

1 3. LAND USE CHAPTER

2 STRATEGIC STATEMENT¹

3 Land use sets the framework for most of the other dimensions of the Downtown Area
4 Plan. In its narrowest sense, "land use" is about defining the maximum amount of
5 development and the types of uses (or permitted activities) allowed on a particular parcel
6 of land. Land use, therefore, sets an important framework for most other dimensions of
7 the Plan. While the Land Use Element must be consistent with and reflect the goals and
8 policies of the whole Plan, it should not repeat the goals and policies of each Chapter.
9 Rather, the Land Use chapter should focus on the fundamental determinants for
10 considering future use and intensity (with intensity relating to building height and bulk).

11 Briefly stated, the overarching intentions of the entire DAP that are reflected in the Land
12 Use chapter include:

- 13 • **An environmentally sustainable Downtown.** Higher land use intensities result
14 in reduced per capita transportation energy use and greenhouse gas emissions,
15 especially given Downtown's position as a regional transit hub. At the same time,
16 open space and solar access are essential to livability in urban areas. The 21st
17 century may see a dramatic restructuring of regional growth toward urban centers.

- 18 • **An economically vital Downtown.** Downtown must build on its competitive
19 advantages, especially its cultural, educational and historic assets. Additional
20 cultural, recreational and educational activities and institutions should be
21 encouraged to strengthen the importance of these functions in the economic health
22 of Downtown. Downtown is a major job center and should provide space for start
23 up businesses, expanding businesses and private sector spinoffs from the
24 University -- but without exacerbating Berkeley's jobs-housing balance.
25 Downtown should also serve as destination for Berkeley's residents and visitors
26 with attractive shops, exceptional restaurants, and world-class parks and plazas.

- 27 • **Downtown as a Neighborhood.** Housing forms the cornerstone for a successful
28 Downtown. Housing brings activity to Downtown streets and patrons to
29 Downtown stores, services, restaurants, and theaters. The presence of residents

¹ DAPAC requests that more background data be provided.

30 enhances comfort and safety. Diverse housing options will help Berkeley meet
31 future needs, with a special emphasis on affordable housing, while also
32 recognizing that the opportunity for individuals and families to live and work in
33 Berkeley, along with Berkeley's aging "empty-nesters," will contribute to
34 diversity and sustainability.

35 • **Downtown celebrates its history and has a sense of place.** Conserving
36 Downtown's historic resources and main-street character maintains connections
37 with the past retains its unique sense of place, and is one of the distinguishing
38 characteristics of Berkeley. New construction can fill the gaps within our historic
39 Downtown, heal the scars posed by unsightly properties, and both strengthen and
40 help energize the cityscape. Care must be taken not to overwhelm Downtown's
41 historic jewels.

42 • **Downtown celebrates its connections to the University, and experiences**
43 **added vitality because of University development and enhancements.** The
44 University offers cultural uses (such as the Berkeley Art Museum / Pacific Film
45 Archive) community services (such as the Optometry Clinic), and a day-time
46 work force that can complement and strengthen Downtown, as well as
47 development locations suitable for new retail development. At the same time,
48 Downtown can offer uses important to the University and its students and staff,
49 such as the hotel/conference center, retail, and entertainment.

50 **GOALS & POLICIES**

51 **GOAL LU-1: ENHANCE DOWNTOWN'S LIVABILITY AND**
52 **SUSTAINABILITY BY CONCENTRATING HOUSING, JOBS, AND CULTURAL**
53 **DESTINATIONS NEAR TRANSIT, SHOPS, AND AMENITIES, AND BY**
54 **PROMOTING GREEN BUILDING AND SITE FEATURES.**

55 **Policy LU-1.1.** Allow higher-intensity development for housing and for limited
56 commercial/office uses in Downtown's Core Area.

