



Office of the Mayor

ACTION ITEM

July 13, 2010

TO: Members of the City Council

FROM: Mayor Tom Bates, Council Members Darryl Moore, Laurie Capitelli and Linda Maio

SUBJECT: New 2010 Downtown Area Plan

**RECOMMENDATION:**

Place on the 2010 Ballot a Measure for voter approval adopting a Green Vision for the downtown, designating the Downtown Plan Area, adopting certain policies for the downtown, and stating the voters' intention that the Council adopt a Downtown Area Plan that implements that green vision and voter-adopted policies.

**BACKGROUND:**

On February 23, 2010 the Berkeley City Council rescinded the previously approved Downtown Area Plan (DAP) and referred to the Planning Commission DAP revisions that include a Voluntary Green Pathway and a new standard development process that promotes sustainability. Those revisions were forwarded to the Planning Commission for further refinement.

Over the course of the past few months, we have worked with members of the community to develop the attached ballot measure that would ask the Berkeley voters decide whether the City of Berkeley should adopt policies that revitalize the downtown and make Berkeley one of the greenest cities in the United States by meeting our climate action goals; concentrating housing, jobs and cultural destinations near transit, shops and amenities; preserving historic resources; enhancing open space; promoting green buildings; and allowing 2 residential buildings and 1 hotel no taller than our existing 180 feet buildings and 2 smaller office buildings up to 120 feet.

If approved by the voters, the proposed measure would adopt a Green Vision for the downtown, designate the Downtown Plan Area, adopt certain policies for the downtown that would be binding on the Council, and state the voters' intention that the Council adopt a Downtown Area Plan that implements that green vision and voter-adopted policies.

**FINANCIAL IMPLICATIONS:**

\$25,000-\$50,000 depending on the Registrar of Voter costs and the number of other ballot measures.

CONTACT PERSON:

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Shall the City of Berkeley adopt policies to revitalize the downtown and make Berkeley one of the greenest cities in the United States by meeting our climate action goals; concentrating housing, jobs and cultural destinations near transit, shops and amenities; preserving historic resources; enhancing open space; promoting green buildings; and allowing 2 residential buildings and 1 hotel no taller than our existing 180 foot buildings and 2 smaller office buildings up to 120 feet?

RESOLUTION NO. ##,### - N.S.

ADOPTING A GREEN VISION FOR THE DOWNTOWN, DESIGNATING THE DOWNTOWN PLAN AREA, ADOPTING POLICIES, AND PROVIDING GUIDANCE FOR FUTURE COUNCIL DECISION MAKING.

WHEREAS, Berkeley voters overwhelmingly passed a Climate Action Plan that calls for reducing greenhouse gas by 80% by the year 2050, making Berkeley one of the greenest cities in the United States, and

WHEREAS, Downtown should be a destination neighborhood that is safe, oriented to the pedestrian, offering open space, tree-lined streets and shops, services and amenities that make it possible to meet most daily needs near where people live and work; and

WHEREAS, Downtown should build on its successful Arts District and expand the heart of Berkeley where people can experience and enjoy urban life; and

WHEREAS, Downtown should thrive economically, serving Berkeley's residents and visitors with attractive stores, parks and plazas, exceptional restaurants, and provide myriad community amenities with adequate public parking; and

WHEREAS, Downtown should celebrate its cultural, historic assets and its proximity to the University of California, renowned for its academic accomplishments and its physical beauty; and

WHEREAS, the Downtown should be the preferred locale for new, transit oriented housing, providing homes for all income levels and family sizes, thus reducing the heavy volume of commute traffic into the City of Berkeley; and

WHEREAS, Downtown buildings should be constructed to the highest green standards and provide a limited number of new structures that are no higher than what exists now.

Now, therefore, the People of the City of Berkeley hereby resolve as follows:

Section 1. Green Vision for Downtown

The People of the City of Berkeley hereby adopt, as a vision for the City's Downtown Area, a Downtown that meets the City's climate action goals by concentrating housing, jobs and cultural destinations near transit, shops and amenities; preserving historic resources, enhancing open space, promoting green buildings; and allowing for 2 residential buildings and 1 hotel no higher than our existing 180 foot buildings and 2 smaller office buildings up to 120 feet, concentrating housing and jobs, thus helping to make Berkeley one of the greenest cities in the United States.

Section 2. Designation of Downtown Area

The Downtown Area is hereby designated as the area bounded by Hearst Street and Dwight Way and Oxford/Fulton Street and Martin Luther King, Jr. Way, with a Core area within one (1) block of any entrance to the Downtown BART Station.

Section 3. Policies

The People desire an updated Downtown area plan that will establish an environmentally healthy and sustainable downtown, in accordance with the vision adopted herein.

Accordingly, the People adopt the following policies as guidance for the City Council in formulating and adopting a new Downtown Area Plan.

1. Green Businesses: Promote Downtown as a destination for visitors who can witness Berkeley's innovation in green building management and construction. Encourage new green businesses to locate Downtown, and expand the number of existing businesses that go green. Promote strategies that connect Downtown residents, businesses and visitors with local sources of products, services, and healthful foods.
2. Land Use. Encourage transit oriented development, and encourage a mix of land uses that allows most daily needs to be met on foot.
3. Historic Preservation. Preserve historic buildings and provide where appropriate for their adaptive reuse and/or intensification.
4. Economic Development. Support existing and encourage new shops, restaurants, and cultural uses (such as theaters, music venues, museums, and galleries) and attract locally-serving businesses of a variety of sizes, to provide a wide variety of goods and services, with adequate public parking. Promote family-friendly uses, such as childcare and preschools, and cultural, recreational, and educational activities for children. Seek to retain and expand hotels that provide meeting and conference facilities to improve Berkeley's

