



AB 2923 Guidance Document Outline



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1. Introduction

This document is an outline of a forthcoming Assembly Bill 2923 Guidance Document that will be prepared by BART. This document provides background information for local jurisdictions and stakeholders on modifications to CA Public Utilities Code Sections 29010.1 through 29010.12 by Assembly Bill 2923 (AB 2923, 2018) and is intended to set the framework for implementation of AB 2923's requirements.

BART is committed to working with local jurisdictions and stakeholders and welcomes feedback on how the document could better aid local jurisdictions with AB 2923 compliance.

Background

On September 30, 2018, Governor Jerry Brown signed AB 2923 into law. The intent of the bill was to help address California's housing and climate crises by supporting BART's own goal to produce 20,000 homes – 35% affordable – and 4.5 million square feet of commercial space on its property by 2040. The state legislation supports BART's Transit-Oriented Development (TOD) program through changes in zoning of BART-owned property in collaboration with local jurisdictions.

"The growth and success of the Bay Area's economy is threatened by several challenges, including inadequate and affordable housing and excessive and increasing roadway congestion. In the state-mandated sustainable communities strategy for the Bay Area, locating affordable and market-rate housing near high-capacity transit is a primary tool with which to address these challenges and will keep the Bay Area on track to meet its state-mandated greenhouse gas emissions reduction targets." (AB 2923 Sec 1.a)

Zoning Standards

CA Public Utilities Code Section 29010.6(a)(4)(B)(i) states that *"If the board¹, for any reason, does not adopt new standards for a station by July 1, 2020, Table 1 of BART TOD Guidelines (2017) shall serve as the TOD zoning standards, with the Transit Oriented Place Types identified in Figure 1 of the BART TOD Guidelines (2017), until that time when the board adopts new TOD zoning standards for that station."* Due to time and resource constraints, BART staff – in discussions with the BART Board of Directors (at publicly held meetings January 24, 2019 and June 13, 2019), determined that the best way to meet the objectives of the legislation would be to maintain the 2017 BART TOD Guidelines.

¹ "Board" refers to the elected Board of Directors of the San Francisco Bay Area Rapid Transit District



In addition, Section 29010.6(a)(2) states that *“the zoning standards published in Table 1 and Figure 1 of the BART TOD Guidelines (2017) shall serve as the minimum allowable density and height limits, and the highest allowable parking limits to which the board is required to adhere in adopting TOD zoning standards. The board shall not establish floor-area-ratio limits in the TOD zoning standards for each station type less than the number in the column titled “residential target height” multiplied by 0.6.”* As such, it would have only made sense to adopt new TOD zoning standards if BART saw the need to require local jurisdictions to zone for higher density, height, floor-area ratio, and parking (vehicle and bicycle) limits than already present in the 2017 TOD Guidelines. While BART may pursue higher densities for certain projects through the development process and negotiations with local jurisdictions, BART does not believe the benefit of adopting new broadly applicable zoning standards for TOD projects warrants the investment of public resources that would have been necessary to complete this task at this time.

BART’s TOD Program

BART’s TOD Program is guided by several policies adopted by the Board from 2011 to 2016. In sum, the program’s goals are to:

- Support complete communities
- Advance regional plans to reduce greenhouse gas emissions
- Increase ridership where BART has capacity
- Capture value for BART maintenance and operations
- Provide sustainable transportation choices
- Provide affordable housing



