



Office of the City Manager

January 23, 2020

To: Honorable Mayor and Members of the City Council

From: *Dee* Dee Williams-Ridley, City Manager

Subject: Referral Response: Opportunity Zone Priorities

On July 16, 2019, the City Council adopted an item establishing guidelines for future development projects located in Berkeley's five designated Opportunity Zones, and referred to the City Manager the development of a prospectus marketing community development projects in Berkeley's Opportunity Zones.¹ This memo summarizes the City's current activities to assist developers, nonprofits, and community development organizations in establishing projects in Berkeley's Opportunity Zones that incorporate these priority investment guidelines. The memo also presents the requested prospectus (Attachment 1) that supports the attraction of equitable investment and the successful marketing of community development and real estate projects in Berkeley's Opportunity Zones.

What are Opportunity Zones?

In 2017, the federal *Tax Cuts and Jobs Act* established Opportunity Zones to incentivize long-term investments in low-income communities across the country. Opportunity Zones (often abbreviated as "OZ"s) are designated census tracts where new real estate and business investments, under certain conditions, may be eligible for preferential tax treatment. Investors may defer and reduce taxes on eligible capital gains by making an appropriate investment in real estate or a business within an Opportunity Zone (or "OZ"), via a Qualified Opportunity Fund. These incentives offer capital gains tax relief to investors for new investment in designated OZs which retain their designations for 10 years. Investors can defer and reduce taxes on any prior gains until no later than December 31, 2026, so long as the gain is reinvested in a Qualified Opportunity Fund, an investment vehicle organized to make investments in OZs. In addition, if the investor holds the investment in the Opportunity Fund for at least ten years, any capital gains associated with that investment will be tax-free.²

¹ [City Manager Referral: Opportunity Zone Project Guidelines for the City Manager](#), Action Calendar, Item 14, July 16, 2019.

² Anderson, Ted. "Gov. Newsom: Opportunity Zone program can help spur real estate investment." *SF Business Times*, March 19, 2019.

The California Department of Finance designated census tracts as OZs according to specific criteria (up to 25% of census tracts that either have poverty rates of at least 20% or median family incomes of no more than 80% of statewide or metropolitan area family income³), and those nominations have been certified by the Internal Revenue Service.³

The OZ program has the potential to encourage new investments in eligible communities that improve the lives of residents with low incomes. However, the vast majority of the OZ tax benefits will likely be realized by wealthy investors, and the program will subsidize investments regardless of any benefit to community residents.⁴

Timeline for Opportunity Zone Tax Benefits

OZ investors can reap the most benefits when they invest in projects or funds by the end of 2019, as the maximum amount of capital gain tax exclusion requires a seven-year investment, a threshold that must be met by the end of 2026.⁵ A 15% discount off the investor's initial taxes can be realized as long as the investment is made by the end of 2019; and if the OZ investment is held for at least 10 years, and no federal capital gains taxes are due on any appreciation that has accrued from the investment upon sale of the project. Investors could also receive a similar tax treatment to their state tax liability, depending on what state they reside in and what state the OZ investment is made in. However, there are six states, including California, that currently are not conforming to the program.⁶ The lack of state tax benefits will likely reduce the overall impact of the program in California.

Opportunity Zones in Berkeley

There are five census tracts within the City of Berkeley that are designated as OZs:

- Downtown Berkeley (Census Tract number 4229);
- South Berkeley (Census Tract numbers 4235,4239.01,4240.01); and
- West Berkeley (Census Tract number 4232).

Affordable housing projects could offer an attractive and equitable way to invest in OZs. Thus far, federal tax rules do not prevent OZ investments from being combined with other community development tax incentives, such as the federal low-income housing tax credit (LIHTC). However, local affordable housing developers deem it unlikely that

³ Internal Revenue Service. 2019. "Opportunity Zones Frequently Asked Questions." <https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions>

⁴ Kitson, Kayla. "The Federal Opportunity Zones Program and Its Implications for California Communities." *California Budget and Policy Center Issue Brief*, April 2019.

⁵ Kim, Minjee. "Adventures in the Land of OZ." *Planning Magazine*, June 2019.

