

## ORDINANCE NO. 7,744 -N.S.

ORDINANCE TO AMEND THE BERKELEY MUNICIPAL CODE TO CREATE THE CADELIN CORRIDOR DISTRICT COMMERCIAL ZONE REGULATIONS AND MAKING CONFORMING CHANGES TO OTHER CODE SECTIONS; ADDING BERKELEY MUNICIPAL CODE CHAPTER 23E.70

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

Section 1. That Berkeley Municipal Code Chapter 23E.70 is hereby added to read as follows:

**Chapter 23E.70  
C-AC Adeline Corridor Commercial District Provisions**

**Sections:**

- 23E.70.010 Applicability of Regulations**
- 23E.70.020 Purposes**
- 23E.70.030 Uses Permitted**
- 23E.70.040 Special Provisions: Adeline Corridor Specific Plan Subareas**
- 23E.70.045 Special Provisions: Special Provisions: Ground Floor Uses**
- 23E.70.050 Construction of New Floor Area -- Requirements for Use Permits**
- 23E.70.060 Use Limitations**
- 23E.70.070 Development Standards**
- 23E.70.080 Parking -- Number of Spaces**
- 23E.70.085 Design Standards**
- 23E.70.090 Findings**

**Section 23E.70.010 Applicability of Regulations**

The regulations in this Chapter shall apply in all C-AC Districts. In addition, the general provisions in Sub-title 23C shall apply.

**Section 23E.70.020 Purposes**

The purposes of the Adeline Corridor Commercial (C-AC) District are to:

- A. Implement the General Plan's designation for Adeline Corridor Mixed Use area, as well as the policies of the Adeline Corridor Specific Plan.
- B. Preserve the unique character and cultural legacy of the Adeline Corridor, sustaining the community as a place where all people can live, work, play, learn, worship, dine, shop and thrive.
- C. Promote equitable access to housing by preserving existing affordable housing, preventing displacement, and producing a substantial number of new affordable housing units.
- D. Foster economic opportunity for South Berkeley residents and businesses by facilitating job training and workforce development, active community spaces, and a thriving environment for commerce along the Adeline Street/South Shattuck Corridor.
- E. Provide safe, equitable transportation options that meet the mobility needs of all residents, regardless of age, means and abilities, and that further the attainment of

greenhouse gas emission reduction goals.

- F. Provide safe, sustainable, beautiful, healthy, and inclusive public spaces that encourage social interaction, provide opportunities for recreation and environmental health, and support active community life in South Berkeley.
- G. Encourage development and amenities that support pedestrian-oriented uses.
- H. Maintain and encourage a wide range of community and commercial services, including basic goods and services. Provide locations for both community-serving and regional-serving: businesses, cultural and religious institutions, and non-profit organizations.

**Section 23E.70.030 Uses Permitted**

- A. The following table sets forth the permits required for each listed item. Each use or structure shall be subject to either a Zoning Certificate (ZC), an Administrative Use Permit (AUP), a Use Permit approved after a public hearing (UP(PH)) or is prohibited.

<b>Table 23E.70.030</b>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Retail Sales</b>		
All Retail Sales Uses, except those listed below	ZC	As defined in Sub-title F, except otherwise listed (does not include Video Rental Stores)
Alcoholic Beverage Retail Sales, including liquor stores and wine shops	UP(PH)	Includes sale for off-site consumption at restaurants  No sales of distilled alcoholic beverages are allowed along Adeline Street south of Ashby Avenue  Subject to the requirements of Chapter 23E.16.040
Department Stores Over 3,000 s.f.	ZC UP(PH)	
Firearm/Munitions Businesses	UP(PH)	Prohibited on any property devoted to residential use

