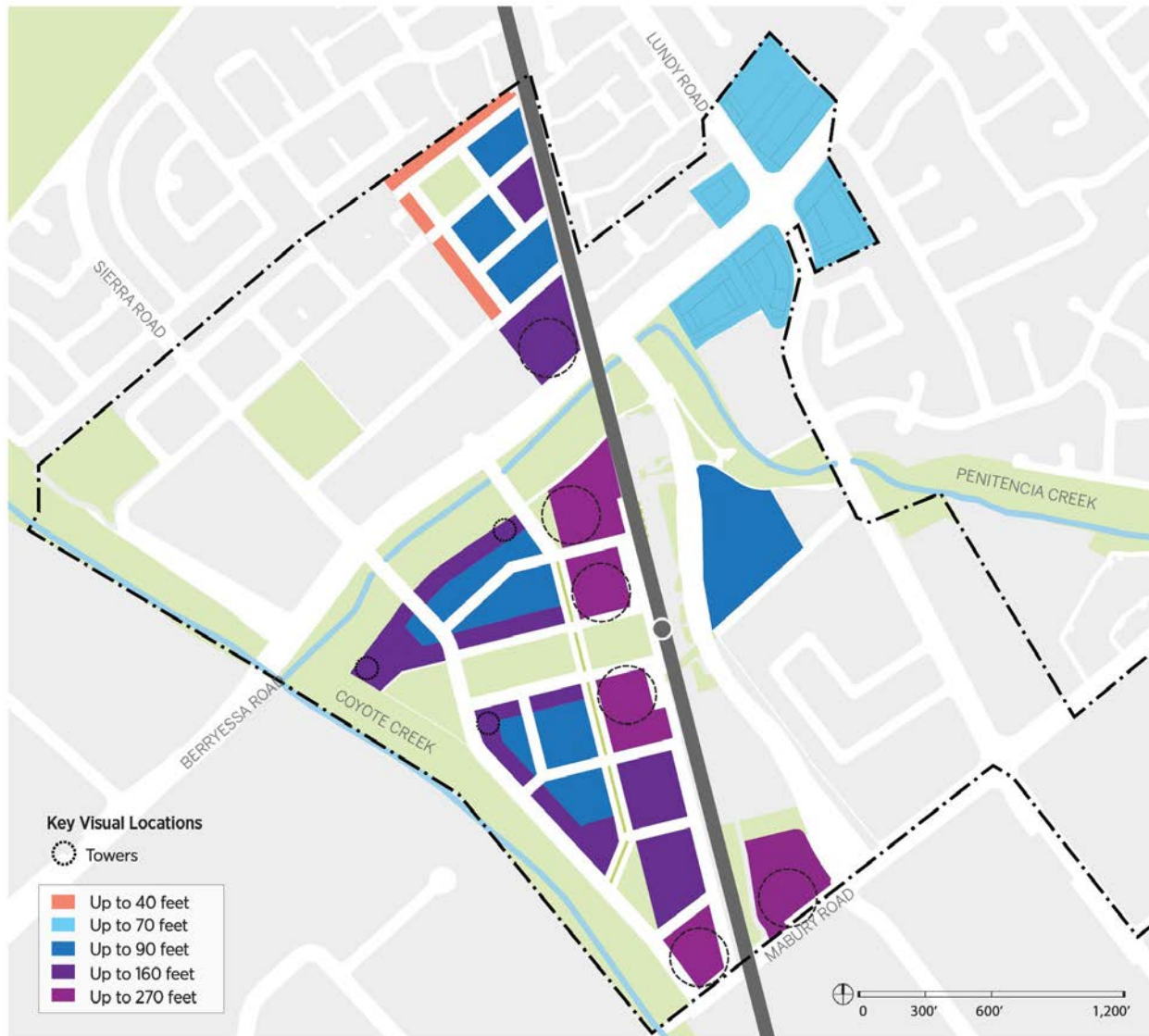


Figure 1: BBUV Plan Height Limit Diagram

Chapter 6: Circulation and Streetscape

1. **Community Design – Attractive City Policy CD-1.9:** Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street facade and pedestrian access to buildings.
2. **Community Design – Function Policy CD-2.3:** Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian-scale lighting, pedestrian-oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways.