57 *(Land Use Map at the end of this chapter relates to this and the following policies.)*

58 **Policy LU-1.2.** All new development should contribute economic, open space and other
59 community benefits. (Explicit recommendations regarding fees are contained in policies
60 under Goal LU-9.) Urban intensities must be accompanied by increased open space,
61 plazas, landscaping and amenities -- as provided in the Land Use chapter and in the
62 Streetscapes & Open Space chapter of this plan. Require private development to
63 contribute to street-level open space and improved ecological/environmental functions

64 through significant contributions to greenery on-site and in the public realm, including
65 components such as: landscaping in public streets and open spaces, landscaped setbacks,
66 vegetated street-facing courtyards, and vegetated midblock walkways. Also recognize
67 impacts of higher-intensity development on surrounding residential neighborhoods,
68 including both the residential-only areas of the Downtown Area and the residential
69 neighborhoods to the south, west, and north. Minimize these impacts through the
70 implementation of traffic calming, pedestrian safety and parking management measures
71 contained in Access policies related to Goals AC-2 and AC-3. Designate parking and
72 transportation services fees generated by Downtown development to be used for these
73 purposes. In addition, consider use of Downtown fees for open space improvements and
74 other community benefits in surrounding residential neighborhoods.

75 **Policy LU-1.3.** In the Core Area allow a mix of appropriate urban uses (see "Summary of
76 Land Use Provisions" and buildings up to 85 feet in height (typically 6-stories residential
77 mixed-use or 5-stories office mixed-use. In Corridor/Buffer areas, allow a mix of
78 appropriate urban uses and buildings up to 65 feet in height. All buildings in the Core
79 Area and Corridor/Buffer mixed-use areas should have a minimum height of 45' (3-
80 stories mixed-use). Finally, all buildings in the Core Area and Corridor/Buffer mixed-use
81 areas should be required to:

- 82 • have maximum attainable energy efficiency (see Environmental Sustainability
83 policies under Goal ES-3);
- 84 • contribute to an Open Space Fund (for public streetscapes and open space as
85 described in Policy OS-1.2 and in Goal LU-9);
- 86 • reduce lot coverage to increase publicly accessible open space, greenery, and on-
87 site stormwater retention (see also Policy LU-1.5);
- 88 • if residential, comply with the City's affordable housing requirements; and
- 89 • if office/commercial, pay housing mitigation fees, day care fees, parking fees, and
90 transportation service fees (see also Policy LU-9.1).

91 Maximum allowable building heights should be considered as absolute maximums,
92 measured to the top of parapet or midpoint of the roof and inclusive of the State Density
93 Bonus or any other bonus provision. Through its development standards, the City should
94 define "base projects" maximums, so that height maximums are not exceeded.

95 **Policy LU-1.4.** In the Core Area, allow a limited number of buildings to exceed the
96 generally allowed maximum building height, as provided for in Policies LU-1.4.1
97 through LU-1.4.4 below. Recognize that taller buildings require special care with regard

98 to building and site design, and should be held to a higher standard for "green" design
99 and public contributions to offset negative impacts. Building height should be reviewed
100 by City Council eight (8) years after the Downtown Plan adoption (see Policy LU-1.7).

101 In the Core Area, projects with building heights above 65 feet should be required to:

- 102 • have maximum attainable energy efficiency AND include energy generation
103 features (see Environmental Sustainability Goal ES-3);
- 104 • a performance rating equivalent to LEED Gold rating or the Build It Green
105 equivalent (see Environmental Sustainability Goal ES-3);
- 106 • contribute to an Open Space Fund for public streetscapes and open space, and
107 shared stormwater features (for public streetscapes and open space as described in
108 Policy OS-1.2 and in Goal LU-9);
- 109 • reduce lot coverage to increase publicly accessible open space, greenery, on-site
110 stormwater retention (see Policy LU-1.5 below);
- 111 • if residential mixed-use, exceed the City's affordable housing requirements; and
- 112 • if office/commercial mixed-use, pay housing mitigation fees, day care fees,
113 parking fees, and transportation service fees (see Policy LU-9.1).