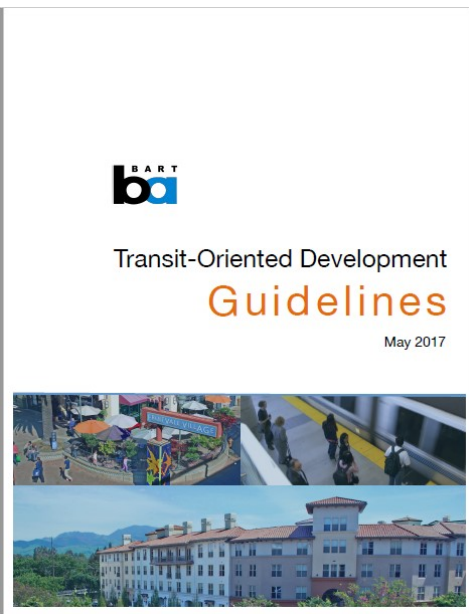
Guidance Document Purpose

CA Public Utilities Code Section 29010.6(d)(2) states that “[BART] shall make a finding as to whether the local zoning ordinance conforms to the TOD zoning standards.” The Guidance Document will provide jurisdictions with more clarity regarding how BART will approach this requirement. BART’s determination of conformance for each station area will focus exclusively on the four zoning parameters defined in the law:

- Residential Density
- Building Height
- Floor-Area Ratio (FAR)
- Parking (vehicle parking and bicycle parking, for residential/commercial uses)

Each of these parameters and their relative conformance are related to the TOD Place Types within BART’s 2017 Transit-Oriented Development Guidelines (“2017 TOD Guidelines”) and detailed in the *Zoning Conformance* section.

2017 TOD Guidelines



As noted above, AB 2923 requires BART to use its 2017 TOD Guidelines as baseline zoning standards for its land at each station but gives BART the authority to set higher building heights and residential density standards. The 2017 TOD Guidelines established goals for growth envisioned in areas immediately around BART stations.

BART’s Board of Directors adopted a TOD Policy in 2016 that directs staff to “Utilize BART’s TOD Guidelines to ensure future development and investments seamlessly connect BART stations with surrounding communities.” Staff created the 2017 TOD Guidelines in order to

implement this policy directive and included Table 1 and Figure 1 in the 2017 TOD Guidelines to clarify BART’s definition of a “transit supportive land use plan.” Table 1 and Figure 1 establish three TOD Place Types, which were inspired by the Priority Development Area Place Types defined in Plan Bay Area (2013). The three TOD Place Types are Regional Center, Urban Neighborhood/City Center, and Neighborhood/Town Center.



The 2017 TOD Guidelines were not intended to function as minimum zoning standards – however, the Guideline standards were established as minimum zoning standards by AB 2923. Per AB 2923, Table 1 and Figure 1 in the 2017 TOD Guidelines will function as baseline zoning standards for eligible BART properties as of July 1, 2020. Note that AB 2923 does not apply to BART-owned property in areas without elected BART Board representation, namely, San Mateo County (BART does not own property in Santa Clara County, nor is there elected Board representation).

The map on the next page shows the place type classifications by station from Figure 1 of the 2017 TOD Guidelines.

What is Transit Oriented Development?

Transit Oriented Development (TOD) is a pattern of development that encourages greater concentration of residential, commercial, and recreational spaces oriented around public transportation services. Research shows that TOD increases transit use, reduces driving, and reduces per capita greenhouse emissions, among other benefits.

BART has been building TOD projects in collaboration with cities for over 25 years and has built nearly 2,000 homes. Examples of these developments include Fruitvale Transit Village and Avalon Walnut Creek Apartments.



Figure 1: Transit Oriented Place Types by Station – per 2017 TOD Guidelines








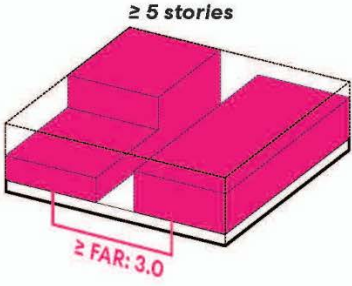
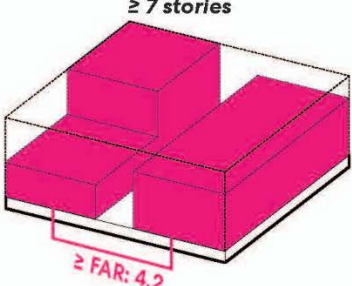
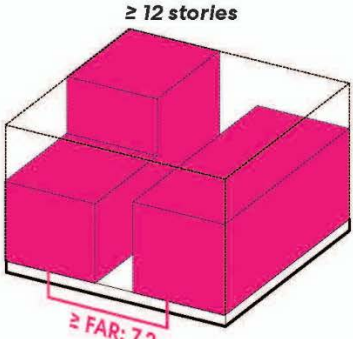
Zoning Conformance

