LIVERMORE
CALIFORNIA

PLANNING COMMISSION

AGENDA
TUESDAY, MAY 6, 2025

PLANNING COMMISSION REGULAR MEETING – 7:00 PM

MEETING PARTICIPATION INFORMATION CAN BE FOUND AT THE END OF THE AGENDA

IN PERSON INFORMATION:
CIVIC CENTER MEETING HALL
CITY COUNCIL CHAMBERS
1016 S. LIVERMORE AVENUE

Yolanda Fintschenko, Chair
Tracy Kronzak, Vice Chair
Jacob M Anderson, Commissioner
Nadine R Horner, Commissioner
Charity L Steele, Commissioner

1. CALL TO ORDER

ROLL CALL

Commissioner Jacob Anderson
Commissioner Daniel Leary
Vice Chairperson Tracy Kronzak
Chairperson Yolanda Fintschenko

PLEDGE OF ALLEGIANCE

2. OPEN FORUM

- In conformance with the Brown Act, no Planning Commission action can occur on items presented during Open Forum.
- To provide public comment, please submit a speaker card. When your name is called, walk to the lectern to address the Planning Commission.
- Comments are limited to a maximum of 3 minutes per person, per item. The Chair may reduce the amount of time based on the number of persons wishing to speak.
- Open Forum will conclude after 30 minutes; however, if there are additional speakers, Open Forum will reconvene after Matters for Consideration.

3. CONSENT CALENDAR

Consent Calendar items are considered routine and are acted upon by the Planning Commission with a single action. Members of the audience wishing to provide public input must submit a speaker card.

3.1 Approval of the July 12, 2022, Planning Commission Draft Special Meeting Minutes.

Recommendation:
Staff recommends the Planning Commission approve the draft minutes.
Staff Report
Attachments:
1. 07-12-22 - Draft Special Meeting Minutes

3.2 Approval of the December 3, 2024, Planning Commission Draft Meeting Minutes.

Recommendation:
Staff recommends the Planning Commission approve the draft minutes.
Staff Report
Attachments:
1. 12-03-2024 Draft Meeting Minutes

3.3 Approval of the February 4, 2025 Planning Commission Draft Meeting Minutes.

Recommendation:
Staff recommends the Planning Commission approve the draft minutes.
Staff Report
Attachments:
1. 02-04-2025 Draft Meeting Minutes

3.4 Approval of the March 18, 2025, Planning Commission Draft Meeting Minutes.

Recommendation:
Staff recommends the Planning Commission approve the draft minutes.
Staff Report
Attachments:
1. 03-18-2025 Draft Meeting Minutes

3.5 Approval of the April 1, 2025, Planning Commission Draft Meeting Minutes.

Recommendation:
Staff recommends the Planning Commission approve the draft minutes.
Staff Report
Attachments:
1. 04-01-2025 Draft Meeting Minutes

3.6 Approval of the April 21, 2025 Special City Council and Planning Commission Draft Meeting Minutes.

Recommendation:
Staff recommends the Planning Commission approve the draft minutes.
Staff Report
Attachments:
1. Joint City Council and Planning Commission Draft Meeting Minutes

4. PROJECT REVIEW

5. PUBLIC HEARINGS

6. MATTERS FOR CONSIDERATION

6.1 Consistency Determination 25-001 to determine the Fiscal Year (FY) 2025-2026 and Fiscal Year 2026-2027 Capital Improvement Plan (CIP) is consistent with the 2003-2025 Livermore General Plan.

Recommendation:
Staff recommends the Planning Commission adopt a resolution finding the proposed Capital Improvement Plan (CIP) for FY 2025-2026 and FY 2026-2027 consistent with Livermore's 2003-2025 General Plan and approving Consistency Determination (CD) 25-001.
Staff Report
Attachments:
1. Staff Analysis
2. Resolution - Project

6.2 Draft framework for the Comprehensive Housing Update to the Livermore Development Code and Citywide Objective Design Standards.

Recommendation:
Staff recommends the Planning Commission receive the report and provide discussion and

direction on the following:

1. The areas of local discretion afforded in State Housing Law;
2. The proposed Development Agreement pathways for affordable housing and design;
3. The proposed review authority framework for permit streamlining;
4. The applicability of the Objective Design Standards; and
5. The proposed Objective Design Standard architectural styles, building forms, and frontage types

Staff Report

Attachments:

1. State Housing Law Summaries
2. Proposed Architectural Styles
3. Proposed Building Forms
4. Proposed Frontage Types
5. Building Type and Architectural Style by Location
6. Existing Specific Plans

7. MATTERS INITIATED BY PLANNING COMMISSION AND STAFF

8. ADJOURNMENT

To a regular Planning Commission meeting on Tuesday, May 20, 2025 at 7:00 pm, Civic Center Meeting Hall, City Council Chambers, 1016 S. Livermore Avenue.

9. HOW TO PARTICIPATE IN THE MEETING

You can participate in the meeting in a number of ways:

Open Forum is an opportunity for the public to speak regarding items not listed on the agenda. Speakers are limited to a maximum of 3 minutes per person. To address the Planning Commission you must submit a speaker card to the Planning Commission Liaison prior to the start of that item. Please note that the Planning Commission is prohibited by State law from taking action on any items that are not listed on the agenda. However, if your item requires action, the Planning Commission l may place it on a future agenda or direct staff to work with you and/or report to the Planning Commission on the issue.

Public Hearings - The topic of the hearing is typically summarized by staff, followed by a presentation by the applicant, and then questions from the Planning Commission. The Chair will then open the hearing to the public and offer an opportunity for public comments. Speakers are limited to a maximum of 3 minutes per person. To address the Planning Commission, you must submit a speaker card to the Planning Commission Liaison prior to the start of the presentation of the item.

Other Agenda Items are also open for public input including Consent Calendar or Matters for Consideration items. These comments are also subject to the 3-minute limit.

Special Meetings, Workshops - The public will have the opportunity to address the Planning Commission regarding the item that is the subject of the special meeting or workshop. Public comments are limited to a maximum of 3 minutes per person.

Submission of Comments Prior to the Meeting:

Email Comments may be submitted by the public to the Planning Commission Liaison (planning@LivermoreCA.gov). Items received no later than 12:00 pm on the day of the meeting will be provided to the Commission and available on the City website prior to the meeting. These items will NOT be read into the record.

eComments may be submitted by the public using the eComment link here. Comments may be up to 1000 characters in length and will be accepted up until 6:00 pm the day of the meeting. These items will NOT be read into the record and are viewable by the the Commission and the public upon submittal.

Submission of Comments During the Meeting:

Speakers are limited to a maximum of 3 minutes per person. To submit a comment in person, you must complete a speaker card for each item. Speaker cards are available in the Civic Center Meeting Hall lobby. Indicate on the card the item number you wish to comment on and submit the card directly to the Planning Commission Liaison prior to the start of the item. Please note that the Planning Commission is prohibited by State law from taking action on any items that are not listed on the agenda. However, if your item requires action, the Planning Commission may place it on a future agenda or direct staff to work with you and/or report to the Planning Commission on the issue.

If you would like to deliver written materials to the Commission as part of your public comments, please provide 8 copies of to the Planning Commission Liaison with your speaker card.

The **Planning Commission Agenda and Agenda Reports** are prepared by City staff and are available for public review on Friday evening, three days prior to the Planning Commission meeting at 1016 South Livermore Avenue, Livermore. The Agenda is also available on the City's website, http://livermoreca.gov/agenda.

Under Government Code §54957.5, any supplemental material distributed to the members of the Planning Commission after the posting of this agenda will be available for public review at City Hall, 1052 South Livermore Avenue, Livermore, and included in the agenda packet available on the City's web site at http://livermoreca.gov/agenda.