3. Community Design – Connections Policy CD-3.2: Prioritize pedestrian and bicycle connections to transit, community facilities (including schools), commercial areas, and other areas serving daily needs. Ensure that the design of new facilities can accommodate significant anticipated future increases in bicycle and pedestrian activity.

Analysis: *The BBUV Plan circulation chapter sets forth a transportation network that is designed to move people to and within the Plan area in the most efficient, accessible, and comfortable way. To do this, the network provides different modes with clear priority and separated networks to access the Urban Village area. A central focus is to prioritize walking, public transit, and bicycling in the core area by keeping automobile circulation and parking facilities on the perimeter of the Urban Village area. This allows motorists to drive to and park on the perimeter of the Urban Village area without compromising the pedestrian and transit-oriented quality of the core area, particularly the area nearby the BART station.*

The BBUV circulation system (see Figure 2) is fully integrated with the urban design and land use frameworks of the Plan. The circulation system is designed to provide a street-grid type of urban environment, with short blocks and new and enhanced connections which facilitates pedestrian accessibility to the BART station. The BART station can be accessed by foot, bike, or other forms of mobility within a half-mile area radius. The chapter includes right-of-way cross sections that incorporate Complete Streets principles with a multi-modal design approach. The right-of-way cross sections complement the proposed land use and urban design strategies of the plan, designed to support an attractive and interesting pedestrian-oriented streetscape. The policies of the open space chapter will supplement the circulation network by adding features such as street furniture, pedestrian lighting, wayfinding, and landscaping.