<b>Table 23E.70.030</b>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
Pawn Shops	Prohibited	Including Auction Houses
Pet Stores	UP(PH)	Including Sales and Grooming of Animals (but not Boarding)
Smoke Shops	UP(PH)	Prohibited if within 1,400 feet of a school or public park
Cannabis Storefront Retailer	ZC	ZC shall only be issued after business is approved through the selection process Subject to the requirements of Chapter 23C.25 and BMC Chapters 12.21 and 12.22
<b>Personal and Household Services</b>		
All Personal and Household Services, except those listed below	ZC	As defined in Sub-title F, except those otherwise listed (does not include Massage)
Laundromats	AUP	
Veterinary Clinics	UP(PH)	Including Pet Hospitals
<b>Offices</b>		
Financial Services, Retail (Banks)	ZC	
Insurance Agents, Title Companies, Real Estate Agents, Travel Agents	ZC	Uses over 2,500 sf or 50' wide limited on ground floor in some areas. See Section 23E.70.045.

<b>Table 23E.70.030</b>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
Medical Practitioners, including Holistic Health and Mental Health Practitioners	ZC	Uses over 2,500 sf or 50' wide limited on ground floor in some areas. See Section 23E.70.045.
Non-Chartered Financial Institutions	UP(PH)	Prohibited on ground floor in some areas. See Section 23E.70.045.  Subject to additional requirements; see Section 23E.16.080
Other Professionals and Government, Institutions, Utilities	ZC	Uses over 2,500 sf or 50' wide limited on ground floor in some areas. See Section 23E.70.045.
<b>Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses</b>		
Adult-oriented Businesses	Prohibited	
Alcoholic Beverage Service <ul style="list-style-type: none"> <li>• Beer and wine incidental to seated food service</li> <li>• Distilled spirits incidental to food service</li> <li>• Alcoholic Beverage Service not incidental to food service</li> </ul>	ZC  AUP  UP	All Alcoholic Beverage Service is for on-site consumption only and subject to additional requirements; see Section 23E.16.040  No service of distilled alcoholic beverages is allowed along Adeline Street south of Ashby, except as incidental to seated food service.
Commercial Recreation Center  3,000 s.f. or less	AUP	Outdoor use requires UP(PH) Uses which include six or

<b>Table 23E.70.030</b>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
Over 3,000 s.f.	UP(PH)	more Amusement Devices (Amusement Device Arcade) are subject to location requirements; see Section 23E.16.050.
Dance, Exercise, Martial Arts and Music Studios	ZC	
Entertainment Establishments	UP(PH)	Including Nightclubs
Food Service Establishments <ul style="list-style-type: none"> <li>• South Shattuck and North Adeline subareas 3,000 s.f. or less</li> <li>Over 3,000 s.f.</li> <li>• South Adeline subarea 1,500 s.f. or less</li> <li>Over 1,500 s.f.</li> </ul>	ZC  AUP  ZC  AUP	
Group Class Instruction for Business, Vocational or Other Purposes	ZC	
Gyms and Health Clubs	ZC	
Hotels, Tourist	UP(PH)	Including Inns, Bed and Breakfasts and Hostels
Motels, Tourist	Prohibited	
Theaters	UP(PH)	Including Motion Pictures and Stage Performance
<b>Automobile and Other Vehicle Oriented Uses</b>		
Automobile Parts Stores	ZC	Excluding service of auto parts
Automobile and Motorcycle Sales	Prohibited	

<b>Table 23E.70.030</b>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
Automobile and Motorcycle Repair and Service, including Parts Service	Prohibited	
Automobile and Motorcycle Rentals	Prohibited	
Automobile Washes, Mechanical or Self-Service	Prohibited	
Automobile Wrecking Establishments	Prohibited	
Gasoline/Automobile Fuel Stations	UP(PH)	
Recreational Vehicle and Trailers Sales and Rental	Prohibited	Including Boats
Tire Sales/Service Stores	Prohibited	
<b>Parking, Outdoor and Exterior Service Window Uses</b>		
Activities or Storage Outside of a building		
Not abutting R-District	AUP	
When abutting R-District	UP(PH)	
Automatic Teller Machines	AUP	Exterior and when part of a Retail Financial Service
Drive-in Uses	UP(PH)	Which provide service to customers in their cars; see definition in Sub-title 23F
Parking Lots, Parking Structures	UP(PH)	
Recycling Redemption Centers	AUP	
Outdoor Cafe Seating		
When seating not abutting R-District	ZC	
When seating abutting R-District	AUP	