PURSUANT TO TITLE II OF THE AMERICANS WITH DISABILITIES ACT (CODIFIED AT 42 UNITED STATES CODE SECTION 12101 AND 28 CODE OF FEDERAL REGULATIONS PART 35), AND SECTION 504 OF THE REHABILITATION ACT OF 1973, THE CITY OF LIVERMORE DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, ANCESTRY, SEX, DISABILITY, AGE OR SEXUAL ORIENTATION IN THE PROVISION OF ANY SERVICES, PROGRAMS, OR ACTIVITIES. TO ARRANGE AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PUBLIC MEETING, PLEASE CONTACT THE ADA COORDINATOR AT ADACOORDINATOR@LIVERMORECA.GOV OR CALL (925) 960-4170 (VOICE) OR (925) 960-4104 (TDD) AT LEAST THREE (3) BUSINESS

DAYS IN ADVANCE OF THE MEETING.

LIVERMORE
CALIFORNIA

PLANNING COMMISSION STAFF REPORT **ITEM NO. 3.1**

DATE: May 6, 2025

TO: Chairperson and Members of the Planning Commission

FROM: Steve Riley, Planning Manager

SUBJECT: Approval of the July 12, 2022, Planning Commission Draft Special Meeting Minutes.

RECOMMENDED ACTION

Staff recommends the Planning Commission approve the draft minutes.

SUMMARY

DISCUSSION

ATTACHMENTS

1. 07-12-22 - Draft Special Meeting Minutes

Prepared by: Michele Donley
Division Clerk

LIVERMORE
CALIFORNIA

PLANNING COMMISSION
SPECIAL MEETING MINUTES

July 12, 2022

1. CALL TO ORDER – The meeting of the Planning Commission was called to order by Chairperson Steven Dunbar at 7:00 p.m., via Zoom teleconferencing.

2. ROLL CALL – Present were Chairperson Steven Dunbar, Vice Chairperson Daniel Leary, Commissioner Jacob Anderson, Commissioner Evan Branning, and Commissioner John Stein.

Also present: Planning Manager Steve Stewart, Principal Planner Steve Riley, Principal Planner Ben Murray, Senior Assistant City Attorney Kim Cilley, Associate Planner Jake Potter, Senior Associate Civil Engineer Debbie Salgado, and Division Clerk Michele Donley.

3. SPECIAL MEETING ITEM

AN OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE PLANNING COMMISSION REGARDING THE SPECIAL MEETING ITEM WILL BE PROVIDED BY THE CHAIR.

3.1 Hearing to consider a request for Site Plan Design Review and Vesting Tentative Tract Map to develop the northeast corner of Portola Avenue and Collier Canyon Road. The development includes 299 total units, consisting of 89 for-sale condominium units and 210 for-rent apartments. The project includes 60 affordable units, 51 accessible units. All residential buildings would be three-story. The applicant has submitted for a density bonus under Government Code section 65915.

Recommendation:

Staff recommends the Planning Commission adopt the attached Resolutions, recommending the City Council:

1. Adopt a resolution finding that the project is exempt under the California Environmental Quality Act, in accordance with CEQA Guidelines Sections 15182 (c) and 15183;
2. Adopt a resolution approving Vesting Tentative Tract Map (VTTM) 8613 – Subdivision (SUB) 21-006, Site Plan Design Review (SPDR) 21-005; and Consistency Determination (CD) 22-001, together with the requested Density Bonus Waiver and incentive/concession, subject to the attached Conditions of Approval; and

3. Instruct staff to file a Notice of Exemption, in accordance with the provisions of the California Environmental Quality Act, subject to project approval.

Associate Planner Jake Potter gave a PowerPoint presentation regarding the Shea Portola project that implements the Isabel Neighborhood Specific Plan. He gave a background of the Specific Plan, goals of the plan, the project proposal for 299 units, pocket parks, a pool and recreation exercise area, Class III and IV bike lanes, a new traffic signal and bus pad, and the Commission is reviewing the plan for consistency with the Specific Plan and any other applicable standards and making a recommendation to the City Council.

He then displayed and described the site plan, points of access, location of condos and apartments and internal streets. He described the density at 25 units/acre, the buildings' three-story heights and buffer space between the two projects, displayed images of structures, architecture, proposed landscaping, project exceedances for open space, public art, parking requirements which is met by the project, affordability levels, how the project is affected by State density bonus law, the project's inclusion of sustainability measures relating to purple pipe, solar/PV, EV charging stations, electric appliances, and its location near the rapid bus lines.

Mr. Potter then described the specific plan's adoption, re-adoption with 2020 with Valley Link, and establishment of density and land use requirements for the site. Staff hosted a neighborhood meeting with the applicant last night and 45 residents attended and voiced some concerns relating to parking, architectural style, and access and screening. He described the various plans the project conforms to and staff recommends the Planning Commission adopt the resolutions in the packet.

David Best, Shea Homes, introduced Jeff Melrose with Shea Properties who is present, said Shea Homes will be the developer of the condo project and Shea Properties will develop the apartments, as they are sister companies. Also in the meeting are TSA Architects for the apartments, KTGY Architects for the condos, Nicki Wu from C-2 Collaborative for the landscape architecture, and McKay and Somps for the civil improvement work. He thanked the Commission and staff for their work on details since last year, and thinks the project is nice, meets requirements of the Specific Plan, and hopes for approval tonight.

Chairperson Dunbar asked and staff described the Commission's role and limits of discretion, and provided the definition of "ministerial", meaning there are a set of findings or facts the State has established which, if they are able to be made, the City is obligated to approve those components of the project.

Chairperson Dunbar opened the public comment period.

Peter Kolack writes, "This body has a responsibility to the local residents--Montage especially. We should have a say in what connects next to our property."

Robert Liu writes, “Hello. How many residents of our Montage community attended this meeting today?”

Peter Kolack writes again, “Why was this not held at the meeting hall for us to voice our concerns in person. Apartment housing statistically increases crime, traffic and lowers property values. This will hurt our community at Montage. Why did this body not come and hold a meeting at both Ivy and Montage to get feedback in person versus putting up a sign up quickly and trying to jam this project through? I want to actually comment and not ask a question.”

Sunny Singh writes, “Conflict of interest—Shea’s representative is a boardmember of the Livermore City Chamber of Commerce which provides Shea an advantage and leverage over other builders and the general public to influence the decision. Shea has more access to the City officials than the general public does. I have an example. If you would like me to elaborate I can. Cart in front of the horse in this plan of high-density planning is sold based on the Valley Link project and which is being sued by many communities. Should we wait for the Valley plan to finalize and deploy before we paddle to the middle on building apartments? Has the City performed any research? Shea has a monopoly in this part of town and they are building very bad quality residents’ areas. More developers should be brought in and there should be healthy competition.”

Robert Liu writes again, “We, Montage residents do not allow open the in and out gates on Dovecote Lane for Shea’s new project.”

Erika Conner writes, “I’m not going to say that parking isn’t going to be a problem. This was Dave Best of Shea’s own statement to us last night. Shea does not care about this community and I respectfully ask that you do research before approving this plan. Has parking been evaluated beyond what was stated tonight? There isn’t enough. A mere 1.5 parking spots isn’t enough. Has traffic and safety been evaluated? No. This plan was approved when BART was still coming and it no longer is. Dublin has done the same thing with apartments and has seen an increase in crime. Have you evaluated what that will mean when you add more residents in high density but don’t have the emergency resources to support? We spent years in a lawsuit with Shea in Montage because of their horrible and faulty safety. Please do what is best for this community and thoroughly evaluate what this plan means—not just approve it because you feel it meets requirements. We are Livermore residents who care about this community. This is about cash for Shea.”