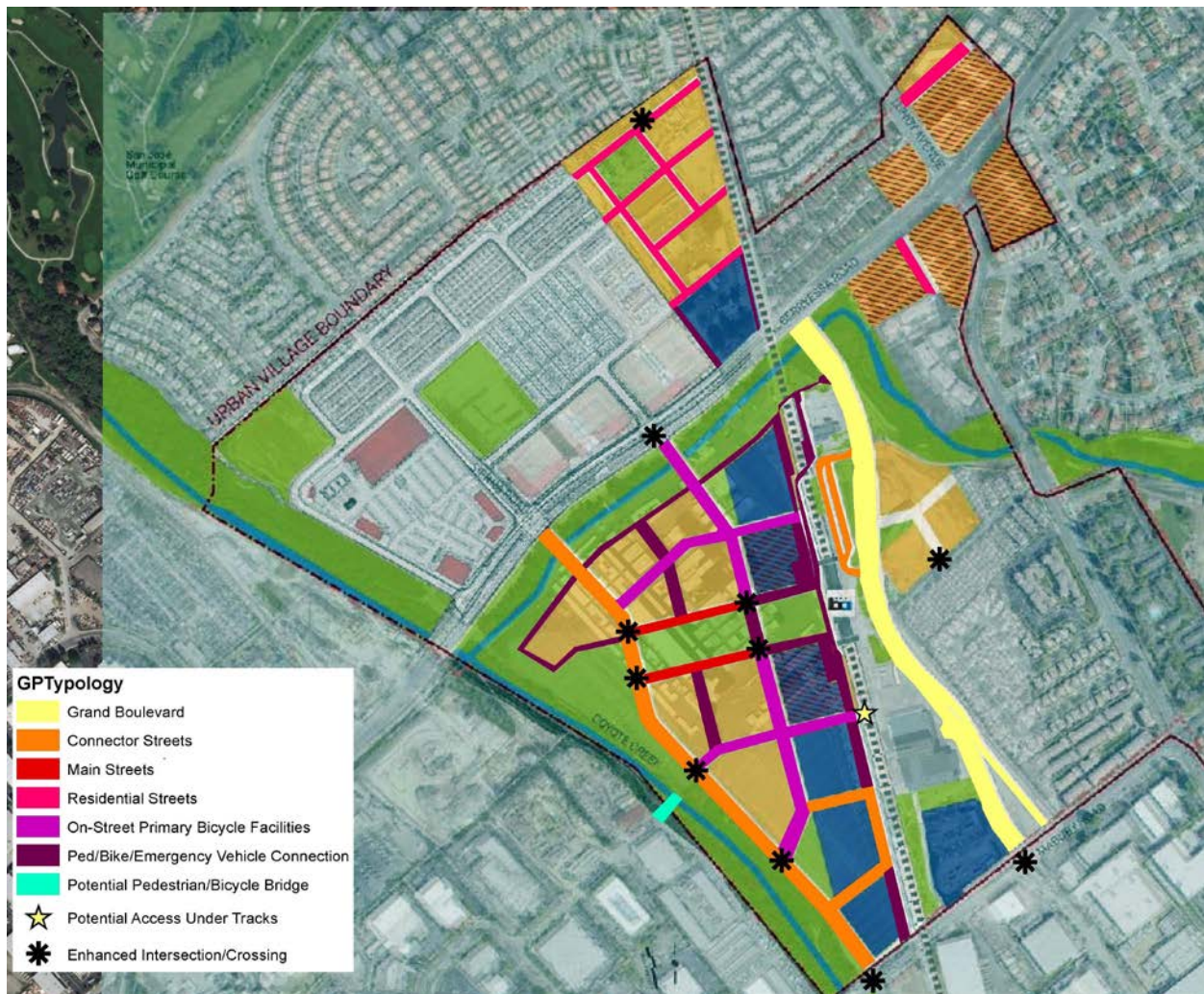


Figure 2: Circulation Diagram

Chapter 7: Parking

1. Community Design – Attractive City Policy CD-1.9: Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street facade and pedestrian access to buildings.
2. Transportation - Transportation Demand Management Policy - TR-7.1: Require large employers to develop and maintain TDM programs to reduce the vehicle trips and vehicle miles generated by their employees through the use of shuttles, provision for car-sharing, bicycle sharing, carpool, parking strategies and other measures.

3. Transportation - Transportation Demand Management Policy - TR-7.3: Work together with large employers to develop a system for tracking Transportation Demand Management (TDM) programs implemented by employers to allow ongoing assessment of results.
4. Transportation – Parking Strategies Policy TR-8.1: Promote transit-oriented development with reduced parking requirements and promote amenities around appropriate transit hubs and stations to facilitate the use of available transit services.
5. Transportation – Parking Strategies Policy TR-8.2: Balance business viability and land resources by maintaining an adequate supply of parking to serve demand while avoiding excessive parking supply that encourages automobile use.
6. Transportation – Parking Strategies Policy TR-8.3: Support using parking supply limitations and pricing as strategies to encourage use of non-automobile modes.
7. Transportation – Parking Strategies Policy TR-8.5: Promote participation in car-share programs to minimize the need for parking spaces in new and existing development.
8. Transportation – Parking Strategies Policy TR-8.6: Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Urban Villages and other Growth Areas.
9. Transportation – Parking Strategies Policy TR-8.7: Encourage private property owners to share their underutilized parking supplies with the general public and/or other adjacent private developments.
10. Transportation – Parking Strategies Policy TR-8.8: Promote use of unbundled private off-street parking associated with existing or new development, so that the sale or rental of a parking space is separated from the rental or sale price for a residential unit or for non-residential building square footage.
11. Transportation – Parking Strategies Policy TR-8.10: Update existing parking standards to reduce parking requirements for transit-oriented developments, mixed-use projects, and projects within the Urban Villages to take advantage of shared parking opportunities generated by mixed-use development. Update existing parking standards to address TDM actions and to require amenities and programs that support reduced parking requirements.
12. Transportation – Parking Strategies Policy TR-8.11: Establish a program and provide incentives for private property owners to share their underutilized parking with the general public and/or other adjacent private developments.

Analysis: *In addition to the circulation and street network, the BBUV plan supports growth through efficiently located and managed parking and an effective transportation demand management (TDM) program. Promoting and expanding non-automobile transportation options through parking management strategies and TDM measures will make it easier and safer for people of all ages and abilities to access the Urban Village while minimizing traffic congestion.*

Parking was a significant area of concern expressed by residents during the community workshops and preparation of this Plan. Residents were concerned about future parking needs of new development, considering the scale of commercial and residential development planned in the area. Residents were also concerned about BART riders' parking needs and the potential for uncontrolled parking "spilling" into their neighborhoods, based on other communities'

experiences in the Bay Area with BART stations. Furthermore, the Berryessa BART station will likely remain the end-of-line station in the short term until BART Silicon Valley Phase II is complete, potentially drawing BART users regionally.