114 Maximum allowable building heights should be considered as absolute maximums,
115 measured to the top of parapet or midpoint of the roof and inclusive of the State Density
116 Bonus or any other bonus provision. Through its development standards, the City should
117 define "base projects" maximums, so that height maximums are not exceeded.

118 **Policy LU-1.4.1.** Recognize that hotels provide unique benefits to the Downtown,
119 including fees, taxes, pedestrian activity, and increased patronage for shops and
120 restaurants. Allow up to two (2) hotels to be built up to 225 feet exclusive of
121 mechanicals (which is greater than the maximum allowable height for the Core Area), at
122 the request of the developer and upon the mutual execution of an agreement with the
123 developer. Any additional height that is granted to a hotel project that is greater than the
124 maximum allowable height for the Core Area will be subject to the developer's provision
125 of substantial economic, open space, and community benefits to the Downtown, as
126 defined in the agreement. Such benefits could include – but are not limited to – the non-
127 site specific recommendations of the "Task Force on a Downtown Hotel/Conference
128 Center" (April 2004), such as: maintaining highest standards for design; constructing and

129 operating according to green building principles; emphasizing alternative modes for
130 patrons and employees; and encouraging a local labor force and fair wages.²

131 **Policy LU-1.4.2.** In the Core Area and in addition to the aforementioned hotels, allow a
132 maximum number of taller buildings as specified below.

133 a) Allow up to four (4) buildings to have a maximum height of 100 feet (typically
134 8-story residential mixed-use or 7-story office mixed-use).

135 b) In addition to a) allow up to four (4) buildings to have a maximum height of 120
136 feet (typically 10-story residential mixed-use or 8-story office mixed-use).

137 c) Of the four (4) buildings allowed to have a height of up to 100 feet, allow not
138 more than one of these buildings at the southeast or southwest corner of
139 Shattuck and Durant, and only if it is part of a project that creates a full-service
140 grocery store of not less than 15,000 square feet. (See Policy LU-3.5 below.)

141 d) Allow only one (1) office building to be among these taller buildings (i.e., with
142 a height exceeding 85 feet), excluding University properties.

143 **Policy LU-1.4.3.** On University properties in the Core Area as of November 30 2007,
144 building heights up to 100 feet are allowed, except for along the Hearst Avenue frontage
145 west of Walnut Street, where maximum allowable building heights should not exceed 65
146 feet. Doing so recognizes that the University may need to rely on taller buildings to
147 accommodate growth without additional property acquisitions.

148 **Policy LU-1.4.4.** Before granting buildings exceptional height, performance-based
149 findings should be made to ensure that certain objectives are met, such as proximity to
150 transit, solar access, major views, etc. The City should develop criteria and a process for
151 making performance-based findings.

152 **Policy LU-1.5.** Establish maximum groundfloor lot coverage requirements for all non-
153 residential zones. The intention is to dramatically increase the presence of midblock
154 open space and landscaped setbacks throughout Downtown. Maximum lot coverage
155 requirements would vary by building height:

156 65 feet and less -- 90% maximum with in-lieu fee option for small lots &
157 historic preservation;

² Include report of the "Task Force on a Downtown Hotel/Conference Center" in future appendix.

158 66 to 100 feet -- 90% maximum with no in-lieu fee option;

159 101 feet and greater -- 80% max. lot coverage with no in-lieu fee option.

160 Maintain lot coverage maximums as provided for in Policy LU-1.5. Allow usable
161 groundfloor open space to be applied toward "per unit" open space requirements. For any
162 "per unit" open space requirements that cannot be yielded via groundfloor lot coverage
163 limitations, permit an "in-lieu" fee option for streetscape and public open space
164 improvements spelled out in Policy OS-3.1.

165 **Policy LU-1.6.** The volume or "bulk" of buildings should be controlled to encourage
166 appropriate setbacks and stepbacks, solar access, and slender upper floors. The City
167 should limit the bulk of buildings in all nonresidential zones by adopting the following
168 maximums for "floor area ratios" (FAR), which is the ratio of a building's total floor area
169 (on all above-grade floors) over the site area.