⁶ Novogradac. 2019. "Opportunity Zones Resource Center." <https://www.novoco.com/resource-centers/opportunity-zone-resource-center/guidance/state-tax-code-conformity-personal-income#ca>.

investment timelines for OZ fund investors and LIHTC investments would align in a feasible way to be functional for projects located in Berkeley's OZs.

On July 16, 2019, the Berkeley City Council took action to establish guidelines for development projects located in Berkeley's five designated OZs, to be referenced in any discussion, negotiation, or promotion of projects in Berkeley's OZs. City staff has developed an OZ prospectus, *City of Berkeley, Public Investment Guide 2019* (Attachment 1) to attract investments that are aligned with the stated goals of the guidelines.

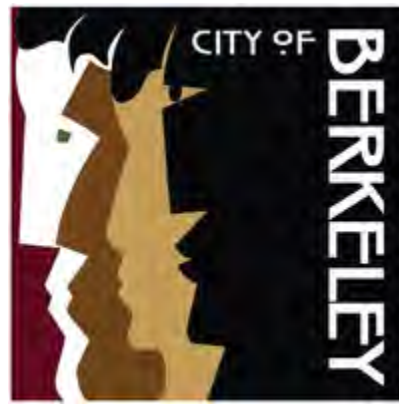
Next Steps and Possible Future Action

Going forward, staff will incorporate these guidelines into any other formal document(s) relating to projects in OZs. Staff will, as directed by Council, assist in identifying effective investment vehicles, technical and financial assistance programs, and service providers related to this topic and direct implementation of such.

For further information please contact Eleanor Hollander, Acting Economic Development Manager, at (510) 981-7536.

Attachment 1: *City of Berkeley Public Benefit Investment Guide*, December 2019

cc: Paul Buddenhagen, Deputy City Manager
David White, Deputy City Manager
Eleanor Hollander, Acting Economic Development Manager
Timothy Burroughs, Director, Planning & Development
Mark Numainville, City Clerk
Jenny Wong, City Auditor
Matthai Chakko, Assistant to the City Manager



CITY OF BERKELEY

PUBLIC BENEFIT INVESTMENT GUIDE



BERKELEY PRIORITIES FOR OPPORTUNITY ZONE INVESTMENT:

1

HOUSING: Construction or preservation of affordable housing

2

HISTORY: Preservation of historic buildings

3

CULTURE: Cultural Institutions and Performing Arts Venues

4

CIVIC: Government Offices, Libraries, Schools, Public Safety

PUBLIC SPACES: Public Open Space and Recreation Facilities

5

WELLNESS: Health Care Services

6

TRANSPORTATION: Transportation Demand Management Features

7

JOBS: Job training or employment opportunities

8

BERKELEY BY THE NUMBERS

POPULATION: 122,000

MEDIAN AGE: 31 YEARS OLD

MEDIAN HOUSEHOLD INCOME: \$70,393

EMPLOYED RESIDENTS: 63,000

TOTAL JOBS: 67,000



LARGEST EMPLOYERS:

- BERKELEY UNIFIED SCHOOL DISTRICT
- CITY OF BERKELEY
- LAWRENCE BERKELEY NATIONAL LAB
- UNIVERSITY OF CALIFORNIA, BERKELEY
- BAYER CORPORATION

- BERKELEY BOWL
- MEYER SOUND
- SUTTER BAY HOSPITALS
- KAISER PERMANENTE

Source: US Census ACS Estimates, California Employment Development Department, QCEW Data 2018



WHY BERKELEY

PUBLIC TRANSPORTATION ACCESS: Berkeley has 3 BART Stations, 10+ bus lines, two interstate highways, and a transcontinental rail line passing through the city limits. Additionally, with two major airports and three shipping ports close by, few places are as accessibly located for business.

DIVERSE COMMUNITIES: Berkeley's neighborhoods all have independent personas, unique populations, and hyper-local networks. Neighborhoods range from historic and new higher-rise buildings and commercial districts present everything from lively farmers markets, thriving manufacturing corridors, flourishing art and antiques stores, to world class dining.