Another crucial aspect of the parking discussion was its relationship with traffic problems, circulation, transportation planning, and streets. During the second workshop, City staff discussed with the workshop participants how more parking could induce traffic and dramatically shape the future built environment in the Urban Village. An online community survey conducted by the City for the second workshop showed that the community strongly disagreed with prioritizing parking and driving at the expense of less room for public spaces, peds/bikers, and walking safely and conveniently.

Considering the community's concerns around traffic issues and excessive parking, staff developed parking management strategies and policies as an integral component of the Berryessa BART Urban Village plan, which are summarized in the Parking Chapter. The Chapter discusses policies designed to manage parking supply and demand in the four Districts in the Plan. The overarching parking strategy reduces parking supply by 50% below the current parking requirements in the Zoning ordinance, while fostering the achievement of a Single-Occupancy Vehicle (SOV) target of 35% and expanding opportunities for other travel modes such as transit.

Chapter 8: Sustainability & Resiliency

1. **Measurable Environmental Sustainability - Energy Conservation and Renewable Energy Use Policy MS-2.1:** Develop and maintain policies, zoning regulations, and guidelines that require energy conservation and use of renewable energy sources.
2. **Measurable Environmental Sustainability - Energy Conservation and Renewable Energy Use Policy MS-2.2:** Encourage maximized use of on-site generation of renewable energy for all new and existing buildings.
3. **Measurable Environmental Sustainability – Reduce Consumption and Increase Efficiency Policy MS-14.1:** Promote job and housing growth in areas served by public transit and that have community amenities within a 20-minute walking distance.
4. **Measurable Environmental Sustainability – Reduce Consumption and Increase Efficiency Policy MS-14.2:** Enhance existing neighborhoods by adding a mix of uses that facilitate biking, walking, or transit ridership through improved access to shopping, employment, community services, and gathering places.
5. **Measurable Environmental Sustainability – Energy Security Policy MS-16.2:** Promote neighborhood-based distributed clean/renewable energy generation to improve local energy security and to reduce the amount of energy wasted in transmitting electricity over long distances.
6. **Measurable Environmental Sustainability – Water Conservation Policy MS-18.12:** Encourage stormwater capture and encourage, when feasible and cost-effective, on-site rainwater catchment for new and existing development.
7. **Environmental Resources - Riparian Corridors Policy ER-2.1:** Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP).

8. Implementation – Urban Village Planning Policy IP-5.1(6): Greenhouse Gas Reduction: Identify locations of existing and planned transit and pedestrian and bicycle facilities and include design and implementation measures necessary to meet City goals for vehicle miles travelled (VMT) reduction and greenhouse gas (GHG) emission reductions.

Analysis: Sustainability is a core principle that shaped the vision for the Berryessa BART Urban Village (BBUV) Plan. The Sustainability and Resiliency chapter highlights the importance of sustainability as a community value and its potential to contribute to the General Plan’s environmental sustainability goals and policies. The Plan encourages sustainable development practices designed to benefit quality of life, the environment, and related economic opportunities in San José. Additionally, the proximity of this Urban Village to the Berryessa/North San José BART station, a major regional transit hub, is an ideal opportunity to reduce greenhouse gas emissions that accompany strong land use and transportation integration. The BBUV Plan is also uniquely positioned to support the City’s sustainability and greenhouse gas (GHG) reduction goals laid out in Climate Smart San Jose.

The policies in this chapter outline sustainability-focused policies pertaining to energy, water, waste, building materials, environmental quality, ecosystem protection, and community resilience, and establishes a framework that references other sustainability-related policies in other chapters of the BBUV Plan.

Chapter 7: Implementation

Implementation – Urban Village Planning Policy IP-5.1(8): Financing: Consider financing mechanisms which may be needed to deliver public improvements, amenities, and the like envisioned within the Urban Village Plan.

Analysis: The Implementation Chapter identifies possible funding mechanisms and strategies that could be utilized in the future to construct public improvements and amenities. The City intends to pursue additional studies and analysis in the future to better inform the applicability and feasibility of those potential mechanisms referred to in the BBUV plan.

Zoning Ordinance Conformance

State law (SB 1333, 2019) now requires charter cities, such as the City of San Jose, to have conformance between a City’s ordinance (zoning) and the General Plan. When an area plan such as the BBUV is adopted, the zoning therefore needs to be made consistent with the adopted plan’s land use designations, where inconsistencies exist. General Plan land use designation changes are proposed in three of the four “Districts” in the BBUV Plan; the Flea Market South District, the East District, and the Facchino District. To be consistent with state law, rezoning must occur in these three districts.

