

Osha Neumann
Attorney at Law
1840 Woolsey Street
Berkeley, California 94703
(510) 644-2429

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To: Mayor Bates and Members of the City Council

From: Community Services United dba Berkeley Flea Market

Re: Ashby BART Development Resolution

We urge you to reject the Ashby BART Development Resolution on your July 25th agenda as currently drafted.

We would have hoped that the seven month of acrimony that followed your vote to support the South Berkeley Neighborhood Development Corporation's ill conceived grant proposal, coupled with its resounding rejection by CalTrans, would have caused the sponsors of this resolution to reflect on past mistakes. But this resolution repeats them all:

- It assigns responsibility for conducting a "wide outreach effort in the community" to a task force whose members were appointed in a secretive process by a corporation with vested interest in promoting a widely unpopular development proposal. Applicants were screened out who did not support the proposal. Important constituencies and groups were not represented. The spirit if not the letter of the Fair Representation Ordinance was violated.
- It narrowly defines the goals and objectives of the Task Force so as to assure a predetermined outcome of a supposedly open community planning process. It requires that whatever plan emerges be consistent with "previously adopted Council policy," but is misleading and selective in its interpretation of those policies. It again focuses on the speedy development of a planning grant application rather than on a broad based assessment of the needs of the community as they relate to the site. It directs that the Task Force's "outreach effort include BART as a full partner" while major stakeholders in the community are effectively excluded.
- **It is a slap in the face of the Flea Market and its supporters.** It requires the Task Force to come up with "objectives and criteria for relocation of the flea market in furtherance of Council policies should a feasible development plan ultimately be prepared for the parking lot." Note that the impact on the flea market is excluded from the evaluation of feasibility. The flea market is to be considered only *after* the plan is prepared. Whatever happens to the flea market is collateral damage. It is assumed that the City can abrogate CSU's lease with BART to operate on the parking lot with impunity. No previous council

resolution has gone this far.

The Resolution Does Not Accurately Reflect Prior Council Resolutions and City Policy

We ask that you closely examine the assumption that this resolution is consistent with existing city plans and prior council policy.

□ The resolution, citing the General Plan, claims without qualification that it is “the City’s policy to promote transit oriented development of the Ashby BART Station.” The General Plan’s policy statement on city owned sites is that “**when appropriate and feasible**” they should be used for affordable housing and/or mixed use residential projects with a substantial portion of affordable units” It does not mandate development when inappropriate or not feasible. In its action plan for the Ashby BART site it specifically states that whatever is built there should be affordable for households with low or very low incomes.

Not a single study of the feasibility of building on then/Ashby BART site has concluded that it is feasible to build affordable housing, no matter how elastically that term is defined:

- The South Berkeley Area Plan adopted in 1990 reports that ““OED staff has recently studied the feasibility of Ashby BART development, and found it infeasible due to current market conditions.”
- The 2001 Haas Business School Study commissioned after the council again floated the idea of building on the lot found that, as City Manager Weldon Rucker reported to the Council “such development is not currently feasible, due primarily to the high cost of providing replacement parking.”
- The 2004 East Bay Community Foundation study reported “The results of the preliminary analysis suggested that the prototypical development scenarios did not appear to be financially feasible, if the cost of providing replacement parking were to be borne exclusively by the private development. This finding was consistent with analysis previously conducted by UC Berkeley students as described in their September 2001 report.”

□ The resolution ignores City policies that conflict with its development goals.

- A 1967 City Council commission studying the possible development of the Ashby BART air space recommended “reservation of at least one and ½ acres for public open space.”
- Measure L ratified by the voters in 1987 and codified in Sections 6.42.010-6.42.050 of the Berkeley Municipal Code expressed Berkeley’s commitment to the value of preserving open space. The South Berkeley Development plan warned that: “Given the need for additional housing in Berkeley, it is possible that residential areas of South Berkeley will be densely developed, thereby increasing traffic congestion and noise and making

the community a less desirable place to live. It urged that “The potential impact of the development of the BART air rights needs to be thoroughly assessed.”

□ The resolution claims that “on December 13, 2005, the City Council requested the South Berkeley Neighborhood Development Corporation (SBNDC) take the leadership in establishing a task force. . .” In fact the resolution you passed that day made no mention of the Task Force. The memorandum from the City Manger accompanying the resolution reported that “SBNDC has proposed that a South Berkeley Task Force be appointed by Councilmember Anderson and Mayor Bates. . .” Councilmember Worthington objected that this proposal violated the spirit if not the letter of the Fair Representation Ordinance. Mayor Bates and Ed Church, who wrote the grant proposal, then had a little tête-à-tête in which they agreed between themselves that SBNDC should appoint the Task Force. The Council never voted to ratify that suggestion.

As currently constituted the Task Force is an anomaly among City advisory bodies charged with making planning recommendations to the Council. Both the Downtown Area Plan Advisory Committee and the Creeks Task Force provide for appointments by council members in accordance with the Fair Representation Ordinance.

□ At your June 27, 2006 meeting you voted to adopt the Mayor’s budget recommendation that \$40,000.00 be provided to fund “a community process to discuss the future of the Ashby BART West Parking Lot.” Included in the Mayor’s proposal was the recommendation that the Council should “Refer to the City Manager to develop a community process for Council to review.” That recommendation at least suggested the hope that a planning process could be developed independent of political agendas. Less than a month has gone by and this resolution proposes to take away the City Manager’s authority to develop a proposal and directs him how to allocate a portion of the funds budgeted for the planning process. It does not bode well for his independence in deciding what to do with the remaining money.

There is a better way:

- ◆ Allow the community to envision what should happen on the Ashby BART parking lot without preconditions or restrictions. We don’t know what the community would come up with because it has never been given then opportunity to decide for itself. We believe that there is strong support in the community for preserving some open space and keeping the Flea Market in the community on its present site, but we trust a genuinely open and inclusive community process to come up with what’s best for South Berkeley.
- ◆ Allow the City Manger to take into consideration all proposals for the allocation of money budgeted for a community planning process. Stipulate that his consideration should include (a) how to define the mandate of any body that comes forward to lead a community planning process. (b) whether or not to fund the Task Force as currently constituted (c) whether to recommend changes in the Task Force (d) whether to fund other proposals generated by the community

- ◆ Reject the current resolution.

Osha Neumann
Counsel for Community Services United.