Source: BART.gov



ARTS AND CULTURE: Berkeley is a “City of Firsts,” where a culture of innovation and an engaged citizenry inspire new industries, trendsetting cuisine and a nationally recognized arts scene.

EXCELLENT PRIMARY AND HIGHER EDUCATION INSTITUTIONS: Home to the top public University in California, 96% of citizens in the City of Berkeley have at least a high school diploma and 75% have a bachelor's degree.

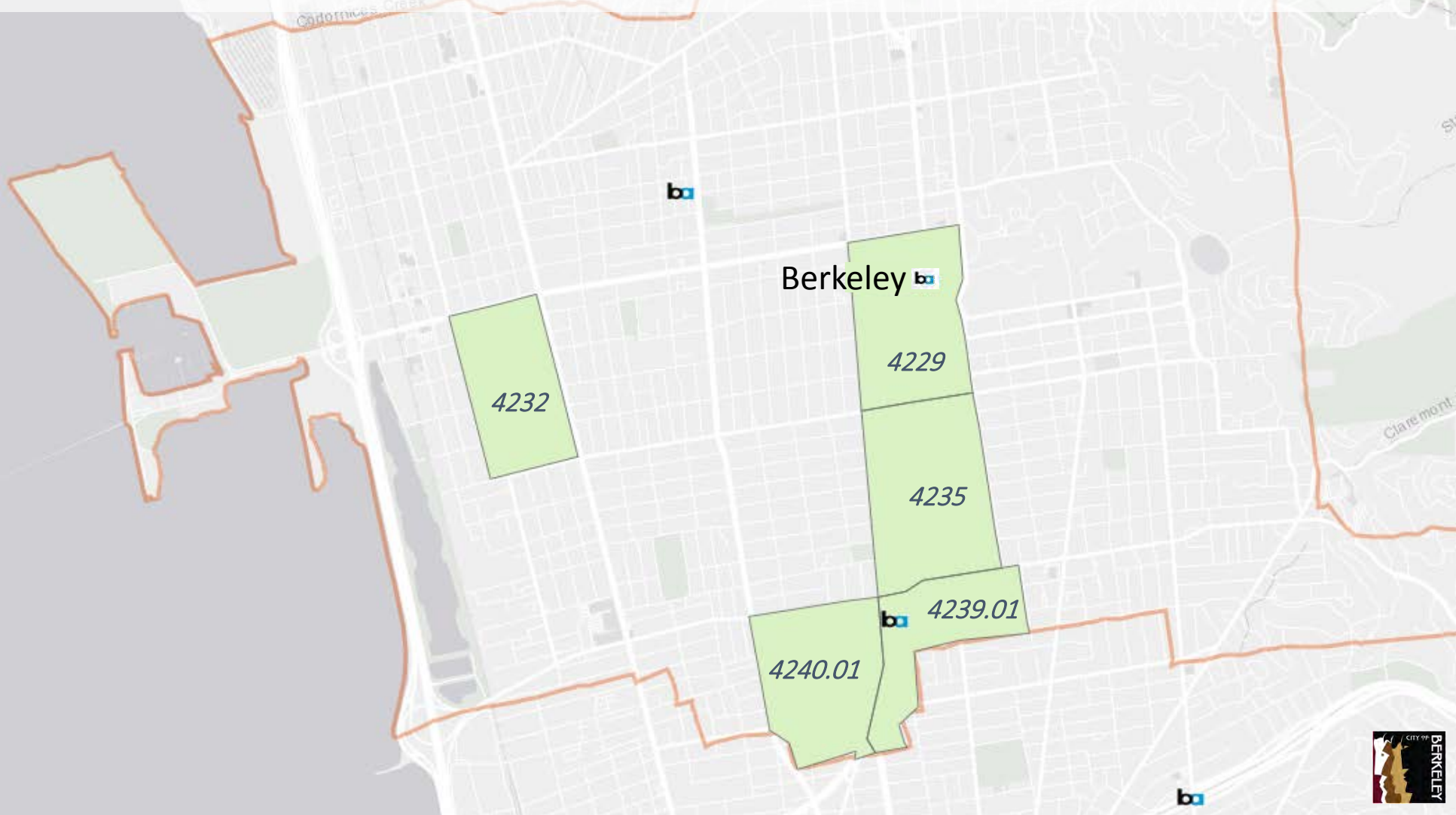
GROWING POPULATIONS: As of September 2019, there are currently 36 housing developments that are entitled for development or under construction throughout the city, with 2,458 net new units anticipated.