Marcy writes, “When I purchased my home this parcel was meant for retail per Shea. The next time I heard about development of the area was as part of the BART project. It was not clear which parcels would be developed on in communications with the BART project including homes, retail, BART, parking, etc. I did submit concerns. Then the BART project got canceled. There were no further communications and now we are being told about these new homes on the retail parcel. This seems like a bait and switch.”

Tim Parsons writes, “Shea has a very poor track record for meeting the standards set in their own specifications for wall thickness. Will you hold their feet to the fire?”

Vien Ngo writes, “Are the townhome apartment plans final or can they still be changed? Can the secondary entrance be redirected off Collier Canyon? Can this be walled off to separate Montage to the new development?”

Barbara Robinson writes, “Most of the new proposed condos are tandem parking. We have that in our community and people don’t park two cars in the garage. Tandem parking is essentially one car. Parking is a problem.”

Lucas W writes, “Are there any conditions that can be added based on the concerns brought up from the previous meeting before approval? Concern that there won’t be any changes made to the plan before approval.”

Anonymous Attendee writes, “I would rather see all condos in our community. We live in a beautiful, quiet community. I don’t want to see our community lose value. Parking is already a problem.”

Yanti writes, “When we purchased our home at Montage Shea Homes mentioned the land would be for light retail, not new home development. This plan will increase high, denser community. Also, Shea is not a great builder. We had a water leak because of the patio defect this builder did. Our plea was ignored. Please don’t just approve this builder but investigate. We’d rather have business retail like small restaurants than another community by Shea Homes.”

GK Chandra writes, “In the midst of the multi-year drought, how does the City plan to ensure there is enough potable water as the water supply depends on wells and treatment by Zone 7. Water quality is not great to start with. This project will impact the finite water resource all Livermore will depend on in the future.”

Chairperson Dunbar closed the public comment period and returned to Commissioner discussion.

Commissioner Branning thanked the public for their comments, understands the neighborhood is passionate about this project, and said it is the Commission’s role to determine whether the project meets the requirements set forth by the City Council, the State, and Specific Plan.

When talking about concessions, some are by right and some are at the Commission’s discretion, and he asked staff to describe these differences.

Mr. Potter said the density bonus is a state law which has a goal to encourage the production of affordable housing. In exchange for higher percentages of affordable housing on the project site, State law gives developers a series of benefits. Those generally include 1) increased amounts of units on the site but this is not proposed this evening; 2) waivers of development standards that would preclude the project from reaching the allowed density; and 3) incentives or concessions for the developer that would aid in reducing costs for the project. Those incentives, concessions and waivers are ministerial or by right. If the findings or facts the State establishes can be found, the City is obligated and must offer or approve those incentives or concessions/waivers.

Commissioner Branning asked staff to describe the concessions on the setbacks.

Mr. Potter explained the setback waiver being requested is to remove a standard for interior lot line setbacks. This only applies to the units that are on alleyways on the townhomes or on the inside of the site. The Specific Plan would require a 10-foot setback from those alleyways and the applicant is requesting relief from the density bonus request. This would be similar in how the Montage development and other condo projects are designed throughout the City.

Commissioner Branning asked if the setbacks would be noticeable to the average person if they were from the outside looking in or when driving through the project. Mr. Potter stated “no”.

Commissioner Branning said the other is a concession related to standards that state there should be a comfortable set of affordable units that match with the quality, and size and general floor plans of the other units. It sounds as if they will match, but the difference is that their floor area will be smaller, and Mr. Potter confirmed this is correct.

Commissioner Branning said he has concerns with this, noting that it has been shown that integrated communities help people who are struggling to improve their life to build themselves up and to transition from lower income, poverty or even homelessness to the opportunity to live a comfortable, middle-class life. In there, we said and decided collectively as a City that they do think they value everyone equally in the city. Therefore, he is concerned that when they go to the townhomes, they will give the same number of people the opportunity but they will provide smaller units for those getting a subsidy. So, he asked how this project serves as a better project by changing the floor plans available to those purchasing the condos.

Mr. Potter replied that this is a matter of State density bonus law which does not address the quality of units. It addresses quantity of units. Through the law, the applicant is providing that 20% threshold of affordable units. This is the reason they qualify for two incentives or concessions that they can apply to any development standard. Staff did confirm and discussed with HCD that this is an appropriate use of the law because three findings could be made that the proposed waiver of standard would not be contrary to federal law which it is not. It would not negatively harm the environment. The third is something HCD emphasizes; that the waiver of that standard does result in financial savings, and that is the case here. Because those three findings can be made, the City is obligated to approve that in this case.

Mr. Best explained that he appreciates Commissioner Branning's comments. He clarified it is just the condo project asking for this concession. In the case of the condos, the provision of 20% of the project as affordable equals a $7 million subsidy on the developer, so it is not insignificant with their proposal to do all Plan One's. If they were to do a representative mix of the other floor plans, that subsidy would go up significantly. So, the difference in units is not as large as what Commissioner Branning might envision. The Plan One is a 3/3 and 1,600 s.f. Plan Two is 2/2 and 1604 s.f., Plan 3 is 2/2 ½ and 1700 s.f. Therefore, these are comparable to the units offered as affordable. The rest of the floor plans of Four, Five and Six are a bit larger. Four is 1900 s.f., Five and Six are 2,400 s.f. There are only 14 Plan Five and Six in the entire project. Therefore, they felt it was reasonable.

Commissioner Branning thanked Mr. Best for his explanation and said he would encourage the applicant to consider looking at some of the other floor plans, if possible. He said many people have commented or questioned parking and traffic. He believes there is not a specific traffic study for this project, and he asked and confirmed there was one done for the Isabel Neighborhood Specific Plan at buildout. He asked if they can say whether there will be significant changes in traffic or parking from this project.

Mr. Potter said there will be no significant impacts beyond those previous identified in the Specific Plan's EIR.

Commissioner Branning said for the Specific Plan EIR, he asked if this land was anticipated for slightly more units, and Mr. Potter said yes; up to 420 units and this project would not cause parking impacts to be more but less than anticipated.

Commissioner Branning said he lives in a condo and parking impacts vary. He asked if this project exceeds the City's parking standard for a project of this size.

Mr. Potter said the project meets both the minimum and maximum standards established in the Specific Plan and on par with what would be seen in the plan and is above the minimum required.

Commissioner Branning referred to the comment about water and he commented that it is the people in the building using water and not the building which has a negligible effect. Regarding the design, it matches closer to Sage to the south than it does to Montage in the north. He is not a fan of the design choices made here, and recommended reconsidering something that looks more classic architecture with softer angles and less contrasting colors.

Commissioner Stein asked staff to explain what the Commission's limit of discretion are on parking and density around this location relating to bus routes. There are some state requirements within a certain distance of rail stations, although there is none and there may never be one. Since He believes Bus Route 30 havs15 minute headway, during the day and weekdays qualifies.

Mr. Potter explained the Commission's role as quasi-judicial and making sure this project conforms to the standards the Council previously adopted. With respect to density, it is units/acre. With respect to parking, the Council established those standards in the Specific Plan, so the Commission should make sure this project meets those standards.

Commissioner Stein stated there are also additional constraints supplied by SB 330 which prevents the City from changing those standards in any meaningful way and timeframe. Mr. Potter confirmed and said SB 330 does establish objective design requirements.

Commissioner Stein asked what are the Commission's limits of discretion in terms of design review and at what time does that occur beyond staff level.