As explained in *Guidance Document Purpose*, under AB 2923 BART is required to determine whether local zoning conforms to the zoning standards in the 2017 TOD Guidelines before July 1, 2022. BART's determination of conformance will be limited to the four standards described in CA Public Utilities Code Section 29010: residential density (dwelling units per acre), building height, floor-area-ratio (FAR), and parking (vehicle and bicycle). Note that all of the standards were defined in the 2017 TOD Guidelines, except for FAR, which was added as a zoning standard by the State legislature.

On eligible BART properties, local jurisdictions must allow for FAR, dwelling units per acre, and building heights as listed in the TOD Place Type or the local jurisdiction can choose to zone for higher standards. The 2017 TOD Guidelines provide a minimum standard for bicycle parking while vehicle parking includes both a minimum standard of zero, as well as a maximum standard that varies depending on TOD Place Type.

Standards are detailed in the table below organized by Place Type (per Table 1 of 2017 TOD Guidelines).

Figure 2: 2017 TOD Guidelines from Table 1, as well as FAR Requirement from State

 Neighborhood/ Town Center	 Urban Neighborhood/ City Center	 Regional Center
Allowable Height and Floor Area Ratio		
 <p>≥ 5 stories</p> <p>≥ FAR: 3.0</p>	 <p>≥ 7 stories</p> <p>≥ FAR: 4.2</p>	 <p>≥ 12 stories</p> <p>≥ FAR: 7.2</p>
Allowable Residential Density		
75 dwelling units per acre or higher		
Minimum Secure Bike Parking		
1 space per residential unit		
Maximum Residential Vehicle Parking		
1.0 spaces per unit	0.5 spaces per unit	0.375 spaces per unit
Maximum Office Vehicle Parking		
2.5 per 1,000 square feet	1.6 per 1,000 square feet	0 per 1,000 square feet



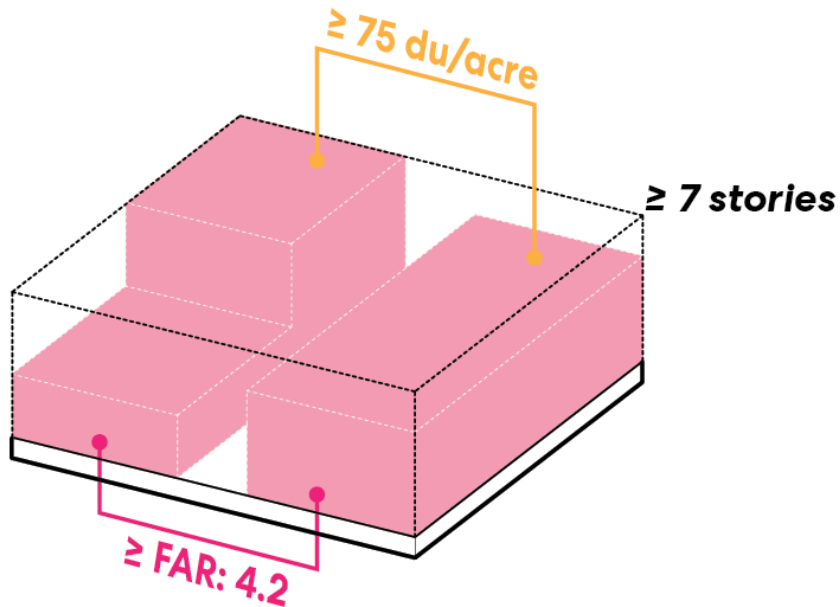
Zoning vs. Development

It is important to distinguish the requirements of AB 2923 regarding the zoning standards in the 2017 TOD Guidelines from actual proposed development projects. CA Public Utilities Code Section 29010.6 requires BART and affected local jurisdictions to ensure that zoning of BART property meets certain standards, as laid out in the 2017 TOD Guidelines. However, AB 2923 does not set requirements for actual development of BART property. In short, a building can be built within the zoning envelope but at less than maximum allowed height, density, and/or FAR. Figure 3 shows how a hypothetical development project can be built within the zoning standards identified in CA Public Utilities Code Section 29010.6.