STRONG WORKFORCE: With 13,000 business licenses, 320 startup companies, 5,000 brick & mortar businesses, and more, Berkeley has a diverse economy and a deeply skilled talent pool.



BERKELEY'S OPPORTUNITY ZONES FOR PUBLIC BENEFIT

Berkeley has five census tracts identified as Opportunity Zones - tract numbers 4232, 4229, 4235, 4239.01, and 4240.01. The Opportunity Zones are located in Downtown, South Berkeley along Adeline Street, and a portion of West Berkeley bound by University and San Pablo Avenues, Sixth Street and Dwight Way.



ABOUT OPPORTUNITY ZONES

FOR THE COMMUNITY: OZs are designated to promote long-term investment, encourage economic growth, and job creation, with incentives for private organizations to reinvest and establish real estate projects in communities across the United States.

COMMUNITY BENEFITS: To better fund affordable housing, transportation infrastructure, and access to health care Berkeley's public benefit guidelines for Opportunity Zones (OZs) seek to **channel resources** and investments directly to these areas.

FOR INVESTORS: Opportunity Zones offer benefits to investors by offering tax incentives to invest capital gains in a Qualified Opportunity Fund (QOF) – a corporation or partnership organized to invest in designated Opportunity Zones.

How Opportunity Zone Investments Work



The tax benefits from Qualified Opportunity Fund (QOF)'s include:

- **A TEMPORARY DEFERRAL:** An investor can defer capital gains taxes until 2026 on money held in a QOF.
- **A REDUCTION:** The deferred amount of capital gains taxes an investor has to pay is reduced by 10% if the QOF is held for 5 years, and another 5% if held for 7 years, for a total of 15%.
- **AN EXEMPTION:** Any capital gains on investments made through an QOF accrue tax-free if they are held for at least 10 years.
- **MORE:** OZ investments that comply with public benefit guidelines provide a unique opportunity to maximize public benefit investments, improving the double bottom line.



BERKELEY INVESTMENT OPPORTUNITIES

Within the boundaries of its five Opportunity Zones, the City of Berkeley has identified opportunity sites and projects – ranging from multi-family housing developments to mixed-use business development.

The 5 tracts fit into three distinct communities in Berkeley:



DOWNTOWN BERKELEY

Downtown Berkeley serves as the vital, recognizable heart to the City of Berkeley. In Downtown, Berkeleyans come together to work, play, shop, stroll, and meet.

With award winning theater, street and museum art throughout the area, over 150 restaurants, a growing residential population, and the gateway to the University of California campus, it is no wonder that Downtown attracts 1.65 million visitors each year. A high percentage of these visitors arrive in Berkeley via the Downtown Berkeley BART station which has the highest ridership numbers outside the city of San Francisco.

APPROVED OZ CENSUS TRACT: 4229

ADDITIONAL INFORMATION:

- [Downtown Berkeley Retail Brochure](#)
- [Downtown Berkeley Development Plan](#)

OPPORTUNITY AREA: DOWNTOWN BERKELEY

The Downtown Area Plan (2012) builds on the strengths of the public benefits conferred from the 1990 Downtown Plan, which succeeded in:

- Making Downtown a recognized center for culture and the arts,
- Bringing new housing to Downtown, and
- Preserving Downtown's historic assets.

