



TransForm Opposes Misguided Berkeley Initiative on November Ballot

Berkeley is known for extensive public involvement. The [Downtown Area Plan](#)ⁱ, adopted in 2012, was no exception. It resulted from more than 200 public meetings and a 6+-year public process. TransForm was very involved in the development of the plan and supported the 2010 city-sponsored initiative, Measure R, an advisory measure in which over 64% of voters supported the plan.ⁱⁱ

TransForm supports Berkeley's Downtown Area Plan and will defend it.

Now some Berkeley residents have proposed an initiative that would undo several parts of the downtown plan by putting in place extensive additional requirements. Initiative supporters claim these new requirements will create many more community benefits that many Berkeley residents would like – more open space, affordable housing, bike parking, electric vehicle charging stations, and commitments to hire local residents.

But TransForm and a growing number of observers believe the new initiative will have a host of unintended consequences. Instead of providing those community benefits, it will hurt downtown Berkeley. Our analysis suggests the initiative would actually create more traffic, reduce affordability, and stop the positive steps that have been happening recently. The measure would also reverse the results of years of public involvement and waste time and money in fruitless legal wrangling. It would stifle the improvements downtown needs and it would fail to deliver on promised community benefits.

We base this conclusion on reading the full text of the ballot measure, an independent analysis requested by the city, and numerous materials provided by the measure's proponents and critics. We have also met with the initiative's chief supporters. Officially titled the "Initiative Ordinance Amending Downtown Zoning Provisions and Creating Civic Center Historic District Overlay Zone", the measure does not have an official ballot designation yet. For the purpose of this position statement, we'll just call it the "Downtown Initiative."ⁱⁱⁱ

Here's why TransForm thinks the Downtown Initiative would be bad for Berkeley:

- **More traffic:** if passed, the Downtown Initiative would significantly increase how much parking is built in downtown Berkeley. The initiative disallows zero-parking developments in one of the places in the country best suited for them. TransForm doesn't think every development should have zero parking, but zero-parking projects should not be illegal. There's even a provision that encourages *even more parking* by giving a bonus "penthouse" allowance to developers who build extra parking.^{iv} Initiative supporters told us they want to make sure the city doesn't discriminate against people who need cars to get around. But their solution – insisting on more parking than is needed – will make things worse. More parking will

MAIN OFFICE: 436 14TH STREET, SUITE 600, OAKLAND, CA 94612 | T: 510.740.3150
SACRAMENTO: 717 K STREET, SUITE 330, SACRAMENTO, CA 95814 | T: 916.706.2035
SILICON VALLEY: 48 SOUTH 7TH STREET, SUITE 103, SAN JOSE, CA 95112 | T: 408.406.8074

WWW.TRANSFORMCA.ORG

create more traffic and make walking, biking, and transit less useful and convenient. That is exactly the wrong direction for downtown Berkeley.

- **Less transit-oriented development:** An independent analysis, commissioned by the city, found that the initiative would make it infeasible to build most of the development the initiative claims to allow. This analysis found that the initiative would reduce the housing capacity of downtown by about 1300 homes.^v This would be bad for several reasons. Most importantly, it would mean that fewer people could both live and work in downtown Berkeley. It would also mean that the city would not receive the community benefits the initiative proposes to require.
- **More greenhouse gas emissions:** one of the biggest impacts of having fewer transit-oriented homes in downtown would be an increase in traffic and pollution. This is because Berkeley already has more jobs than employed residents, so lots of people commute to Berkeley from other cities. Fulfilling the Downtown Area Plan would help to combat this; this initiative would prevent more people from living and working in Berkeley. This has an impact on global warming because the average person who commutes to a Berkeley workplace from outside Berkeley drives an average of 25 miles a day, nearly 5 times as much as the average Berkeley resident who also works in Berkeley and 35% more than Berkeley residents who commute to other cities.^{vi} TransForm estimates that, based on the estimate of 1300 fewer homes, this initiative could result in 2,638,251 additional vehicle miles travelled per year for work trips alone. This equates to 1,588,733 pounds of extra CO₂ per year, and is just an incredibly narrow, conservative estimate for residents who would both live and work in Berkeley. It doesn't count non-Berkeley workers, and non-work trips and both of those are much, much lower for Berkeley than the region as a whole. So this estimate just scratches the surface of lost trip reduction.^{vii}
- **Fewer affordable homes:** a recent analysis by the Non-Profit Housing Association of Northern California found that the Downtown Initiative has several requirements and policies that would reduce the feasibility of creating more affordable homes for the downtown area.^{viii} This is because the measure increases how much parking would have to be built and stops developers from contributing to the city's affordable Housing Trust Fund. While NPH has not taken a formal position on the initiative, NPH finds "the provisions of the existing Downtown Area Plan to be far superior to the proposed initiative" and refers to Berkeley's existing program as "one of the strongest in the East Bay."
- **Subvert public participation in planning:** The 28-page measure would dramatically revise allowable land use in Downtown Berkeley, reversing many provisions of the Downtown Area Plan. The DAP was developed over 6+ years in more than 200 public. This new initiative, by contrast, was written by a few individuals. No matter how well-meaning they are, they're likely to have made some mistakes and included some provisions with unintended consequences. But if passed, most of the measure's key provisions could only be changed by *another* citywide vote, and the rest couldn't be changed by the City Council until 5 years later.^{ix} Initiative supporters say they have to go to the ballot because of Measure R. But this new 28-page initiative has many more binding provisions, with more constraints on the democratic process, than the 5-page Measure R in 2010. Initiative elections are very expensive, blunt, and usually bad ways to decide complex land use policies. If this measure were extremely well-written and had nothing in it that Berkeley residents might want to change, that might be okay. But the measure is riddled with problems that even its proponents will likely eventually regret and wish to change.