BART remains committed to delivering projects with densities and intensities that support the region's multimillion-dollar investment in transit operations. BART's TOD Policy directs staff to advance projects in areas with a "transit supportive land use plan" and engage the community and stakeholders to gain a better understanding of the unique local context for each development project. Decisions regarding project design, circulation and access, and housing affordability, among other topics, will be made with input from community members and other stakeholders. Partnering with communities, stakeholders, and local jurisdictions is a core component of BART's TOD Policy, BART's standard practice in its TOD program, and a priority for AB 2923 implementation.

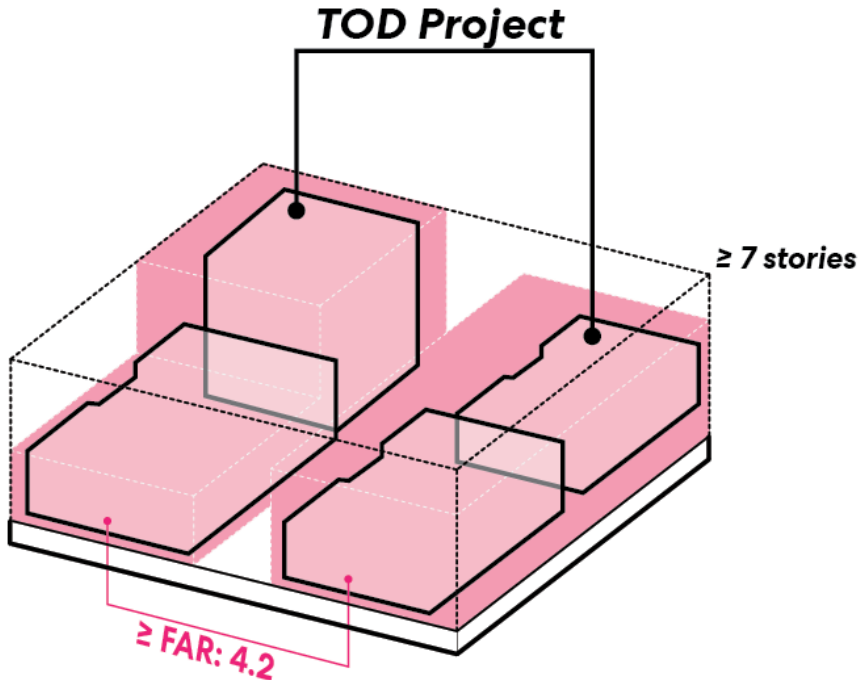
Figure 3: Illustrative Difference Between Zoning and Development

Zoning



On eligible BART properties, local jurisdictions must allow for Dwelling Units per Acre, Building Heights, and FAR as listed in the TOD Place Type or zone for higher standards.

Development



The zoning represents the project's maximum envelope, but a project can be developed up to the zoning or less*

* The California Density Bonus applies as it normally would.



Where does AB 2923 apply?