The Downtown Area Plan adds result oriented provisions to make Downtown more vibrant with a focus on:



- **ENVIRONMENTAL SUSTAINABILITY:** Integrate environmentally sustainable development and practices in Downtown with new standards for green buildings and green infrastructure.
- **LAND USE:** Encourage a thriving, livable Downtown with new development that enhances Downtown's vitality, livability, and character.
- **ACCESS:** Promoting development and growth in a pedestrian-friendly and transit oriented way.
- **HISTORIC PRESERVATION AND URBAN DESIGN:** Conserve Downtown's historic resources and unique character and sense of place.
- **STREETSCAPES AND OPEN SPACE:** Enhance public open spaces and streets to benefit pedestrians, improve Downtown's livability, and foster an exceptional sense of place. In particular, create new public gathering places that support nearby uses and Downtown as a destination.



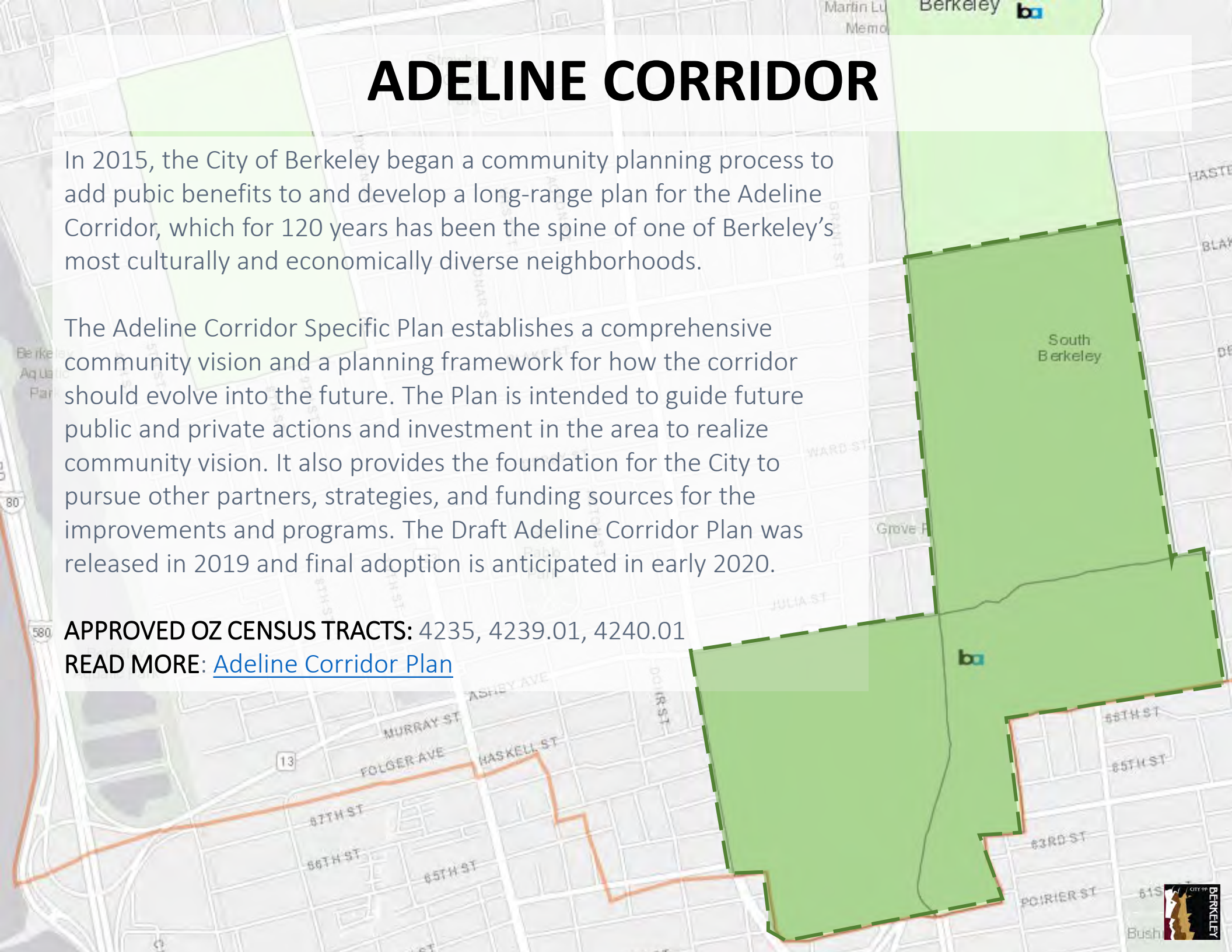
ADELINE CORRIDOR

In 2015, the City of Berkeley began a community planning process to add public benefits to and develop a long-range plan for the Adeline Corridor, which for 120 years has been the spine of one of Berkeley's most culturally and economically diverse neighborhoods.