Mr. Potter said the primary focus is on design and this is what this application is for. The Commission should look at architecture, landscaping, and site design. There are some State law limitations, namely SB 330 which requires the City use objective design standards and the applicant has submitted the application under SB 330.

He clarified that if the Commission would like to see different window or entry way treatment, roof eaves or changes in landscaping, he said this is within the realm of discussion for the Commission, as long as it would still be in conformance with the Isabel Neighborhood Specific Plan and overall design standards and guidelines of the City, and if it is part of the findings or facts the Commission must make in order to approve the project.

Commissioner Stein asked Mr. Potter to go over the internal circulation and how the entrance and exits onto Dovecote Lane and Portola Avenue and onto Collier Canyon which is not proposed. He believes the first illustration presented was the main entrance off Portola Avenue and he asked and confirmed there will be a stop light there.

Mr. Potter displayed the site plan and pointed to the traffic signal location, the primary entrance into the project site, the new road accessing both the condo side and the apartment side. There is also secondary access at the northeast corner of the project site along Dovecote Lane and the third is the EVA which can only be accessed during emergencies; however, it will be open to pedestrians and bicyclists to come through the site down towards Portola.

Commissioner Stein referred to the Dovecote Lane entrance and asked and confirmed it was both left and right turn. He noted Dovecote is not a major or collector street, nominally two lanes but there is a lot of head-in parking and numerous driveways. Therefore, he believes this small section between there and Montage is going to possibly be heavily impacted.

He asked if the reason for not extending an entrance or exit to Collier Canyon is because of traffic concerns with the college. Mr. Potter deferred to Senior Civil Engineer Debbie Salgado.

Senior Civil Engineer Debbie Salgado said the Specific Plan called for access off Portola Avenue and did not contemplate any access off Collier Canyon Road at the time. It also has an elevation difference and is located at the low point of the project so everything pointed to a design that calls for an access off Portola Avenue and, because the low point is at that corner, it necessitated storm drainage treatment at that low point of the project.

Commissioner Stein cited the number of comments about construction quality of the Montage project and asked if this is an issue given claims of a lawsuit.

Planning Manager Steve Stewart noted this was a civil matter and not in the purview of the City.

Commissioner Stein stated the Specific Plan had a minimum requirement for affordability and he asked how this project meets that. Mr. Potter stated the minimum requirement is 20% of units must be allocated to affordability, and the project meets this.

Commissioner Stein asked if there are architectural differences between the various apartment buildings, given there are 10 pods or units. Mr. Potter stated there are two different building types; a 10-plex and a 20-plex. The buildings are further differentiated down to the unit level with substantial massing changes at each unit, both horizontal and vertical, different roof planes and colors and materials. On the site, there are also different orientations of the 20-plex. Fronting Portola Avenue there will be some side elevations of the 20-plex that face the street as well as some front elevations and this works to create variety and visual differences around the site.

Commissioner Stein said relating to the suggestion that the plantings include California natives indigenous to the area and pollinators, he noticed the trees include the California Sycamore and Holly Cherry which are native, although the Holly Cherry is the Catalina Islands, Baha and Southern California. He asked what other species are native to California and what percentage of the plantings are native or pollinators.

Mr. Potter stated he was unsure of the percentage, but there are other California natives like Coast Live Oak, Berkeley Sedge shrubs and a few others. He believes the applicant could provide more information on this.

Commissioner Stein said he saw no Coast Live Oak but he did see English Oak and asked if this was included later. Mr. Potter said both should be included on Sheet L-26 within the tree schedule.

Commissioner Stein said he saw that Bougainvillea is suggested as a vine and because of hard frosts, it might not survive and suggested they be substituted with Wisteria or Dutchmen's Pike, Lady Banks Roses or some other vine, or at least limit them to southern face walls with significant thermal mass.

Lastly, a large percentage of the trees are small whereas buildings are tall. Major street trees are large but shade trees like Weeping Bottle Brush, Holly Cherry and Purple Plum are only 15 to 20 feet high. He asked to see some of the trees larger. He walked the Montage project and that seems heavily landscaped with large trees, drought tolerant and some of the existing trees have died over the 15 years and had to be replaced with other species. He suggested identifying what has done well in the Montage project and replace some of the smaller trees with larger ones that fit more in scale with 3-story buildings. The Brisbane Box tree is huge and it grows as high as 150 feet and spreads, yet it is mentioned as a columnar tree which will require a lot of pruning.

Overall, he would like to see something more muted and less contemporary, low maintenance and austere in terms of color palette and design features for entryways, window treatments that fits better with the Montage project and character of the community.

Commissioner Anderson commented that he understands passions are high but asked people do not use the Q&A feature to insult fellow Commissioners. Regarding retail versus housing on the site, the Isabel Neighborhood Specific Plan was developed with the assumption that BART would come but it did not.

Regarding concerns about parking at Montage by the college, he asked and conformed signage could be installed that states guest parking is only for guests of this development, as well as for the Montage development depending upon whether parking is on a public or private property.

He asked when the last time an apartment building was built and operational and questioned the timeline for each phase of the development. Mr. Potter stated the applicant indicates they will construct the condo phase first on the western part of the site and then the luxury apartments second; however, he was not sure if they have more specifics on their proposed timeline for construction.

Mr. Best replied that their intent would be to construct the main entry road, major infrastructure and retaining walls first for the condo site and sometime soon after that, the apartment builder will come in and generally the units are built all at once as one large project, but he was not sure of the timing but thinks it will be either next year or the year after. Once the infrastructure of the condo project is done, most likely in the summer of next year they will build the condo buildings one at a time as the market demands.

Mr. Stewart referred to apartment construction and the City has 171 apartments in the Breeso Neighborhood Plan at the corner of Breeso and Vasco next to the Ace Station which were finished 3 to 5 years ago. In the pipeline nearing and under construction are the Legacy Apartment downtown with 222 units, Avance development with 44 units for special needs folks, and the Vineyard 2.0 now under construction on Livermore Avenue which are coming.

Commissioner Anderson asked and confirmed with Mr. Potter that each phase meets the requirements individually with respect to densities and design guidelines. He asked if the project will be using electric heat pumps for heating. Mr. Potter said he would defer to the applicant but as a requirement of the project, there will be no gas fixtures.

Mr. Best stated they will not plumb gas into the community. As far as the appliances, they will be all electric. Right now, the only technology for heating is heat pump. As far as hot water, there is an electric hot water heater, but if they were to do a tankless hot water heater this it would be a significant hit to their energy consumption in total.

Commissioner Anderson asked for the widths of the internal sidewalks and believes per the development code they are supposed to all be 5 feet. Mr. Potter said they range between 4 and 5 feet in width. As a condition of approval, the City has required an ADA certified plan checker review the plans to ensure they will conform to all ADA standards.

Commissioner Anderson said he loves the architectural style, could agree there might be some color changes to help transition but he thinks it is good for Livermore and meets some of the other newer buildings recently seen. The massing is broken up well, amenities look wonderful, thinks bike parking is in the appropriate locations, appreciates the inclusionary affordable housing and recognizes the law, and using solar as shade structures is great as well as EV capable garages.

Regarding his concerns, pedestrian circulation and the sound wall on Portola Avenue go against the City's design standards and guidelines. He referred to Chapter 9, Goal 3 which is to enhance the appearance of new and existing streets by improving roadway landscape treatments and including plantings, paving, lighting, and signs. He recited Chapter 9, part c, 5.1.1; "Sound walls shall be installed with a landscape element between the sound wall and sidewalk" which he did not see.