170 Maximum Height / Maximum FAR

171 65' / 4.00

172 85' / 4.90

173 100' / 5.60

174 120' / 6.50

175 **Policy LU-1.7.** Eight years after the Downtown Area Plan is adopted, the City Council
176 should review development standards and projects built to these standards, to observe and
177 analyze the effects of building height, and all other building and site provisions, on
178 aesthetics, livability, project feasibility, fiscal capacity for public improvements, and
179 other factors that the City Council deems important.³

180 **Policy LU-1.8.** Amend the Downtown Design Guidelines, consistent with provisions of
181 HD-3, HD-4, and HD-5 and OS-3 and OS-4, to ensure that new projects respect the scale
182 and character of Downtown, enhance the pedestrian experience, and optimize the
183 environmental performance of both structures and landscapes. In particular, the
184 Guidelines should address:

³ DAPAC members request that an illustration be provided to explain "Floor Area Ratios."

- 185 a) The use of site coverage and density criteria to ensure that new open
186 spaces, created within new projects, contribute real value to the
187 environmental and experiential quality of the Downtown.
- 188 b) The use of height and massing criteria to ensure that new projects
189 adequately frame and activate streets and open spaces, while minimizing
190 adverse impacts to street-level sunlight, wind, and views. These may
191 include streetwall heights, ground- and upper-floor setbacks, and other
192 criteria.

193 **Policy LU-1.9.** Within one-eighth (1/8) of a mile of the BART rotunda, on-site parking
194 for new commercial buildings is prohibited, except in locations identified for public
195 parking as part of the "Consolidated Parking Strategy" or as provided through an
196 agreement with a hotel developer (same as Access Policy AC-3.3a(i)). More than 1/8
197 mile from the BART rotunda, on-site parking is discouraged, except on consolidated
198 peripheral locations. Parking fees should be required within 1/8 mile, and fees in lieu of
199 parking requirements should be allowed outside of 1/8 mile, to pay for parking and
200 transportation demand facilities and programs. Any above-ground structures must meet
201 the street at ground level with active uses and meet design guidelines provided for in
202 Access Policy AC3.3a(vi) and Streetscapes & Open Space Goal OS-5.

203 **GOAL LU-2: OFFER UNIQUE CULTURAL AND ENTERTAINMENT USES**
204 **THAT SERVE THE CITY AND REGION.**

205 **Policy LU-2.1.** Retain and support the expansion of culture and the arts in the
206 Downtown, especially in the "Arts District/Civic Center" area (see Land Use Map).

207 **Policy LU-2.2.** Retain and support Downtown's cinemas. Consider economic
208 development strategies and other tools to upgrade existing movie theater facilities.

209 **Policy LU-2.3.** Recruit uses that complement Downtown as an evening destination,
210 including the new cinemas, restaurants, art and music venues, etc.

211 **Policy LU-2.4.** Promote events and festivals that capitalize on Downtown's unique
212 cultural strengths, such as arts festivals, movie festivals, music festivals, "town-gown"
213 activities, and art installations.

214 **GOAL LU-3: PROVIDE A UNIQUE SYNERGY OF RESTAURANTS, SMALL**
215 **SHOPS AND BUSINESSES, TO ENCOURAGE A THRIVING AND DIVERSE**
216 **RETAIL ENVIRONMENT.**

217 **Policy LU-3.1.** Strengthen retail in the Downtown by supporting an increase in the
218 number of: people working and living Downtown, cultural and arts uses, better
219 connections to UC, and attractive streets and public spaces.

220 **Policy LU-3.2.** To enliven streets within the Core Area and other mixed-use areas,
221 require that ground floors contain retail, restaurants, personal services, community space,
222 cultural space, and/or art space.

223 **Policy LU-3.3.** Coordinate public improvements, historic preservation, and other efforts
224 to emphasize Downtown as a pedestrian-friendly environment with a strong sense of
225 place.