The Adeline Corridor Specific Plan establishes a comprehensive community vision and a planning framework for how the corridor should evolve into the future. The Plan is intended to guide future public and private actions and investment in the area to realize community vision. It also provides the foundation for the City to pursue other partners, strategies, and funding sources for the improvements and programs. The Draft Adeline Corridor Plan was released in 2019 and final adoption is anticipated in early 2020.

APPROVED OZ CENSUS TRACTS: 4235, 4239.01, 4240.01

READ MORE: [Adeline Corridor Plan](#)



OPPORTUNITY SITES: ADELINE CORRIDOR



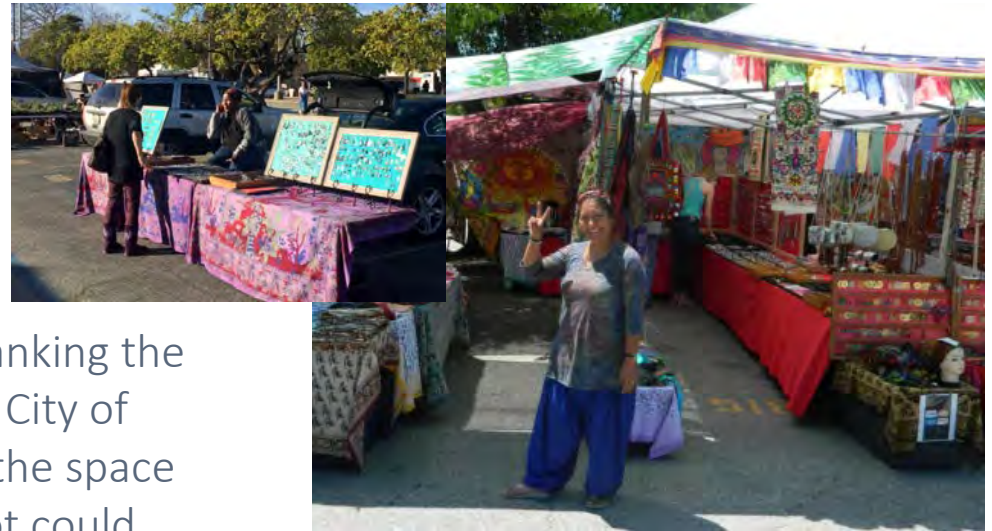
Source: Patch.com



LOCATION: Ashby BART Station

LOT SIZE: 6.3 acres

DEVELOPMENT OPPORTUNITY: Housing Units



Ashby BART's two parking lots provide 6.3 acres flanking the Ashby Avenue BART station on Adeline Street. The City of Berkeley owns the air rights to the land and BART the space under it. Estimates indicate that the Ashby BART lot could accommodate 500-650 housing units in a six to seven-story building while the BART lot to the east of Adeline could accommodate up to 150-250 housing units in a five-story building. This project is intended to have affordable housing units, affordable senior living options, cultural institutions, offices, commercial uses and a high level of community benefits.