CA Public Utilities Code Section 29010.1(a)(2), the definition of “Eligible TOD project,” defines the properties affected by AB 2923 as:

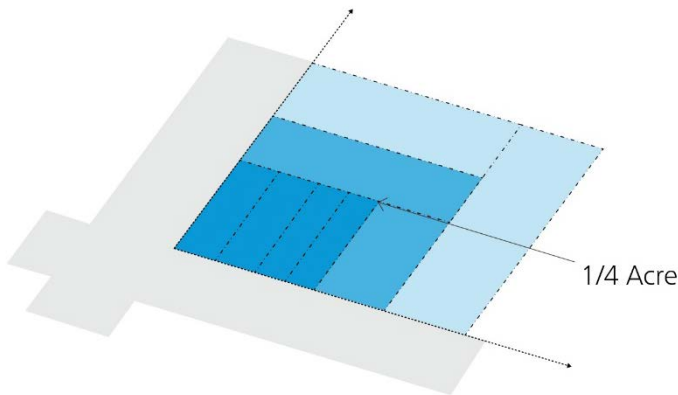
1. Currently owned by BART, and was owned by BART as of July 1, 2018
2. Located in Alameda, Contra Costa, or San Francisco counties (areas represented by the elected BART Board)
3. Singular or contiguous parcels of at least 0.25 acre in size
4. Within a half mile of a BART station entrance. Parcels must also contain at least 75% of their total land area within the half-mile radius
5. On an infill site as defined by the State of California

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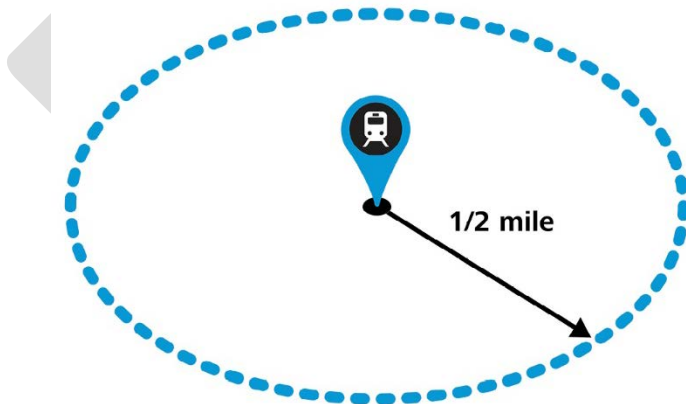
Figure 4: Properties Affected by AB 2923



Located in Alameda, Contra Costa, or San Francisco counties (areas represented by the elected BART Board)



Singular or contiguous parcels of at least 0.25 acre in size.



Within a half mile of a BART station entrance. Parcels must also contain at least 75% of their total land area within the half-mile radius

Are there any exemptions to the TOD Zoning Standards?

Section 29010.6(d)(4) states that if zoning for affected properties is within 10% of the TOD Zoning Standards for height and FAR, the properties are exempt from the TOD zoning standards, but that parking (vehicle and bicycle) requirements shall align with the minimum and maximum in Table 1 and Figure 1 of the 2017 TOD Guidelines.



What is the timeline for the AB 2923 implementation?

Critical milestones required in AB 2923:

- July 1, 2020: BART adopts zoning standards for all BART properties covered by AB 2923 or zoning standards in Table 1 of the 2017 TOD Guidelines become the TOD zoning standards after this date
- July 1, 2022: Deadline for local Jurisdictions to ensure zoning conforms with standards in 2017 TOD Guidelines or 2017 TOD zoning standards shall become the local zoning
- 2029: Bill Sunsets

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CHAPTERS 2 THROUGH 8: QUESTIONS AND ANSWERS:

The following chapters will respond to questions that BART has received on specific issues related to the TOD Zoning Standards and other bill requirements. BART initiated early engagement with local jurisdictions and stakeholders, and their questions and comments are reflected in Chapters 2 through 8 of this draft outline. BART is seeking additional feedback from local jurisdictions and stakeholders to confirm that these questions are the most appropriate and applicable to help ensure conformance.

The full draft of the guidance document will include responses to these questions – to the extent that BART is able to provide them – as well as case studies to understand how AB 2923 could apply to BART properties in different contexts.

Questions in this draft outline may be subject to revision or removal, at the discretion of BART, as the document is finalized.