226 **Policy LU-3.4.** While all retail areas are important within the Downtown, target near-
227 term economic development, streetscape, and historic preservation resources toward
228 Shattuck Avenue from Center to University and along the segments of University
229 Avenue, and Addison and Center Streets between Shattuck to Oxford. Recognize that the
230 east leg of Shattuck Square might become an important retail street in the longer term
231 with changes in its traffic function and character. (See also Policy OS-1.2.6.)

232 **Policy LU-3.5.** Encourage a full-service grocery store in the Downtown Area through
233 incentives, including increasing allowable height for only one of the parcels at the
234 southeast or southwest corner of Shattuck and Durant, as provided in Policy LU-1.4.2.

235 **Policy LU-3.6.** Land use regulations and design guidelines should ensure minimum
236 ground-floor ceiling heights of fifteen (15) feet, to support more attractive and more
237 viable retail uses, as provided in Policy ED-1.3.

238 **Policy LU-3.7.** Along the north side of Dwight Way between Shattuck and Fulton,
239 permit retail uses and/or "live-work" housing, if they are part of an affordable housing
240 project. (See related policies in Housing and Community Health & Services chapter.)

241 **Policy LU-3.8.** Promote Downtown as a retail area committed to sustainability. (See
242 Environmental Sustainability Policies ES-7.1 through 8.3; and Economic Development
243 Goal ED-5 .)

244 **GOAL LU-4: FOCUS CITY GOVERNMENT AND CIVIC ACTIVITY IN THE**
245 **CIVIC CENTER AREA.**

246 **Policy LU-4.1.** The City must retain and enhance the Civic Center area's historic and
247 community-serving character by maintaining the present assemblage of civic buildings
248 (including the High School) and require new buildings to face Civic Center Park and

249 streets with active, community-serving uses near street level. Retrofit the Veterans
250 Building to resist earthquakes and recruit an active, community use for its main floor.

251 **Policy LU-4.2.** Encourage the consolidation of community uses that serve all
252 Berkeleyans in the Civic Center area.

253 **Policy LU-4.3.** Maintain and enhance Martin Luther King Jr. Civic Center Park with
254 improvements such as restoration of the fountain, enhanced ongoing maintenance, and
255 consideration of daylighting Strawberry Creek within or alongside the Park. (See also
256 Streetscapes & Open Space Policy OS-1.2.3.)

257 **GOAL LU-5: CULTIVATE DOWNTOWN AS AN ATTRACTIVE**
258 **RESIDENTIAL NEIGHBORHOOD WITH A RANGE OF HOUSING**
259 **OPPORTUNITIES, AND AN EMPHASIS ON AFFORDABLE HOUSING AND**
260 **FAMILY HOUSING.**

261 **Policy LU-5.1.** Seek to provide at least 40% of Berkeley's projected demand for new
262 housing in the Downtown area.⁴

263 **Policy LU-5.2.** Encourage diverse housing that meets a variety of needs, particularly
264 affordable housing, housing for empty nesters, and housing types that help Berkeley's
265 jobs-housing balance. (See also Housing and Community Health & Services Goal HC-2;
266 and Economic Development Goal ED-11.)

267 **Policy LU-5.3.** Encourage the University to replace the Banway building on Bancroft in
268 the long term with housing for faculty, students (including undergraduate and graduate),
269 or families. Consider inclusion of the adjacent car wash site as part private sector
270 development of this project. (See also Housing and Community Health & Services Policy
271 HC2.11.)

272 **Policy LU-5.4.** Allow for high-end housing to provide in-lieu fees that will fund very
273 low-income housing and permanent housing with supportive services in Downtown, such
274 as a model affordable housing and green building project on the City-owned Berkeley
275 Way parking lot site. (See also Housing and Community Health & Services Policies HC-
276 2.1-2.11 and Policy HC-3.4, and Economic Development Goal ED-14.)

⁴ In the last 7 years, 41% of new housing units were built in the Downtown Area.