<b>Table 23E.70.030</b>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
<b>Combination Commercial/Residential Uses</b>		
Live/Work Units	AUP	Subject to the standards of Chapter 23E.20, except that clients, customers and employees are permitted at the site without a Use Permit. Prohibited or limited on ground floor in some areas. See Section 23E.70.045.
Mixed Use Developments	UP(PH)	
<b>Uses Incidental to a Permitted Use</b>		
Amusement Devices (up to three)	UP(PH)	
Art/Craft Studio	ZC	
Food or Beverage for Immediate Consumption	ZC	
Live Entertainment		
Unamplified	ZC	
Amplified	AUP	
Manufacturing Uses	AUP	
Storage of Goods (over 25% of gross floor area)	AUP	
Wholesale Activities	AUP	
<b>Uses Permitted in Residential Districts</b>		
Accessory Dwelling Unit	ZC	
Accessory Uses and Structures	Per R-3 District	See Table 23D.40.030

<b>Table 23E.70.030</b>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
Accessory Buildings and Structures with Urban Agriculture	ZC	23C.26, 23D.08.010, 23D.08.020, 23D.08.050, and 23D.08.060
Short-Term Rental	ZC	Subject to requirements of Chapter 23C.22
Child Care Centers	UP(PH)	
Clubs, Lodges	UP(PH)	
Community Centers	UP(PH)	
Dwelling Units	UP(PH)	Subject to the standards under Section 23E.70.070 Prohibited or limited on ground floor in some areas. See Section 23E.70.045.
Group Living Accommodations subject to R-3 density standards	UP(PH)	Subject to the standards under Section 23E.70.070. Prohibited or limited on ground floor in some areas. See Section 23E.70.045.
Hospitals	Prohibited	
Hotels, Residential, including Single Room Occupancy (SRO) Hotels	UP(PH)	
Libraries	UP(PH)	
Nursing Homes	UP(PH)	Prohibited on ground floor in some areas. See Section 23E.70.045.
Parks and Playgrounds	ZC	
Public Safety and Emergency Services	UP(PH)	
Religious Assembly Uses	UP(PH)	
Schools, Public or Private	UP(PH)	



Table 23E.70.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
Senior Congregate Housing Six or fewer people Seven or more people New construction	ZC AUP UP(PH)	Change of use from an existing dwelling unit Prohibited on ground floor in some areas. See Section 23E.70.045.
<b>Miscellaneous Uses</b>		
Art/Craft Studio	ZC	Limited on ground floor in some areas. See Section 23E.70.045.
Automatic Teller Machines	UP(PH)	When not a part of a Retail Financial Service
Cafeteria, Employee or Residential	UP(PH)	
Cemeteries, Crematories, Mausoleums	Prohibited	
Columbaria	AUP	Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, no more than 5% of the subject property area, and located within the main building
Circus or Carnival	UP(PH)	
Commercial Excavation	UP(PH)	Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas
Dry Cleaning and Laundry Plants	Prohibited	
Emergency Shelter Up to 25 beds More than 25 beds	ZC UP(PH)	See Chapter 23C.10.
Kennels or Pet Boarding	Prohibited	

<b>Table 23E.70.030</b>		
<b>Use and Required Permits</b>		
<b>Use</b>	<b>Classification</b>	<b>Special Requirements (if any)</b>
Laboratories, Testing	Prohibited	
Mortuaries	Prohibited	
Public Utility Substations, Tanks	UP(PH)	
Radio, Television or Audio/Sound Recording and/or Broadcast Studios	UP(PH)	
Warehouses or Storage, including Mini-storage Warehouses	Prohibited	
Wireless Telecommunications Facilities Microcell Facilities, Modifications to Existing Sites, and Additions to Existing Sites When the Site Is Not Adjacent to a Residential District All Other Telecommunication Facilities	AUP  UP(PH)	Subject to the requirements and findings of Section 23C.17.100  Subject to the requirements and findings of Section 23C.17.100
Urban Agriculture  Low-Impact Urban Agriculture (LIUA) High-Impact Urban Agriculture (HIUA)	ZC  AUP	Subject to the requirements and findings of Chapter 23C.26
<b>Legend:</b>		