2. Residential Density

AB 2923 requires that all eligible property be zoned for at least 75 dwelling units per acre. The purpose of this minimum density is to ensure residential development at BART stations adequately supports ridership and – in the case where development is removing parking – results in a net increase in BART riders. This section includes questions about the residential density requirement, including how to calculate density in residential-only and mixed-use projects, what jurisdictions should do if zoning does not allow for residential uses, and considerations for affordable housing.

- a) What if current zoning does not allow for housing?*
- b) What does the “lowest permissible density limit” mean?*
- c) Is the allowable dwelling units per acre (DU/acre) limit based on gross or net calculations?*
- d) Does a TOD project need to meet the allowable dwelling units per acre (DU/acre) limit?*
- e) Could residential zoning be an average of 75 DU/acre across the property, but zoned for lower or higher densities in certain portions of the site?*
- f) What if there is no residential density maximum specified in the current municipal code?*
- g) How is mixed-use development calculated?*
- h) Can a jurisdiction zone for more than 75 DU/acre?*
- i) Are there BART requirements for dwelling unit type or size?*
- j) Is there a requirement for affordable housing?*
- k) Could a jurisdiction meet the bill’s requirements for residential density by including the State’s density bonus?*



3. Building Height

Section 29010.6.(a)(3) of AB 2923 establishes height standards for all BART properties. The zoning standards for height vary according to TOD Place Type. The following questions are intended to clarify how local jurisdictions should integrate the height standards into their zoning. Topics include the definition of “minimum allowable” and “lowest permissible” building height, how to integrate local methodologies for measuring height with AB 2923 requirements, and the integration of building heights with the State density bonus law.

- a) What does the “minimum allowable height limit” mean?***
- b) What does the “lowest permissible height limit” mean?***
- c) What calculation should be used to convert the number of building stories to feet, and vice-versa?***
- d) Could zoning for building heights be an average of the minimum height limit across the property, but restrict to lower or higher heights in certain portions of the site?***
- e) Could a jurisdiction meet the bill’s requirements for the allowable building height limit by including the State’s density bonus?***
- f) How does the 10% exemption noted in the bill apply to building height limits?***
- g) What if a TOD project is not able to achieve the allowable FAR and dwelling units per acre (DU/acre) limits within the height limit?***



4. Floor-Area Ratio

This section of the Guidance Document will address specific questions related to Floor-Area Ratio (FAR). FAR is defined in Section 29010.1.(a)(3) as *“the ratio of gross building area of the development, excluding structured parking areas, proposed for the project, divided by the total area of the parcel or parcels, where ‘gross building area’ means the sum of all finished areas of all floors of a building included within the outside faces of its exterior walls.”* According to AB 2923, local zoning codes must allow for both a density of 75 units per acre and the FAR requirements by TOD Place Type.

Similar to building height, local zoning codes may vary in their definition of FAR or omit FAR entirely. The following questions will explain how local jurisdictions can integrate the FAR requirements into zoning code definitions, calculations, and applications for consistency with AB 2923 regulations. More specifically, topics include the integration of FAR with building height and density, how to calculate FAR for mixed use buildings, and whether parking or other building areas can be included in the FAR calculations.

- a) What does the “minimum allowable floor-area ratio limit” mean?**
- b) What does the “lowest permissible floor-area ratio limit” mean?**
- c) How was the allowable FAR limited determined?**
- d) How will BART calculate FAR?**
- e) Is the allowable FAR limit based on gross or net calculation?**
- f) Does a TOD project need to meet the allowable FAR limit?**
- g) How does a jurisdiction conform if it does not use FAR as a zoning measurement?**
- h) Could a jurisdiction include structured parking in zoning parcels for the FAR?**
- i) What are the different ways to reach the required zoning for FAR?**
- j) If a jurisdiction allows the heights specified in AB 2923 but does not allow the FAR, is it exempt?**
- k) Are there exemptions/reductions in the FAR to account for architectural design of specific buildings within their surrounding context?**
- l) Are offices and non-residential uses allowed in the zoning for FAR?**
- m) How does the 10% exemption noted in the bill apply to FAR limits?**
- n) How do FAR and building height interact with each other?**



5. Parking

This section of the Guidance Document will provide insight on how to integrate various vehicle and bicycle parking requirements into local zoning codes. The section is broken down into vehicle and bicycle parking, each with their own respective standards.