277 **Policy LU-5.5.** Implement the streetscape and open space plan as presented in the
278 Streetscapes and Open Space Chapter to ensure a park or plazas within a few blocks of
279 every resident (as provided for in the chapter on Streetscapes & Open Space).

280 **Policy LU-5.6.** Strengthen zoning standards to assure visible entrances, porches and
281 stoops, streetfacing windows, and landscaped yards on residential streets.

282 **Policy LU-5.7.** Streets abutted by housing should be designed to provide a pedestrian
283 environment that feels safe a comfortable, as provided for through a Public
284 Improvements Plan.

285 **GOAL LU-6: MAINTAIN THE EXISTING SCALE AND CHARACTER OF**
286 **RESIDENTIAL-ONLY AREAS.**

287 **Policy LU-6.1.** To reduce development pressures in residential-only areas, promote the
288 rehabilitation of older structures, help conserve the scale of their historic fabric, and
289 preserve the many remaining historic buildings. Maintain the R-2A designation and
290 downzone R-4 areas to R-3, where shown on the Land Use Map.

291 **Policy LU-6.2.** For projects in Corridor/Buffer mixed-use areas that immediately abut a
292 residentially zoned property with an existing residential building, the building height of
293 the Corridor/Buffer project shall be stepped down where adjacent to the residential
294 property. The height of the stepped-down portion of building shall be similar to the
295 height of the existing residential building, or 45 feet, whichever is greater.

296 **GOAL LU-7: ENCOURAGE UNIVERSITY USES IN THE DOWNTOWN THAT**
297 **WILL BENEFIT THE GREATER DOWNTOWN AREA.**

298 **Policy LU-7.1.** Encourage the University to develop long-range plans to move UC
299 museums and/or parts of collections (such as the Lawrence Hall of Science and the
300 Hearst Anthropology Museum), and their affiliated retail stores, into the Downtown.

301 **Policy LU-7.2.** To the extent possible, UC buildings should line streets and public open
302 spaces with retail and public outreach uses that encourage activity, provide visual
303 connections, and meet needs of Downtown residents, workers, and visitors. University
304 retailing activities, such as the Optometry Clinic and the Scholars Workstation, and/or a
305 Community Health Campus (with clinics and meeting space available to the public) are
306 encouraged ways to implement this policy.

307 **Policy LU-7.3.** Encourage the University to reserve for retail uses with a 100-foot
308 minimum depth of the Shattuck Avenue frontage of the former California Department of
309 Health Services (DHS) site for retail uses, and with a 100-foot minimum depth along the

310 University Avenue frontage of the Purcell Paint site. Prior to the time the University
311 proceeds with site development, the amount of space needed for retail at these two sites
312 should be reevaluated based upon the market for retail.

313 **Policy LU-7.4.** Encourage near-term development of the DHS site, especially along its
314 Shattuck frontage. The scale of new University buildings on the DHS site should be
315 sensitive to their context, as provided for in Policy LU-1.4.3. Health services are
316 encouraged on the DHS site (see Policy HC-7.3).

317 **Policy LU-7.5.** To provide a new sense of arrival and gateway at the east end of
318 University Avenue and to help transform Oxford Street, the City recommends
319 development on the University Hall site and the adjacent UC property just to the west.
320 The City also recommends development of UC properties on the block bounded by
321 Oxford, Walnut, Berkeley Way, and University (including the Purcell Paint site). (See
322 also: Economic Development Policies ED-4.2, -4.6, -4.7, -4.8 and Streetscapes & Open
323 Space Policy OS-1.2.4.)

324 **Possible Implementation Measure:** New development west of or in
325 University Hall could contain visitor oriented uses such as a joint Visitor
326 Center, an information center for UC and non-UC events, a Multicultural
327 Center, and/or branches of University museums that would contribute to
328 Addison Street as a cultural destination.

329 **Possible Implementation Measure:** UC is encouraged to make
330 construction of the gateway at the east end of University Avenue a high
331 priority, possibly as part of the University’s near-term plans for “surge”
332 space (to house functions now in campus academic buildings when they
333 undergo seismic repair and later to be used for administrative offices).