- **Time and money wasted in legal wrangling:** According to the independent analysis, the initiative has several elements that are either illegal, by existing state or federal law, or that are unenforceable. These include provisions on affordable housing, open space fees, requirements for public bathrooms, and support for local businesses.^x Some of these might be a good idea if they could be implemented. But as it stands, they would probably be broken promises.
- **Insecure bike parking:** One example of a well-intentioned but poorly-written requirement relates to bicycle parking. The measure requires that in new developments, bike parking spots that are not reserved for residents and employees working the building must be made available to the public.^{xi} This seems like a good idea, as it could create more public bike parking. But in practice, this would mean that developers would not build *secure* bike parking, or at least they'd build much less of it. That would be a recipe for more bike theft and less bike use by downtown residents and employees. If this provision were to be passed by the City Council, it probably wouldn't be hard to rewrite the provision to make it more workable. But as an element of a voter initiative, it would have to go to another citywide vote to change the bike parking provision.

There are numerous aspects of this initiative for which TransForm has less expertise, including what the city's analysis claims are unrealistic or redundant requirements on green buildings, energy efficiency, recycling, and composting. While some elements of this initiative may be well-intentioned, and while Berkeley may need to resolve some of the issues that motivate the initiative's supporters, this initiative is far too flawed to deserve voter support. The negative impacts would far outweigh the positive.

TransForm encourages Berkeley voters to oppose the Downtown Initiative on the November ballot.

ⁱ Downtown Area Plan documents are available at <http://www.ci.berkeley.ca.us/dap/>.

ⁱⁱ Full text of Measure R is available at <http://www.ci.berkeley.ca.us/uploadedFiles/Clerk/Elections/DAP%20Measure%20Text%207-16-10%20FINAL.pdf>. For a SF Chronicle article on the implications of Measure R's passage, see <http://www.greenbelt.org/in-the-news/headlines/younger-greens-reject-old-ideas-about-urbanity/>.

ⁱⁱⁱ Text of the initiative, as filed, is available at http://www.savethebpo.com/uploads/2/7/9/3/2793512/downtown_initiative_as_filed_4-08-2014.pdf.

^{iv} Text of initiative, pages 20-22, section titled "23E.68.080 Parking -- Number of Spaces." See in particular provisions E, F, G, and L.

^v The entire "Section 9212 Report: Downtown Initiative" is available at <http://www.berkeleyside.com/wp-content/uploads/2014/07/Item-51c.pdf>. The first 54 pages are analysis by city staff on how the initiative is consistent or not with existing city policies, plans, and government codes. The last 22 pages are an analysis by AECOM of how the initiative would affect feasibility of development in downtown.

^{vi} MTC's activity-based travel model estimates that Berkeley residents who work in Berkeley have an average vehicle-miles traveled (VMT) of 5.37 miles/day, while a person who lives outside Berkeley and commutes to a job in Berkeley has an average VMT of 25.11 miles/day. People who live in Berkeley and commute to jobs outside the city have an average VMT of 18.6 miles/day. Cited in "Section 9212 Report: Downtown Initiative", page 9-10, in the section on "Climate Action Plan consistency analysis."

^{vii} [For methodology for this calculation click here.](#) TransForm would be happy to partner on a more complete analysis that shows the complete range of VMT and GHG increases that this initiative may lead to, including the extra VMT based on the other trip types and additional parking.

^{viii} Memo from Michael Lane, Policy Director – Non-Profit Housing Association of Northern California, “Re: Berkeley Downtown Initiative,” dated July 18, 2014. The memo states that NPH has not taken a formal position on the Berkeley Downtown Initiative.

^{ix} See initiative text, Section 8, which states that no part of sections on the Green Pathway, Parking Requirements, Green Building requirements, or Civic Center overlay may be changed without another citywide vote. The text further specifies that the other parts of the initiative could be changed by the City Council, but not until 5 years from now.

^x “Section 9212 Report: Downtown Initiative”, section on “Legal Consistency analysis.”

^{xi} Text of initiative. See page 21, section “23E.68.080 Parking -- Number of Spaces”, provision #D.