- vitality, and its tax base.
5. Streets and Open Space/Pedestrian Priority. Make major enhancements and additions to sidewalks, parks, plazas, mid-block pedestrian walkways, streets, and other open space, and incorporate ecologically beneficial features and to give pedestrians priority in Downtown.
  6. Urban Design. Encourage exceptional, high-quality new architecture, and minimize noise, wind, glare and other impacts from development.
  7. Alternative Transportation Modes. Enhance and expand transit opportunities, walking and bicycle use, and other alternatives to the use and ownership of private vehicles.
  8. Neighborhood Protections. Reduce pressure for development in residential areas, promote the preservation and rehabilitation of valued older structures, and conserve the scale of our neighborhoods' fabric. Avoid abrupt transitions between residential neighborhoods and new buildings.
  9. Community Services. Retain and expand effective health-related services in the Downtown-for those of all income levels.
  10. Environmental Development and Sustainability. Integrate and require environmentally sustainable development and practices in every aspect of the Downtown and in its future planning.
  11. New Green Standard Development Requirements: Modify existing development standards to require environmentally sustainable building with the following public benefits in all cases:
    - a) Meet LEED Gold or equivalent.
    - b) Provide Car sharing opportunities, on site bike parking and Transit passes
    - c) Meet Title-24 energy requirements and the local green standards adopted by Council.
    - d) Provide on-site open space or pay into a Public Open Space Fund.
    - e) Parking spaces to be rented separate from dwelling units.
    - f) Residents in new downtown buildings would be ineligible for Residential Permit Parking Permits.
    - g) Provide on-site recycling services and ensure no new net water runoff.
    - h) Parking requirement may be reduced by paying into a Transportation Management Demand Fund to provide enhanced transit services.
  12. Green Pathway Development Requirements and Review. Establish a voluntary "Green Pathway" development review process that would provide a streamlined permit process for buildings that move beyond the New Green Standard Development requirements, providing extraordinary public benefits that could not otherwise be obtained.

**Green Pathway** benefits for buildings at or below 75 feet would include:

- a) Provide 20% affordable rental housing onsite or in a building located in the Downtown Area, or paying a fee to the Housing Trust Fund.
- b) Waiving the right to the State Density bonus.
- c) Employing approximately 30% of a project's construction workers from Berkeley, and if qualified persons are not available in Berkeley, from cities in the East Bay Green Corridor. A contractor may gain credit for a locally hired worker who may be employed on another project.

**Green Pathway** streamlined entitlement process for buildings at or below 75 feet would include:

- a) Submit Landmarks application to planning staff including funds for City-conducted analysis of historical value.
- b) Submit completed analysis to Landmarks Preservations Commission (LPC) for determination. LPC shall complete its determination within 90 days. LPC determination shall be in effect while in an active pursuit of the use permit. If LPC designates a Landmark, the project reverts to standard zoning review process. LPC action appealable to City Council.
- c) Design Review Commission has up to 90 days to assess whether the project conforms to Downtown design guidelines, subject to appeal directly to City Council.
- d) Zoning Certificate is issued upon completion of this process. No Zoning Adjustment Board review required.
- e) Public Benefit and labor compliance will be monitored and verified. Violations subject to penalty.

**Green Pathway** buildings over 75 feet would have the following additional requirements and limitations:

- a) Buildings with more than 100 units of housing or office buildings above 75' will pay prevailing wages for construction workers and employ approximately 16% apprentices from State Certified Apprenticeships with a record of graduating apprentices.
- b) Hotels above 75 feet will pay prevailing wages for hotel employees.
- c) Green Pathway Project applications will receive priority status to meet approval deadlines.
- d) New process for submitting application to determine landmark status, with final determination by Landmarks Preservation Commission within 90 days, with possible option to pay for City-conducted analysis of historical value. If LPC issues negative determination, it shall be in effect while in an active pursuit of the use permit. If LPC designates a positive determination, the project reverts to standard zoning review process. LPC action appealable to City Council.
- e) Design Review Commission and Zoning Adjustment Board (ZAB) process not to exceed a combined total of 210 days; ZAB action appealable to City Council.

- f) Public Benefit and labor compliance will be monitored and verified. Violations subject to penalty.

Section 4.                      Guidance for Council Decision-Making

- A. In order to advance Berkeley's green future, and foster needed economic development and revitalization, the People of the City of Berkeley hereby advise the City Council that planning efforts for the Downtown should include consideration of a limited number of new buildings, as follows:
  - 1. A maximum height in the Downtown Area of 5 stories (60 feet).
  - 2. Exceptions to maximum height of 60' include:
    - a) A total of 5 new buildings in the Downtown Area as follows:
      - 1) 2 -residential buildings in the **Core**, with commercial on the ground floor, no taller than existing 180 foot buildings;
      - 2) 1 hotel with conference facilities in the **Core** not to exceed 180 feet; and
      - 3) 2 buildings not to exceed 120 feet, which may be mixed-use (residential/commercial ground floor) or office buildings.
    - b) Buildings up to 75 feet with a use permit on Shattuck Avenue from Hearst Avenue to Haste Street.
  - 3. On Martin Luther King Jr. Way, limit height of new buildings adjacent to or confronting existing residential buildings to 45' at the sidewalk, and 55' with a 10' set-back on the 5<sup>th</sup> floor.
- B. The City Council shall regularly evaluate any Plan adopted as a result of this measure for its impacts on environmental goals, aesthetics, livability, economic vitality, housing growth and affordability, sustainability, and other factors, and shall consider adjustments to the Plan's policies and development regulations to better attain desirable outcomes and address unacceptable negative impacts.