Table 23E.70.030		
Use and Required Permits		
Use	Classification	Special Requirements (if any)
ZC – Zoning Certificate AUP – Administrative Use Permit UP(PH) – Use Permit, public hearing required Prohibited – Use not permitted		

- B. Any use not listed that is compatible with the purposes of the C-AC District shall be permitted subject to securing an Administrative Use Permit. Any use not listed that is not compatible with the purposes of the C-AC District shall be prohibited.
- C. The initial establishment or change of use of floor area of an existing non-residential building, or portion of building, shall be subject to the permit requirements as listed in the legend of Table 23E.70.030.

**Section 23E.70.040 Special Provisions: Adeline Corridor Specific Plan Subareas**

The Adeline Corridor Specific Plan identifies four distinct subareas which have different physical characteristics and contexts. Different use limitations and development standards may apply to these subareas. See the Adeline Corridor Specific Plan for more specific information about each subarea.

- A. South Shattuck: Parcels that have a frontage abutting Shattuck Avenue.
- B. North Adeline:
  - 1. West of Adeline: Parcels located between Derby Street and Ashby Avenue, which do not front Shattuck Avenue
  - 2. East of Adeline: Parcels located entirely between Russell Street and the point 110 feet south of Essex Street.
- C. Ashby BART:
  - 1. West of Adeline: Parcels bounded by Ashby, MLK Jr. Way and Adeline
  - 2. East of Adeline: Parcels located entirely between Tremont, Woolsey and Adeline, and at least 110 feet south of Essex.
- D. South Adeline: Parcels located south of Woolsey Street.

**Section 23E.70.045 Special Provisions: Ground Floor Uses**

- A. In addition to other requirements of the District, the first 30 feet of depth of the ground floor, as measured from the frontage which abuts the portions of Adeline Street, Shattuck Avenue, MLK, Jr. Way or Ashby Avenue identified below shall be reserved for either Active Commercial Uses, as defined in Sub-Title 23F.04 or for commercial uses. Ground floor tenant spaces with frontages on streets not identified below can be used for any use permitted in the district.

**Table 23E.70.045**

**Ground Floor Uses**

Area	Permitted ground floor uses
Shattuck between Dwight and Derby	Commercial uses
Shattuck between Ward and Russell	Active Commercial uses
Adeline between Russell and the City boundary	Active Commercial uses
Ashby east of Adeline	Active Commercial uses
North side of Ashby, west of Adeline	Active Commercial uses

- B. Active Commercial uses are commercial uses which generate regular and frequent foot traffic. Uses include businesses in the following use categories: Retail Sales; Personal and Household Services; Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses; and the following uses: Banks, and Automobile Parts Stores.
- C. The following uses are permitted on the ground floor in areas designated Active Commercial subject to a Zoning Certificate:

1. Office uses in tenant space 2,500 sf or less in area and 50 feet or less in width;
  2. Residential amenities (2,500 sf or less in area and 50 feet or less in width), associated with a residential use.
- D. The following use can be permitted on the ground floor in areas designated Active Commercial subject to an Administrative Use Permit:
1. Office uses over 2,500 square feet in area or 50 feet in width.
  2. Art/Craft Studio
- E. The following use can be permitted on the ground floor in areas designated commercial subject to an Administrative Use Permit:
1. Residential uses where at least 50% of the units are affordable.
- F. The following commercial use is not permitted on the ground floor in areas designated Active Commercial or commercial:
1. Live/Work units

**Section 23E.70.050 Construction of New Floor Area -- Requirements for Use Permits**

A Use Permit shall be obtained for construction of new floor area which results in either:

- A new Main Building;
- A new dwelling unit (except ADUs); or
- A gross floor area addition of 5,000 sf or more.