A rezoning application (PDC17-051) for the Flea Market South District was processed concurrently with preparation of the Urban Village plan, is consistent with the proposed land use designations, and will be considered at the same City Council public hearing immediately after consideration of the BBUV Plan. A rezoning application (PDC18-036) consistent with the land use designations proposed for the Facchino District is also under review and will be considered by Planning Commission and City Council in Fall 2021. Because the rezoning of the Facchino District will not occur concurrently with the re-designation of the property under the General Plan, the General Plan amendment proposed for this property will not take effect until the Council approves this or another conforming rezoning. Approval of the two rezonings (PDC17-051 and PDC18-036) will bring conformance between the City’s Zoning Ordinance and the General Plan land use map adopted in the BBUV Plan for those two Districts.

City-initiated conforming rezonings (C21-001) are proposed on properties in the East District to bring conformance between the Zoning Ordinance and the General Plan. Through adoption of the BBUV Plan, the General Plan land use designations in the East District are proposed to change from the Urban Village and Light Industrial (See Figure 1) designations to the Transportation & Utilities, Public/Quasi-Public (PQP), and Urban Village designations. (See Exhibit B). Conforming rezonings on six properties in the East District from the A(PD) Planned Development Zoning District and IP Industrial Park Zoning District to the Public/Quasi-Public Zoning District and CP Commercial Pedestrian Zoning District will bring conformance between the City's Zoning Ordinance and the General Plan land use map adopted in the BBUV Plan. (See Exhibit C).

No changes to General Plan land use designations in the Berryessa and Lundy District are proposed in the BBUV Plan and existing zoning on properties within the District are consistent with their General Plan land use designations. General Plan land use designation changes are proposed in the Flea Market North area to align with the site's Planned Development Zoning (PDC16-001). (See Exhibit B) The Flea Market North site has been almost entirely developed and the proposed land use changes will align the Zoning Ordinance and General Plan.

Senate Bill 330

Governor Gavin Newsom signed Senate Bill 330, Housing Crisis Act of 2019, on October 9, 2019 to catalyze housing that would offset the high rents and home ownership costs leading to increasing homelessness. The bill is intended to speed up housing construction in California by decreasing the time it takes to obtain building permits and limiting fee increases on housing applications. The bill limits local agencies from reducing the number of residential units that can be built on properties that allow housing by changing general or specific plan land use designations and/or zoning in a manner that would result in a reduction of housing capacity without taking action to replace that housing capacity elsewhere in the agency's jurisdiction. The local agency is required to amend its general plan land use designations or zoning elsewhere to ensure no net loss in residential capacity within the jurisdiction whenever it down-designates or down-zones reducing residential capacity.

The proposed BBUV Plan and associated General Plan Amendment (GP20-008) does not reduce the intensity of residential uses, as the Plan proposes to increase planned housing by shifting residential units from Horizon 3 Urban Villages into the BBUV as described above. Additionally, the Plan establishes higher maximum residential densities within the BBUV than in the General Plan for the Transit Residential, Urban Residential, and Urban Village land use designations.

The proposed Conforming Rezoning (C21-001) does not reduce the intensity of residential uses because the existing A(PD) Planned Development zoning district and Industrial Park zoning district on the properties proposed to be rezoned in the East District area do not allow residential development. The Conforming Rezoning would increase the residential capacity because the PQP Public/Quasi-Public zoning district and CP Commercial Pedestrian zoning district allow residential uses. Therefore, the proposed General Plan Amendment and Conforming Rezoning are in compliance with SB330.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The environmental impacts of the Berryessa BART Urban Village Plan are addressed in an Initial Study/Addendum to the Final Program Environmental Impact Report (EIR) for the Envision San José 2040 General Plan (Resolution No. 76041) and the Envision San José 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and addenda thereto.

The Berryessa BART Urban Village Plan, and as described in the Initial Study/Addendum, does not create any of the conditions described in Section 15162 of the CEQA Guidelines that call for the preparation of a subsequent EIR. No new significant impacts would occur, and no previously examined significant effects would be substantially more severe than shown in the Envision San José 2040 General Plan EIR and SEIR. Thus, an Addendum to the adopted EIRs is the appropriate environmental documentation to analyze the potential environmental impact.