Chapter 9, part c, 5.1.6; "The landscape area between the sound wall and the sidewalk should include sufficient landscape materials….to soften the visual impact of the sound wall." He referred to 5.1.7; "The height and massing of the landscaping should graduate up from the street towards the wall with larger, taller plants located adjacent to the wall." Examples of this done well include Mines, First Street, and Arroyo.

Mr. Best said the laws Commissioner Anderson referred to are those for sound walls and not retaining walls. He displayed the wall along Portola Avenue and the top of the wall is at grade with the bottom of the building. It is a retaining wall necessary to take up grade on the side. There is 30 feet of grade drop from the east side to the west side and about 15 feet of grade from the north to the south, so the southwest corner of the project requires tall retaining walls. In order to soften these, they have terraced the walls, so the lower wall will only be 4 feet tall at its maximum and the upper wall will be from 2 to 4 feet. In between, they will plant vines so they will have planting along both walls to help with screening.

He noted sound walls are typically 6 to 8 feet tall and, in this case, there will be two terraced walls that will have 3 feet of planting in between them to soften the feel. They also plan on heavily planting the space in between the two walls as well as on the ground to provide green screens for it. There is no way to build this project without that wall.

Commissioner Anderson disagreed and said he thinks ivy is not a good planting because it also attracts rodents and other pests.

He then recited standards and guidelines, Chapter 2 Goals, D and G relating to the pedestrian realm and facilitation of multiple modes of circulation and he thinks there are minimal entrances and exits for pedestrians from the site.

Regarding K, encourage green building design, alternative modes of transportation that emphasizes convenient connections to sidewalks, bike paths and trail networks, as well as to transit stops. Chapter 3 under basic principles, F to implement design solutions that provide amenities, maximize access and optimize the use of new development by pedestrians.

He then referred to the Development Code 1.01.010, B, and recited numbers 4 and 6 relating to multi-modal transportation options and promotion of a pedestrian oriented environment, Development Code 2.01.020, site planning and subdivision design standards for all zones, A, number 3 regarding connectivity to adjacent streets external to the subdivision to provide multiple routes for pedestrian and vehicle trips. He also referred to and recited 4.04.070, parking standards, part B regarding pedestrian walkways and bike paths.

Commissioner Anderson reiterated that the City's code emphasizes getting people to use walking and biking for transportation. This development has characteristics of a car centric development and he did not believe it was pedestrian-friendly. There are few entrances and exits onto Portola Avenue and the northeastern corner has no access to the apartment complex.

Vice Chairperson Leary referred to public comments included in the Commission's packet and one suggested this area should be a shopping and dining district. He noted that very close to this site will be a new neighborhood commercial development at the intersection of Main and Gateway as well as some ground floor retail behind it which will be 1/3 of a mile away.

He commented that adding more units will detract from the beauty of the area and he asked to review Figure 4.1 in the Isabel Neighborhood Plan which focuses on the open space and recreation provided in the plan which will be about 200 acres. Much of it is centered around this project. A loop trail will go all he way around that starts off along Collier Canyon Creek and it comes down from the north to the west side of the site. There is also a park and dog park behind that and above that is the open space from Las Positas College and trail which will tie into a loop trail north of Montage. There will also be a future neighborhood park near the neighborhood commercial about 600 feet south of Portola. Therefore, there will be a lot of recreation around the project.

He also referred to the height of the buildings near Dovecote Lane. He said there is a good explanation of building heights in the staff report on page 13 which he described.

He questioned why is the City allowing more condominiums and apartments in this area because the plan was centered around the Valley Link station. As land uses are built out, in the first quarter mile it is more office commercial uses. When getting to the half mile radius is where there is more of a band of residential. This was part of a long City process where 600 people participated and led to a preferred plan.

He thinks the presentation by Mr. Potter covered the parking situation and this is always difficult to deal with. He noted that the one-bedroom units meet the requirement for parking per the specific plan. The two-bedrooms slightly exceed the requirement, but in the condos, it is at the maximum. The three-bedroom units meet the requirement and in the rental units it is at the maximum for parking. Likewise, the visitor parking is right at the maximum allowed.

He was appreciative of the attention to the Class IV bikeway on Portola Avenue. Regarding the density bonus, one is for the interior setbacks and the other is related to the affordable units being comparable to the market rate units. This was something the Commission talked about and he asked the applicant to explain how changing this policy of comparable units help density.

Chairperson Dunbar said he would also like to refer to staff for the requirements for the density bonus and those findings.

Mr. Potter said generally there are three findings in order to grant an incentive concession. The first is that you are not contrary to federal law which is the case here. The affordability requirements are a local standard. The second is that you are not going to negatively impact the environment. Again, the designation of the units is within the building walls. The third is that the incentive concession would result in financial savings for the applicant, and the applicant has indicated that it would.

Vice Chairperson Leary asked if the concession related to the floor plans for all Plan One, and Mr. Potter confirmed.

Chairperson Dunbar stated the language is “actual cost reduction.”

Vice Chairperson Leary asked about the location, stating in the development code, Subsection 7 which is comparability of units, it talks about being representative of the whole project so it is more than just floor plans. He said the pink rectangles are the affordable units and he pointed to floor level one. Over in the townhomes, they are uniformly distributed. When moving up to the top level it is a 7-plex. There is some nice open space there for kids to run around in the front yard, he noticed that the affordable units are stacked up, so he asked if the two outside units near 13T, 12T, 11T, 10T are empty. It seems that would be comparable.

Mr. Best said they would be happy if it is the desire of the Commission is to move a couple of the Plan Ones to Building 13 and Building 10 so they are on the outside.

Vice Chairperson Leary asked if Unit 13T and 10T might be located by the pool. Mr. Potter referred to Sheet C-20 of the plans.

Vice Chairperson Leary said there are 6 different features to be comparable and he confirmed the bathrooms per bedroom is the same and from the street they are not distinguishable. He heard the explanation from staff but if there is not that big a difference in the size, he asked why not provide a couple of affordable corner units.

Mr. Best said the corner units are a bit tougher and one reason is that there are rooftop decks planned for Plans Two and Three which are the end units. Those are going to generate better revenue for them as a builder. He then displayed a chart of the condos and distribution of units. There are 89 townhomes, 22 of which are the Plan One, 19 each on the Plan Two and Three, and 15 on the Plan Four. Those floor plans constitute 50% or more of entire project. There are only a few Plan Fives and Sixes, and the Plan One is comparable when looking at square footages. As well, the Two and Three's are only 2-bedroom units, the Four is a 2-bedroom plus office, and Plan One is a 3-bedroom.

Vice Chairperson Leary suggested having the affordable unit in one of the Plan Two or Three's. Mr. Best said there is not a big difference between the plans as far as square footage, and in fact, the Plan One's are better because they are three-bedroom units. Also, the Plan Two and Three's have a rooftop deck as part of the architecture which is a big amenity which they do not want to give away to the lower sales price restricted for affordable units.

Chairperson Dunbar cited the presence of 36 attendees in the meeting, said the public comments are recorded and will go to the City Council. He emphasized that the public's comments are heard. He then referred to Commissioner Anderson's comments about evaluation of his detailed concerns and comments. The Commission has heard that the parking and open space standards are met and even exceeded. Objective and subjective standards that are enforceable are being met. In terms of the Commission's discretion, they will make recommendations to the City Council based on those standards.

He said they talked a little about HAA and SB 330 which constrain the City, but he asked what happens if the City Council declines something that meets all enforceable standards and asked what are the penalties.

Senior Assistant City Attorney Kim Cilley replied that if the City were to deny a project it would have to be on one of the three findings identified in the staff report. If the City is unable to make those findings, it should not deny and it should approve. If the City were to deny and make one of those findings stating they have a basis to deny it and a court were to overturn it, the City could be subject to attorney's fees. Therefore, they want to be very careful when reviewing these projects and making findings to ensure they have the sufficient basis to make any findings.