**Section 23E.70.060 Use Limitations**

- A. No commercial use shall operate except between the following hours of the specified days: 7:00 a.m. to 12:00 midnight weekdays (Sunday through Thursday); 7:00 a.m. to 2:00 a.m. weekend days (Friday and Saturday); and in accordance with Section 23E.16.010, provided, however, that the hours may be extended to other times subject to obtaining a Use Permit.
- B. Any use which is incidental to the primary use of a building or property shall be subject to the permit requirements identified in the Uses Incidental to a Permitted Use heading in Table 23E.70.030.
- C. Any activity or use which occurs outside of a building shall be subject to the permit requirements identified in the Parking, Outdoor and Exterior Window Uses heading in Table 23E.70.030.

**Section 23E.70.070 Development Standards**

A. All Buildings

1. Building Height Measurement: In the case of a roof with a parapet wall, building height shall be measured to the top of the roof and parapets may exceed the height limits by up to five feet by right.
2. Designated historic resources, potential historic resources, or projects that incorporate either type of historic resource will not be required to provide new parking or open space to convert to a new residential or commercial use.

3. Setbacks: No yards for Main Buildings, Accessory Buildings or Accessory Structures shall be required, except that:
  - a. When the subject lot abuts a residentially-zoned lot, the setback shall be 10 feet.
  - b. When the subject lot abuts a residentially-zoned lot, any portion of new construction that exceeds 35 feet in height shall be setback 20 feet from the shared lot line.
  - c. When the subject lot confronts a residentially-zoned lot, any portion of new construction that exceeds 45 feet in height shall be setback 10 feet from the front property line.
  - d. The setback requirements above supersede the requirements in Sections 23E.04.050 and .060.

B. Residential and Mixed Use Buildings. The height, Floor Area Ratio (FAR), density, lot coverage and useable open space are based on the percentage of affordable units and shall not exceed the following requirements in each subarea:

1. South Shattuck Subarea

Minimum On-Site Affordable Housing Requirement*	Max height		Max FAR	Max density (du/acre)**	Max lot coverage		Useable open space (sf/unit)
	Stories	Feet			Interior lot	Corner lot	
0% (Tier 1)	4	45'	2.5	120	60%	70%	40
14% (Tier 2)	6	65'	4.0	210	90%	90%	40
21% (Tier 3)	7	75'	5.0	250	90%	90%	40
25% (Tier 4)	8	85'	5.5	300	90%	95%	40

2. North and South Adeline Subareas

Minimum On-Site Affordable Housing Requirement*	Max height		Max FAR	Max density (du/acre)**	Max lot coverage		Useable open space (sf/unit)
	Stories	Feet			Interior lot	Corner lot	
0% (Tier 1)	3	35'	2.0	100	60%	70%	40
14% (Tier 2)	5	55'	3.5	150	90%	90%	40
21% (Tier 3)	6	65'	4.0	210	90%	90%	40
25% (Tier 4)	7	75'	5.0	250	90%	95%	40

3. Ashby BART Subarea

Minimum On-Site Affordable Housing Requirement	Height		FAR	Density (du/acre)	Lot coverage		Useable open space (sf/unit)
	Stories	Feet			Interior lot	Corner lot	

Any future development in the Ashby BART area would be subject to process outlined

in the MOU with BART and AB 2923.

\* Percentage of total project units.

\*\*Group Living Accommodations (GLAs) are subject to Tier 1 height, FAR, lot coverage and open space requirements of the subarea in which they are located. GLAs shall be subject to R-3 density standards. Higher density is possible with a State Density Bonus.