334 **Possible Implementation Measure:** The University is encouraged to seek
335 unified development of the Oxford/Walnut/Berkeley Way/University
336 block through the acquisition of non-UC properties -- with the exception
337 of the apartment building at Berkeley Way and Walnut Street, and with
338 the integration and preservation of a meaningful portion of the landmark
339 garage building.

340 **Policy LU-7.6.** Support the relocation of the Berkeley Art Museum / Pacific Film
341 Archive to the UC Printing Press site (bounded by Center, Oxford, and Addison)

342 **Possible Implementation Measure:** The proposed primary entry of the
343 museum should be located on Center Street, with a secondary entry
344 provided from Oxford or the corner of Oxford and Addison. Loading

345 docks should be carefully designed to contribute positively to the
346 pedestrian environment. Pedestrian-friendly and predominantly
347 transparent ground floor uses should be maintained on all three sides of
348 the museum.

349 **Policy LU-7.7.** The parking lot site adjacent to the Tang Center should be a relatively
350 low priority for near-term development. A multicultural center is encouraged on the site,
351 which could bring together Berkeley High School students, UC students and other young
352 adults. The south side of the site is appropriate for housing at a scale that relates to
353 nearby existing residential uses.

354 **Possible Implementation Measure:** Office and storefronts are considered
355 appropriate ground-floor uses for the site facing Bancroft, with housing
356 facing Durant.

357 **Policy LU-7.8.** The ground floor of new buildings along Oxford should have an active
358 public interface that might be appropriate for UC uses, rather than retail or restaurants.
359 This public interface should be pedestrian-friendly, and have frequent windows and
360 entrances.

361 **Policy LU-7.9.** Encourage the University to retain the Edwards Field track, tennis courts,
362 and similar activity facilities near Downtown. Also encourage new activity facilities that
363 will bring activity and amenities to locations in or adjacent to Downtown. Specifically,
364 encourage the University to locate the proposed high-performance training facility on
365 University land in or adjacent to Downtown.

366 **GOAL LU-8: ENHANCE DOWNTOWN AS A CENTER FOR EMPLOYMENT**
367 **AND INNOVATIVE BUSINESSES.**

368 **Policy LU-8.1.** Provide new office space to serve the needs of start-ups and private-
369 sector spin-offs from the University. Encourage these uses near the intersection of
370 University and Shattuck Avenues.

371 **Policy LU-8.2.** Provide office space of appropriate sizes to help retain growing local
372 businesses in Berkeley.

373 **Policy LU-8.3.** Provide office space to attract professional and high tech businesses that
374 will serve Berkeleyans now commuting elsewhere.

375 **Policy LU-8.4 (same as Policy ED-10.2).** Encourage new office buildings with large
376 enough floor plates and ground-floor spaces to serve larger-scale specialty retailers as
377 well as growing local businesses.

378 **GOAL LU-9. COORDINATE FUTURE DEVELOPMENT, PUBLIC**
379 **IMPROVEMENTS, FEES, TAXES, AND OTHER FUNDING OPPORTUNITIES,**
380 **FOR THE ORDERLY AND ATTRACTIVE TRANSFORMATION OF THE**
381 **DOWNTOWN.⁵**

382 **Policy LU-9.1.** Affirm existing fees or establish new provisions for fees when
383 Downtown Area Plan development provisions become effective. The new development
384 approval provisions shall not become effective until these fees are in place. The creation
385 of new fees should be accompanied by careful analysis (including "nexus" studies to
386 establish a connection between the payment of fees and the receipt of benefits). All fees
387 should be structured to increase with increased project size and intensity (with
388 refinements to this basic formula resulting from the aforementioned "nexus" studies).
389 Fees called for in this Plan include:

390 **Open Space Fees** (see also Policy OS-3.4). Establish an Open Space Fee
391 (or similar mechanism) for the creation of new and enhancement of
392 existing streetscapes and public open space, and their maintenance.
393 Require all new development to contribute to the Downtown Open Space
394 Fund (or similar mechanism). Develop priorities for the expenditure of
395 these funds, with Center Street Plaza given highest priority.