*Images:
Berkeley Flea Market (top)
Ashby BART station entrance (bottom).*



OPPORTUNITY SITES: ADELINE CORRIDOR

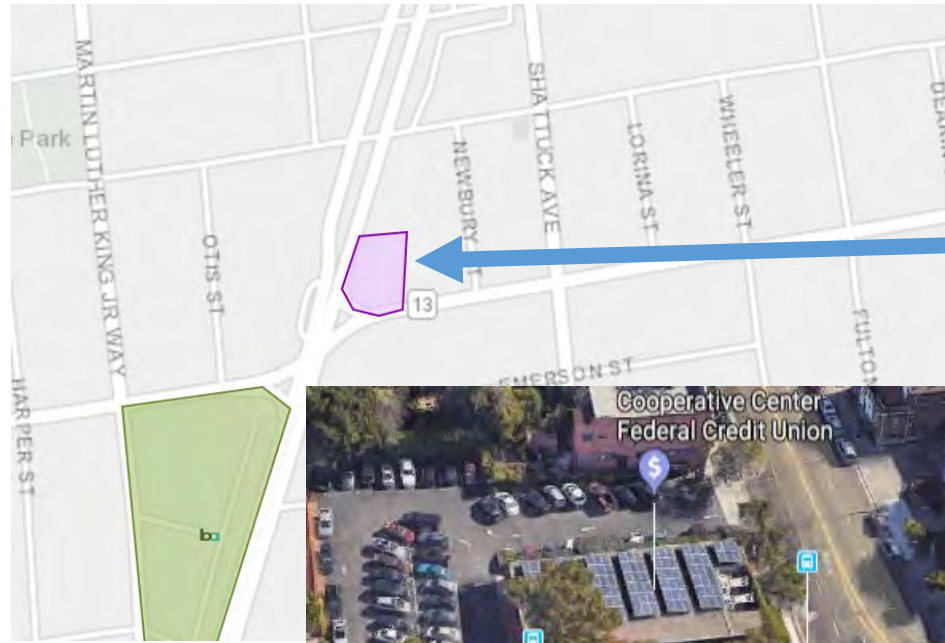


LOCATION: 2001 Ashby Ave

LOT SIZE: 0.6 acres (26,370 SF), 40 Parking Spaces

PARTNER OPPORTUNITY: Resources for Community Development (RCD) is currently planning an affordable housing development at this site. The plan includes 87 housing units and ground floor commercial space for the nonprofit Healthy Black Families, Inc. This development will be funded by Low-Income Housing Tax Credits (LIHTC). The site is currently operating as a Credit Union (7,080 square feet of rentable building area) and is in walking proximity to the Ashby Avenue BART station and Ashby Avenue. For more information on collaborative financing opportunities contact:

(510) 841-4410 | nbrown@rcdhousing.org



Source: Better Business Bureau



Source: Google Maps, April 2019



WEST BERKELEY

West Berkeley's uniqueness and dynamism grows out of its wide variety of land uses. Characterized by a wider range of activities than in any other section of Berkeley, West Berkeley hosts retailers and offices, houses and apartment buildings, welders, scientific instrument makers, book distributors, and other manufacturing, wholesale trade, and industrial uses. West Berkeley land ownership ranges from 2,500 square feet to 25 acres. West Berkeley plays a unique role in Berkeley, and preserving and supporting all of the elements of this vital mix of land uses is the underpins the central policies of the West Berkeley Plan from 1993.

APPROVED CENSUS TRACT: 4232
READ MORE: [West Berkeley Plan](#)

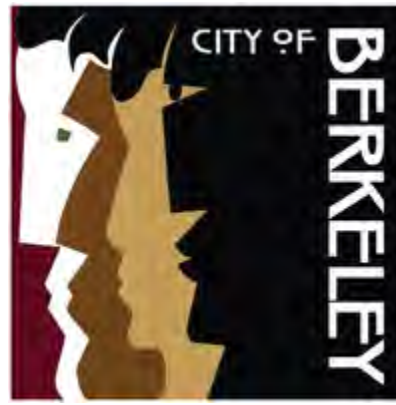
OPPORTUNITY AREA: WEST BERKELEY



VALUES AND PRIORITIES: The West Berkeley Plan is centered on diversity and quality of life. The Plan celebrates and strives to maintain both the diversity of residents and of business activity in West Berkeley.

The Plan seeks to maintain and improve the quality of life in West Berkeley in a wide variety of ways:

- Maintain the full range of land uses and economic activities—residences, manufacturing, services, retailing, and other activities--in West Berkeley.
- Maintain the ethnic and economic diversity of West Berkeley's resident population.
- Maintain and improve the quality of urban life--including environmental quality, public and private service availability, transit and transportation, and esthetic and physical qualities--for West Berkeley residents and workers.



WANT TO LEARN MORE?

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