Chairperson Dunbar noted the HAA was not passed randomly but because there is a large affordability crisis in the state. There were some comments that renters effectively cause crime which he is personally offended by, stating he was a renter until about October of last year, is an engineer, makes a good salary, and it took him years to save for a down payment.

He said regarding affordability requirements, he spoke about cost reduction. This is a confusing case because the applicant is not requesting less parking than required but asking for a different set of units. He thinks Mr. Best said the total benefit cost of revenue production was about $7 million. The letter in the packet talks about a cost reduction or savings of $700,000 or so. This seems modest, but the City must allow it if it provides an actual cost reduction. Staff went to HCD and confirmed essentially that what the developer is asking for is legal and required to be approved, which Mr. Potter confirmed.

Regarding construction hours and operation, the City has standards about that and Mr. Potter said generally work can be limited to normal working hours during the week and the company must also post a contact sheet with contact numbers for any violations.

Chairperson Dunbar asked if there was a requirement to add fencing on top of the retaining walls, and Mr. Potter confirmed. He asked if there is any requirement about the design of that fencing, and Mr. Potter said staff took account of the design considerations from a previous project and comments the Commission had made. The design will be a tubular steel fence that ensures views through the fence line.

Chairperson Dunbar referred to access, the access points are where they are because they are the best for the various engineering considerations which includes run-off but also traffic signal spacing and other considerations given the site. Ms. Salgado confirmed.

Chairperson Dunbar cited concerns about people going through the stop sign at Montage, and he asked if there is any consideration for traffic calming effects at the entry to this complex. With respect to sidewalk connectivity, he is not enthused with the amount of connectivity to the street.

He understands the retaining wall is there for a reason but it comes with trade-off's and those are less ADA accessibility because they are stairs in certain areas. ADA requirements are a base and not a ceiling and as Valley Link develops people are able to walk directly to that station or across the street where commercial will be in a direct manner. He suggested staff resolve issues around the retaining wall by delineating the bike lane with trees or other plantings which would make it more attractive from the street. He understands terracing helps when right up against the wall, but from the renderings it basically looks like a straight wall. He suggested having just one wall and having planters in front of it which might be a solution.

The other thing he considers as more radical is putting the entire sidewalk and bike lane on the other side of the retaining wall. This would address some of the issues and reduce noise to those outside. He was not sure he could require any of these, but these are his recommendations for staff to bring up with the City Council. He noted there are areas missing sidewalks like the northeast corner along Dovecote Lane.

With regards to architecture, it is significantly different than Montage which is traditional where this is more modern farmhouse style. In isolation, it looks great but when right next to Montage it is different so he was not sure it was a good or bad thing. If you have identical buildings for blocks and blocks it gets monotonous, so variety can be good. In any case, they meet the objective standards for architecture so he was not sure he could force any change other than recommend it. He is open to recommendations there, thinks the design looks good in isolation and if there is some compromise to some units facing Montage that could be made different, he would be open to that as well, but this meets requirements.

He reiterated that parking is well above the minimum requirements and the density is at a minimum for this site and it could be a lot taller. Lastly, there are requirements in the supplemental report as one additional condition of approval he agrees with and asked that this be considered in any motions made.

He summarized comments include connectivity, the sound wall, comments about tree varieties, and a final recommendation on what to do about the affordable housing, if any. He asked if anything needed to be added.

Commissioner Branning said a design standard would be something they should get consensus on if they wanted to make a recommendation and not a condition of approval. He asked Mr. Potter to display the Isabel Neighborhood Specific Plan map and wanted to see what the retail looked like. He said the planned area where the project is going in is 2B. Most of the public commenters were from Montage and were told they were going to get retail to the south between 3B and 3C. They will be going to get this and pointed to a small park and retail that will be almost like a mini downtown style set of streets with retail along it, with easy access to commercial which will be all the way to Portola Avenue along the street on the ground level which will be an easy walk.

He said for bike/ped access, he agrees with the need for more. People are going to find efficient ways to leave this property which will often damage landscaping if it is not planned for. There will be some people attending Las Positas College and so he recommended easier access to Collier, particularly those biking. He thinks there is easy access to Portola Avenue on that side. He thinks the City should examine another crossing potentially further to the east when retail becomes active so people might start exiting the east side of the property to take the shortest route and jay walk across Portola Avenue which is dangerous. He asked if the City could add a condition for the applicant to provide sidewalk access off Montage Drive and some on Collier. When commercial goes in on the south side the City can look at traffic demands and consider adding a crosswalk or signal.

Mr. Potter clarified there is a proposed connection at the southeast connection of Montage but there are none proposed on Collier Canyon.

Commissioner Branning said he knows there are some grading issues and, if feasible, he would propose a condition that if feasible to put an access point on Collier where there is a thin strip of landscaping where the driveway meets Collier.

Mr. Potter confirmed he would point out all access points and said he will go east to west. Although not through the wall, there is a connection point that goes out to Montage Drive which he pointed to on the site plan. The next access point at Portola Avenue is through the wall from the apartment side to Avenue which is a staircase. The next access point would be adjacent to the wall which the sidewalk bending around to the entrance from the condo side, and then the final access point is located where there is a ramp that extends down with a set of stairs as well from the condo side.

Commissioner Branning said his concern is definitely the west side where people will cut through. He remembers there were some grading issues so he would like this to be examined and hopefully added in, but he also recognizes it might be physically impossible.

Lastly, Commissioner Branning referred to the retaining walls and said he would like the City and applicant to examine if there is any way to include texturing or improvements to the wall that would make the wall slightly more interesting as well as prevent graffiti, and lastly, he would support Commissioner Stein's tree suggestions.

Commissioner Stein said originally when he looked at the wall, he thought it was stack stone where each course of stone would be set back about 3 inches for a 1 to 1 slope rather than two separate walls. One possibility is to heavily landscape both the base of the wall and space in between. If they planted Lady Banks Roses along there, in three years they would not see a wall. They are growing along Isabel where the slope is between there and the high-priced homes. It is very dense, has no thorns and has clusters of white flowers. Some sort of creeping juniper also would hide a lot of the wall, with shrubs and small trees along the base.

Regarding parking, it is important to realistically tell people there will be parking problems. Almost every high-density project in the City has parking that spreads out on streets. People have more than one or two cars and there is apartment sharing, particularly near the college but the City cannot require more parking for this development.

Regarding commercial further south, again, it is like Valley Link. It is potential and the City cannot require someone build. Most likely in 10 to 15 years there will be commercial serving businesses there. It is zoned for that and as housing increases, it will be developed.

Finally, there has been no mention about the relocation of the sanitary or storm sewer line, assuming it is on the far west that runs parallel to Collier Canyon. He asked where it is being relocated to.

Mr. Potter said it is located along the northwestern part of the site and it will be relocated to run down the main new street in the middle of the project and it is a sanitary sewer line.

Commissioner Stein again emphasized the need for heavily planted areas and trees in keeping with the scale of the buildings. Perhaps they could poll the Commission on whether they would suggest a change in landscaping. Some people like the more industrial style landscaping and some like something softer in color with more detailing.

Vice Chairperson Leary referred to guest parking signage which he supports. Regarding pedestrian crossings he though the first rendering showed multiple crosswalks at the Portola Avenue intersection, and he supported adding a connection to Collier Canyon even if it is to the north where the grade levels out. He is glad Commissioner Anderson brought up the observation about the interior pedestrian linkage. Typically, from the swimming pool there is a connection that passes through all residences, and this is lacking.