396 **Housing Fees** (see also Policy HC-2.11 and Policies HC-3.3 through 3.5).
397 For residential projects that choose not to include Inclusionary Housing,
398 require payment into the Housing Trust Fund, as an in-lieu fee. Office
399 and other commercial uses should be required to pay appropriate housing
400 mitigation fees. Give priority to spending these funds within the
401 Downtown Area, and give highest priority to aN affordable housing
402 project on the Berkeley Way parking lot.

403 **Transportation Services Fees.** For the Downtown Area, the City should
404 adopt Transportation Services Fees, similar to those considered by City
405 Commissions and the City Council in 2006. The Fee should be based on
406 estimates of trips generated and can be reduced by implementation of trip
407 reduction, such as providing Eco Pass or Commuter Check subsidies and
408 car-sharing.

⁵ Staff concern: adjust the following to make a consistent distinction between policies and implementation measures. For implementation, consider "financing plan" to analyze and define these fees comprehensively.

409 **Parking In-Lieu Fees.** Establish a fund for Consolidated Parking and
410 transportation demand improvements (as called for in the Access chapter)
411 to receive parking in-lieu fees as called for in this Plan, and to pay
412 accumulated funds on projects identified and prioritized according to
413 Policy AC-3.3a.

414 **Hotel Occupancy Taxes.** Not less than 50% of all transient occupancy
415 tax revenues (hotel tax) generated within the Downtown Area should be
416 earmarked for Downtown streetscape and open space improvements
417 spelled out in Policy OS-3.4. A newly created Open Space Fund may
418 provide the appropriate vehicle (see above). Transient Occupancy Tax
419 revenues should be dedicated as described for the duration of this
420 Downtown Area Plan, or until the improvements called for are completed.

421 **Parking Revenues.** All revenues that result from increasing the price of
422 parking on-street and in public parking garages should be spent on
423 streetscape and open space improvements, transportation improvements,
424 public facilities for the benefit of the general public (like bathrooms), and
425 the ongoing maintenance of streetscapes, open spaces, and public facilities
426 for the benefit of the general public.

427 **Child Care Fee.** Enforce Child Care Fee requirements for new
428 construction and changes in use. Encourage increased childcare in and
429 near Downtown.

430 **Vacancy Tax.** Explore creation of a "vacancy tax" to deter commercial or
431 residential vacancies, such as a tax at a rate equivalent to what the City
432 would collect in taxes and fees from the vacant property if it were rented
433 at 75% of the asking rent or the rental rate paid by the last occupant,
434 whichever is higher. If implemented, not less than 50% of all vacancy tax
435 revenues generated within the Downtown should be earmarked for
436 Downtown streetscape and open space improvements and maintenance,
437 and transportation improvements.

438 **GOAL LU-10. MAINTAIN COMMUNITY HEALTH CARE FACILITIES AND,**
439 **IF HERRICK HOSPITAL CLOSES AS A HOSPITAL, SUPPORT THE**
440 **CREATION OF COMMUNITY HEALTH SERVICES CAMPUS AND OTHER**
441 **BENEFICIAL USES THROUGH SITE-SPECIFIC PLANNED DEVELOPMENT.**

442 **Policy LU-10.1.** Work with Herrick Hospital to retain it as a health facility. If it is to be
443 closed as a hospital, the City should ensure that Herrick's land (the hospital site, as well
444 as the Herrick lots on Shattuck, Dwight and MLK Way) is used to provide integrated

445 health services to the community, as well as neighborhood-serving open space. (See also
446 Policies HC-7.1 & HC-7.2.)

447 **Policy LU-10-2.** Maximum allowable building heights and minimum setback
448 requirements should respect the scale and character of surrounding residential uses. (See
449 also Policies HC-7.1 and HC-7.2.)

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