4. For the purpose State Density Bonus calculation, the Tier 1 density is the maximum allowable gross residential density. Tier 2, 3, and 4 density is authorized as a local density bonus under Government Code section 65915(n).
5. Projects that consist of 100% deed-restricted affordable housing units, which can include up to 20% as affordable to moderate income households (i.e., 80% to 120% of Area Median Income) and the remaining 80% of the units as affordable to lower income households (i.e., lower than 80% median income), can add four stories or 45 feet to the maximum height allowed under Tier 1.
6. Minimum on-site affordable housing requirement applies to all residential and mixed use projects and must be provided as a mix of (50) fifty percent at Low Income and (50) fifty percent Very Low Area Median Income (AMI) levels.
7. An AUP may be granted to reduce useable open space requirements if demonstrated to be necessary to build an all-electric building.
8. Publicly Accessible Open Space: Each square-foot of open space that is designated as publicly accessible open space shall be counted as two square-feet of required on-site open space.
9. In mixed use buildings in all subareas and tier levels, all floors above the second story shall be used for residential uses.

C. Non-residential Buildings.

1. Non-residential buildings are subject to the Tier 1 height and FAR requirements in the relevant subarea as shown in Section 23E.70.070.B.
2. Non-residential buildings are not subject to lot coverage standards, except to accommodate setbacks required in Section 23E.70.070.A.3.
3. The height and Floor Area Ratio (FAR) shall not exceed the following requirements in each subarea:

Subarea	Max height Stories	Feet	Max FAR	Max lot coverage*
South Shattuck	4	45'	2.5	100%
North and South Adeline	3	45'	2.8	100%
Ashby BART	Any future development in the Ashby BART area would be subject to negotiations with BART.			

\*Except when setbacks are required per Section 23E.70.070.A.

**Section 23E.70.080 Parking -- Number of Spaces**

- A. All parking shall be provided in accordance with the requirements of this section and Chapter 23E.28, except as set forth in this section.
- B. Uses listed in Table 23E.70.080 shall meet the requirements listed for newly constructed floor area.

**Table 23E.70.080  
Parking Required**

Use	Number of spaces	
	Minimum	Maximum
Residential	No minimum	1 per unit
Non-Residential New Construction		
• under 10,000 gsf	No minimum	1.5 per 1,000 sf
• 10,000 gsf and greater	1/1,000 sf	1.5 per 1,000 sf
Live/Work Units	No minimum	1.5 per 1,000 sf of work area

- C. Bicycle parking spaces shall be provided for new construction at the ratio of one space per 2,000 square feet of gross floor area of commercial space, and in accordance with the requirements of Section 23E.28.070.
- D. Any new construction which results in the creation of 10,000 square feet of new or additional commercial gross floor space shall satisfy the loading space requirements of Chapter 23E.32.

**Section 23E.70.085 Design Standards**

- A. New buildings and additions shall be reviewed for conformance to the design guidelines described in the Adeline Corridor Specific Plan.
- B. Except as set forth below, ground floor frontages of all new buildings are subject to the following design standards:
  1. Blank walls along the ground floor shall be less than 30 feet in length along sidewalks, pedestrian paths or open space.
  2. Ground floors shall have a minimum floor to floor height of 12 feet.
  3. Facades shall provide at least 30% transparency between 3 and 10 feet above grade (doors and transparent windows) to allow maximum visual interaction between the sidewalk areas and building interiors. Dark or mirrored glass will not satisfy this requirement.
  4. Window glazing shall provide a high degree of light transmittance and be non-reflective.
- C. Ground floor frontages in areas identified as active commercial in Section 23E.70.045 shall meet the requirements of Section 23E.70.085.B except:
  1. Ground floors shall have a minimum floor to floor height of 15 feet and a minimum floor to ceiling height of 12 feet.
  2. Facades shall provide at least 75% transparency between 3 and 10 feet above grade (doors and transparent windows) to allow maximum visual interaction



between sidewalk areas and the interior. Dark or mirrored glass will not satisfy this requirement.