Regarding the wall, there is a standard Commissioner Anderson said the applicant is not meeting. He asked if there is supposed to be a planter between the walkway and the wall. Commissioner Anderson said yes, but that standard is for sound walls where this is technically a retaining wall.

Vice Chairperson Leary said he thinks the City would regret removing the terraced wall, stating he lives on a street with nice homes fronting the street but all of a sudden it turns into walls on both sides, so he prefers the terraced effects and supported ideas brought up by Chairperson Dunbar regarding putting planting into the separated island buffer. Lastly, he voiced support about leaving the architecture alone, especially the condos.

Commissioner Anderson cited the many ideas on the wall on Portola. He also cited texture of materials which was brought up to give more of an interesting look, voiced support for more landscaping which will help the aesthetics of the wall, thinks there is consensus that there needs to be an access point on Collier Canyon Road to the north and asked if there was consensus for another entrance at the east side of the main driveway entrance road.

Chairperson Dunbar said people would have to walk all the way around if they were walking directly north. To him, it matters about how much the entrance street is traffic-calmed as to whether he is concerned about that or not. People are going to walk in the street there and will not make three, 90-degree turns to go that corner. People will definitely not do it if they are handicapped because the other side are stairs. He was not sure how to require that one because there is already access on the west side and he was not sure about the spacing to the building.

Commissioner Anderson said if they cannot have a sidewalk, he suggested another staired entrance on the other side of the building on the east side of the main entrance.

Chairperson Dunbar suggested giving staff more discretion and state, “The Commission would prefer there be some sort of access close to the east side of the A Street driveway in whatever way is feasible.”

He then asked Mr. Potter to display the plan set. His recommendation would be to make these as recommendations to staff to consider as this goes to the Council based on siting. In terms of the wall, he asked the Commission to consider a staff recommendation. If the bike lane were to have some of the trees, the trees in the landscape strip would not be necessary. Some of that planting could be moved to directly against the wall. There will already be enough setback to the street due to the protected bike lane. So, that would address his concerns and get them back to applying standards which is having some sort of landscaping off of that wall or against the wall.

There is a recommendation on the table to try to connect at Collier Canyon Road at the northwest corner and try to connect closer to the east side of the Portola Avenue intersection. Those would also be staff recommendations to look at this if it is feasible. The finding they are trying to make is related to the design standards that Commissioner Anderson mentioned.

He noted the City cannot enforce things related to a lawsuit it is not a party to. The City can enforce building codes and evaluate permits to ensure compliance, but this is the extent of the Commission’s discretion. Mr. Potter confirmed.

Mr. Best commented that while technically this is not to be discussed, he confirmed there was no lawsuit and a claim was never verified. There was an issue with some of the buildings in which there was an amicable settlement between the HOA and Shea and this was solved and done several years ago. Therefore, some of the residents who referred to this are violating the settlement agreement.

With that said, he wanted to clarify some things that might be confusing with the wall and with what they are intending with landscaping. Regarding the wall, the intent is to heavily landscape that wall both at the base and between the two terraces. There was some discussion about the trees on the park strip. Those exist today so Portola Avenue is constructed. The sidewalk, park strip and the trees seen in the rendering on the south frontage along Portola Avenue exist today. Most of those trees are 15 years old and a few have died over the years and have been replaced.

He said any kind of major surgery on the existing Portola Avenue right-of-way has never been discussed and would be a major impact with existing utilities, a Sprint main fiber optic line that is underneath the sidewalk along Portola Avenue that cannot be moved and is an issue of national security. This frontage has been in place for 15 years or more and is fixed. He suggested Nicki Wu from C-2 Collaborative to explain what is intended here for the wall.

Chairperson Dunbar thanked Mr. Best for explaining the constraints and said therefore, his ideas will not be feasible. It seems like the most they can do is decorate the wall and he asked if this is a non-starter or not.

Commissioner Stein agrees and thinks landscaping is the solution. He thinks the Chinese Lantern trees are healthy and large and should not be interfered with.

Commissioner Anderson said he would like to hear from the consultant about the landscaping because if it is at the base of the wall, this is different from what he sees in the renderings.

Nicki Wu, C-2 Collaborative, landscape architect, clarified the retaining wall they are proposing is not a sound wall but a tiered gravity wall system they are implementing. It is decorative and is not a simple stucco wall where they provide some texture and color to create street movements. In addition, they have proposed about a 36" planting area in between the tiered wall in addition to plantings of vine and street trees.

To address the public vision, they recognize how important the community arrival will be and they tried to enhance this not only from the exterior wall movement and in addition to the added planting they are hoping to provide in addition to the streetscape parkway landscaping. She then referred to and described the rendering.

Commissioner Anderson said the renderings do not give a large amount of landscaping in that strip and this is why Commissioners thought the sidewalk went directly up to the wall. If the Commission is to say there is sufficient landscaping there, it needs to be a lot more than what the rendering is showing. Ms. Wu confirmed and said once the project is approved, they will ensure they provide enough landscaping to hold the soil, consider the structural wall, and will provide visual enhancement from the public as well as for shading and screening purposes.

Vice Chairperson Leary referred to Sheet C-5, there is a cross-section that answers the question of Commissioner Anderson. It shows an 18' wide public landscape easement. On that section it shows 1 foot from the back of walk to the face of the first terrace but there is 6'3" from the top wall to the back of the landscape easement. He asked if a foot or two could be dumped down to the bottom to have a more generous landscape strip, noting it would only move what is proposed from the top and put it down at the bottom.

Ms. Wu said they can work with the civil engineer to ensure they can add and subtract landscaping and possibly also provide some decorative rocks or vines at the bottom of the wall which might also be a nice addition.

Mr. Potter said some of these ideas are very good. They wondered if there is another option to decrease the width of the bifurcated area in the wall and maybe use some of that area down at the base of the wall or potentially have the wall jog in at certain areas to accommodate larger landscaping. However, it is up to the pleasure of the Commission.

Chairperson Dunbar proposed keeping the recommendation fairly general and thinks they are starting to over-engineer it at this point. He thinks the concerns are clear, and he will look for wording from Commissioners for a recommendation to staff to that effect.

Mr. Stewart stated this is an excellent point and he also pointed out that the colors and materials of the wall are shown on Sheet L-9 which is page 31 of the development plan attachment. They appear to be darker than rendered and they are also split-faced which have a rougher surface, and this makes graffiti more challenging. There are also treatments that the wall can recede to at least graffiti easier to clean off if it were to occur, and this is a City standard, which Ms. Salgado confirmed and said they can also be treated with anti-graffiti coating, as well.

Commissioner Anderson agreed with keeping it general and suggested giving staff the leeway to engineer something, noting he thinks they understand the comments provided. He thinks ivy and other vines are a good use, but should be used minimally and more ground up landscaping would break up the visual aspect, as well. Ms. Wu concurred.

Commissioner Stein asked if the motion could include the recommendation for the developer to work with staff about replacing some of the smaller trees with larger trees such as those thriving in the adjacent Montage development and more in keeping with the scale of the buildings.