The Initial Study/Addendum is posted to the City's "Active EIRs" website at:

www.sanjoseca.gov/activeeirs. The Envision San José 2040 General Plan EIR and SEIR can also be found at www.sanjoseca.gov/activeeirs.

PUBLIC OUTREACH

Planning Process

In 2016 the City received a Priority Development Area Planning Grant from the Metropolitan Transportation Commission (MTC) to start the planning process for the Berryessa BART Urban Village (BBUV) Plan. The planning process for the BBUV started in 2018 with the help of a multidisciplinary team led by the consulting firm Skidmore, Owings, and Merrill, LPP (SOM). The planning process for BBUV Plan embodied the community values and goals articulated through an extensive and meaningful community-based planning process. Planning staff engaged community stakeholders to identify community issues, challenges, and opportunities that guided and informed the development of the BBUV Plan.

Community Outreach and Engagement

The City conducted an extensive community outreach and civic engagement process 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 due to Covid-related restrictions for hosting community meetings. The online workshops were held on October 15, 2020, October 22, 2020, and October 26, 2020, and discussed the final BBUV Plan draft. Additionally, an online community survey was conducted by the City prior to and following the first workshop that invited community members thoughts and ideas about the BBUV; and a second online survey was conducted prior to the second workshop for community members to provide input on the concept plan. All neighborhood residents, property owners, business owners, and other interested individuals were invited to participate and provide input on the formation of this Plan.

In general, the public comments made were regarding:

- Preservation of the existing neighborhood and allocation of new development to opportunity sites, called sub-areas or Districts and defined in the BBUV Plan.

- Prioritization of a pedestrian-oriented environment, minimizing the amount of parking from new development, managing traffic adequately, and avoiding the “spilling” of BART parking in the existing neighborhoods.
- Concentration of building heights and development intensity adjacent to the BART station and away from existing neighborhoods.
- Allowing for appropriate transition between high-intensity development and existing low-scale, single-family, and townhome development.
- Preservation of green corridors, namely Penitencia Creek and Coyote Creeks.
- Offering opportunities for housing in the Urban Village, considering the urgency for affordable housing.
- Providing pedestrian and bicycle safety and offering other forms of mobility from the car.

Interdepartmental and External Government Coordination

The preparation of the BBUV Plan involved a variety of City departments and outside City agencies and organizations. The Citywide Planning Division assembled a Technical Advisory Committee (TAC) with members of various City departments and outside City agencies, and held monthly meetings over the course of the technical review process from 2018 until 2020. The participating City departments included the Departments of Parks, Recreation and Neighborhood Services, Transportation, Public Works, and Environmental Services, and staff from the Santa Clara Valley Transportation Authority (VTA) and BART. The City also held discussions and presentations with outside City agencies and organizations including SPUR (San Francisco Bay Area Planning and Urban Research Association) and San Jose State University.

A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the Urban Village boundary and posted on the City website. The staff report is posted on the City’s website. Staff has been available to respond to questions from the public.

Project Manager: Charla Gomez
Approved by: /s/ , Deputy Director for Rosalynn Hughey, Planning Director
Date: March 24, 2021

Attachments:
Exhibit A: Vicinity Map
Exhibit B: Existing and Proposed General Plan Land Use Diagram
Exhibit C: Existing and Proposed Zoning for the East District area
Exhibit D: Draft Resolution
Exhibit E: Draft Ordinance
Exhibit F: Berryessa BART Urban Village Draft Plan
Exhibit G: EIR Addendum Resolution

GP20-008 & C21-001 List of Attachments

Exhibit A: [Vicinity Map](#)

Exhibit B: [Existing and Proposed General Plan Land Use Diagram](#)

Exhibit C: [Existing and Proposed Zoning for the East District area](#)

Exhibit D: [Draft Resolution](#)

Exhibit E: [Draft Ordinance](#)

Exhibit F: [Berryessa BART Urban Village Draft Plan](#)

Exhibit G: [EIR Addendum Resolution](#)

[Correspondence Received After 3/17/21](#)

[Correspondence Received After 3/24/21](#)