- D. Ground floor frontage in areas identified as commercial in Section 23E.70.045 shall meet the requirements of Section 23E.70.085.B except:
  - 1. Ground floors shall have a minimum floor to floor height of 15 feet and a minimum floor to ceiling height of 12 feet.
  - 2. Facades shall provide at least 65% transparency between 3 and 10 feet above grade (doors and transparent windows) to allow maximum visual interaction between sidewalk areas and the interior of office spaces. Dark or mirrored glass will not satisfy this requirement.
- E. Parking provided shall meet the following standards:
  - 1. Parking and loading areas shall be located behind, within or underneath buildings.
  - 2. When the depth of a lot is less than 100 feet, surface parking or above-grade structured parking may be located next to the building, but shall not take up more of the primary frontage than the building.
- F. The Design Review Committee or design review staff may grant exceptions to the blank wall and transparency requirements.

#### **Section 23E.70.090 Findings**

- A. In order to approve any Use Permit under this chapter, the Zoning Officer or Board must make the finding required by Section 23B.32.040. The Zoning Officer or Board must also make the findings required by the following paragraphs of this section to the extent applicable and consistent with State and federal law:
- B. A proposed use or structure must:
  - 1. Be compatible with the purposes of the District;
  - 2. Be compatible in design and character with the District and the adjacent residential neighborhoods; and
  - 3. Encourage utilization of public transit and off-street parking facilities in the area of the proposed building.
- C. In addition to the findings above, the Board shall find, for each Use Permit for new residential development, that the proposed use or structure facilitates the construction of affordable housing as defined by the U.S. Department of Housing and Urban Development (HUD) Guidelines.
- D. In order to approve an Administrative Use Permit for an office use over 2,500 sf or over 50 feet wide on the ground floor of an Active Commercial area, the Zoning Officer must find that the use supports the development of a strong retail commercial, pedestrian-oriented environment. Factors the Zoning Officer should consider shall include, but are not limited to, pedestrian activity that is expected to be generated at the site, the placement of store entrances relative to the street and the parking lots, and the size and prominence of display windows and areas facing the sidewalk.
- E. In order to approve an AUP under Section 23E.70.070.B.7, the Zoning Officer must find that:
  - 1. No other placement of the features to support construction of an all-electric building, including solar photovoltaic (PV) energy systems and water tanks for heat pump water heating, on the property is possible; and

2. Placement of the features to support construction of an all-electric building elsewhere on the property is not financially feasible.
  - F. To approve a Permit, the Zoning Officer or Board must find that the project complies with the Adeline Corridor Specific Plan's adopted Mitigation Monitoring and Reporting Program (MMRP).

Section 2. That the City of Berkeley Zoning Map is hereby amended to map the new commercial zone, the C – Adeline Corridor District as indicated in Exhibit A and attached hereto and incorporated herein by reference.

Section 3. This Ordinance shall be effective 30 days from the date of final passage by the City Council but shall not apply to (a) building/construction related permits already issued and not yet expired; (b) to zoning applications approved by the City and not yet expired; or to (c) zoning applications deemed complete by the City as of the date of final passage. However, zoning applications deemed complete by the City prior to the date of final passage of this Ordinance may be processed under the provisions of these Berkeley Municipal Code amendments if the applicant chooses to do so.

Section 4. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power or duty in conflict with any federal or State law

Section 5. The provisions of this Ordinance are severable. If a court of competent jurisdiction determines that in a word, phrase, clause, sentence, paragraph, subsection, section, Chapter or other provision is invalid, or that the application of any part of the provision to any person or circumstance is invalid, the remaining provisions of this Resolution that can be given effect without the invalid provision or application and the application of those provisions to other persons or circumstances are not affected by that decision. The City Council declares that the City Council would have adopted this Ordinance irrespective of the invalidity of any particular portion of this Ordinance.

Section 6. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a special meeting of the Council of the City of Berkeley held on December 8, 2020, this Ordinance was passed to print and ordered published by posting by the following vote:

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

Noes: Harrison.

Absent: None.

Exhibit A: Zoning Map for Commercial – Adeline Corridor District