Vehicle Parking

Vehicle parking defines both a minimum (of zero) and maximum (dependent on TOD Place Type) number of parking spaces in residential and commercial projects (BART TOD Guidelines – 2017, Figure 1). Parking standards are used to encourage transit ridership and reduce vehicle ownership and vehicle miles traveled. This section will answer questions related to vehicle parking including how to revise local zoning standards to include parking minimums and the interaction between BART parking and parking for specific development projects.

- a) How do these parking requirements apply to BART commuter parking?***
- b) Will BART consider a jurisdiction non-conforming if it retains parking minimums for residential and/or office?***
- c) Will BART consider a jurisdiction non-conforming if it does not have parking maximums for residential and/or office?***
- d) If a jurisdiction requires transportation demand management tools to lower the parking minimums, will this requirement satisfy BART's parking requirements even if it has minimums or no maximums?***
- e) Will BART require shared and/or unbundled parking?***

Bicycle Parking

Unlike vehicle parking, which defines both a minimum and maximum number of parking spaces in residential and commercial projects, bicycle parking only defines a minimum amount of parking per unit. According to AB 2923, the zoning standards for eligible BART property must require at least one bicycle parking space per residential unit (BART TOD Guidelines – 2017, Figure 1). This section includes the definition of a secure bicycle parking space, and how to address different methods of calculating bicycle parking spaces for residential projects.

- a) Will BART consider a jurisdiction non-conforming if its secure bicycle parking minimum is lower than one per residential unit?***



- b) If a jurisdiction's bicycle parking requirement is by bedroom, how will BART calculate conformance?*
- c) What if a jurisdiction does not currently require bicycle parking minimums in its municipal code?*

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6. General Zoning and Conformance

This section of the Guidance Document will address general questions related to AB 2923 implementation, including the relationship between AB 2923 and local regulations such as specific plans, general plans, and the municipal code, questions about CEQA review, the relationship between the State density bonus law and AB 2923, and whether jurisdictions can reclassify their station as a different place type.

- a) Can BART reclassify a station to a different place type?***
- b) Which local jurisdictional plans/codes will BART utilize to determine conformance: Specific Plan, General Plan, Municipal Code?***
- c) How can a local jurisdiction conform if it has zoned for form-based code?***
- d) How can a local jurisdiction conform if it is updating its:***
 - i. General Plan*
 - ii. Specific Plan*
 - iii. Form-Based Code*
- e) A jurisdiction's specific plan states an intent to allow the standards in Table 1/Figure 1 of the 2017 Guidelines. Is that conforming?***
- f) What happens if a jurisdiction does not adopt the zoning standards set by the BART Board within two-years' time?***
- g) Will BART lead a California Environmental Quality Act (CEQA) review effort for setting standards on its property?***
- h) Will a jurisdiction be required to performance a CEQA analysis to rezone?***
- i) How will BART determine if zoning on BART's land conforms or not?***
- j) How does the State Density Bonus relate to AB 2923?***
- k) What happens if our zoning is not conforming but intended to be?***
- l) How are open space requirements factored in?***
- m) Can exemptions or variances to these standards occur on a project-by-project basis?***



7. Other related efforts

In addition to the Guidance Document, BART is developing other policies and guidance to assist with the implementation of AB 2923. This section of the Guidance Document will describe these efforts and how they relate to rezoning properties. These efforts include BART's 10-year TOD work plan (which lists the specific TOD projects BART will be undertaking in the next 10 years), and brief descriptions of BART's approach to transportation demand management, parking replacement, and anti-displacement requirements of AB 2923.

- a) 10-year TOD work plan*
- b) Transportation demand management requirements*
- c) Parking replacement policy*
- d) Anti-displacement strategy*

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