MOTION BY ANDERSON, SECONDED BY LEARY, TO 1) ADOPT RESOLUTION FINDING THAT THE PROJECT IS EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, IN ACCORDANCE WITH CEQA GUIDELINES SECTIONS 15182 (C) AND 15183; 2) ADOPT A RESOLUTION APPROVING VESTING TENTATIVE TRACT MAP (VTTM) 8613 – SUBDIVISION (SUB) 21-006, SITE PLAN DESIGN REVIEW (SPDR) 21-005; AND CONSISTENCY DETERMINATION (CD) 22-001, TOGETHER WITH THE REQUESTED DENSITY BONUS WAIVER AND INCENTIVE/CONCESSION, SUBJECT TO THE ATTACHED CONDITIONS OF APPROVAL; AND THE ADDITIONAL RECOMMENDATIONS THAT A) IF FEASIBLE AFTER CLARIFYING ACCESS POINTS, THAT THERE BE A PEDESTRIAN ENTRANCE ON THE EAST SIDE OF THE MAIN ENTRANCE AND A PEDESTRIAN ENTRANCE AT THE NORTH SIDE ALONG COLLIER CANYON ROAD; B) FOR THE DEVELOPER TO WORK WITH STAFF ABOUT REPLACING SOME OF THE SMALLER TREES WITH LARGER TREES SUCH AS THOSE THRIVING IN THE ADJACENT MONTAGE DEVELOPMENT AND FOR THEM TO BE MORE IN KEEPING WITH THE SCALE OF THE BUILDINGS, WITH THE ADDITIONAL CONDITION INCLUDED IN THE SUPPLEMENTAL PACKET; AND C) DIRECT STAFF TO WORK WITH THE APPLICANT TO CREATE ADDITIONAL SOFTENING TO THE WALL ALONG PORTOLA; AND 3) INSTRUCT STAFF TO FILE A NOTICE OF EXEMPTION, IN ACCORDANCE WITH THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, SUBJECT TO PROJECT APPROVAL.

VOTE:

AYES: ANDERSON, BRANNING, DUNBAR, LEARY, STEIN.
NOES: NONE.
ABSENT: NONE.

4. ADJOURNMENT – 9:45 p.m.

Minutes prepared by:
Lisa Harper Consulting

LIVERMORE
CALIFORNIA

PLANNING COMMISSION STAFF REPORT **ITEM NO. 3.2**

DATE: May 6, 2025

TO: Chairperson and Members of the Planning Commission

FROM: Steve Riley, Planning Manager

SUBJECT: Approval of the December 3, 2024, Planning Commission Draft Meeting Minutes.

RECOMMENDED ACTION

Staff recommends the Planning Commission approve the draft minutes.

SUMMARY

DISCUSSION

ATTACHMENTS

1. 12-03-2024 Draft Meeting Minutes

Prepared by: Michele Donley
Division Clerk

LIVERMORE
CALIFORNIA

PLANNING COMMISSION
December 3, 2024

REGULAR MEETING

1. CALL TO ORDER – The meeting of the Planning Commission was called to order by Chairperson Jacob Anderson at 7:00 pm, held in person at 1016 S. Livermore Avenue.

ROLL CALL – Present: Chairperson Anderson, Vice-Chairperson Yolanda Fintschenko, Commissioner Steven Dunbar, Commissioner Daniel Leary, Commissioner Tracy Kronzak.

PLEDGE OF ALLEGIANCE

2. OPEN FORUM

Chairperson Anderson opened and closed the public comment period.

3. CONSENT CALENDAR

ON THE MOTION OF COMMISSIONER LEARY, SECONDED BY COMMISSIONER KRONZAK AND CARRIED ON A 5-0 VOTE, THE PLANNING COMMISSION APPROVED THE CONSENT CALENDAR:

3.1 Approval of the August 20, 2024 Planning Commission Draft Meeting Minutes.

3.2 Approval of the September 17, 2024 Planning Commission Draft Meeting Minutes.

3.3 Approval of the October 15, 2024 Planning Commission Draft Meeting Minutes.

3.4 Approval of the November 12, 2024 Planning Commission Draft Meeting Minutes.

3.5 Approval of the 2025 Planning Commission calendar.

4. PROJECT REVIEW

4.1 Redevelop the 85-acre former Springtown Golf Course with a community park and an 18-hole disc golf course and the addition of four pickleball courts/two tennis courts and a new half-basketball court at Marlin Pound Neighborhood Park.

Recommendation: Staff recommends the Planning Commission:
1. Adopt a resolution approving the Initial Study - Mitigated Negative Declaration
2. Adopt a resolution approving Site Plan Design Review (SPDR) 24-008, subject to the attached Conditions of Approval.

Planning Technician Emily LaDue presented the staff report.

Chairperson Anderson opened the public comment period.

In response to Commission questions, Planning Technician LaDue clarified that, if approved, the project would proceed to Engineering.

Kellie Burns, indicated opposition to the proposed pickleball courts due to the loud noise, health effects and impact on property values. She mentioned a pickleball court maker's recommendation on the distance of courts from homes.

Daniel Burns, expressed concern about the noise disruption; impacts on the dog park, walking trails and wildlife; and decline in property values.

Craig Gushue, discussed the decibels produced by pickleball; proposed indoor courts; and the impact to the existing birds.

George Kooshian, stated the pickleball courts would disrupt the peace and change the nature of their community. He expressed concern about non-resident visitors and suggested pickleball courts at Robertson Park.

Christine Guzman, expressed concern with noise pollution; increased traffic of non-residents; noise levels; and environmental and ecological impacts.

Connie Kopps, discussed landlocked trails; unclear boundaries of the conceptual plan due to misrepresentation at meetings; need for additional time for honest input; need to address the history of Spring Town; and lack of continuity at meetings.

Sandra Grace, encouraged consideration of the manufacturer's recommendation for distance from homes; expressed concern with noise impacts, parking, and potential litigation.

Anna Belaustegui, discussed her enjoyment of the park for over 30 years and expressed concern about noise and traffic impacts from the pickleball courts.

Dan Slavec, expressed support for disc golf at Springtown open space.

There were no more public comments.

Chairperson Anderson closed the public comment period.

Commissioner Leary discussed the mitigated negative declaration; allowable decibel levels; current condition; ambient noise; and increase of 3.5 decibels.

Planning Manager Steve Riley explained that pickle ball courts had been included on the conceptual plan for six years and that Livermore Area Recreation and Park District (LARPD) had no complaints at the other courts. He discussed efforts to provide opportunities to residents north of 580. He stated the environmental document could be adopted with efforts to improve noise impacts.

In response to Commissioner Dunbar, Nick Papani, Vice President with Raney Planning and Management, discussed the analysis and noise thresholds; City's standard of average noise level over a defined period; and instantaneous noise level, L-Max. Commissioner Dunbar stated the City did not have an L-Max standard. He discussed the Danville Environmental Impact Report (EIR) and found the noise levels consistent.

Commissioner Kronzak echoed Commissioner Dunbar's comments. In response to Commissioner Kronzak, Deputy City Attorney explained the purpose of the mitigated negative declaration; confirmed that the City did not have an L-Max; and that the Courts had not considered anecdotes under CEQA. Commissioner Kronzak discussed the decibel measurements; sufficient mitigation; and potential litigation. In response to Commissioner Kronzak, Planning Manager Riley discussed the City's applicable standards for noise.

In response to Vice Chair Fintschenko, Planning Manager Riley explained the reference to other relevant agency guidelines in the initial study check list. City Engineer Joel Waxdeck discussed the 2017 Concept Plan. Vice Chair Fintschenko stated no community members were asking for pickleball and the community park should include amenities wanted by the community. Planning Manager Riley discussed input from LARPD in development of the park; demand for pickleball; and potential for sound reduction measures.

In response to Chair Anderson, Mr. Papani explained the noise measurements in the study.

In response to Commissioner Kronzak, Mr. Papani explained the sound plan model, and various inputs including topography and elevations.

Chair Anderson indicated the findings for the mitigated negative declaration could be made and supported the possibility of modifications as good neighbor solutions.

Commissioner Leary agreed with Chair Anderson regarding approval of the mitigated negative declaration and suggested funds be spent on the needs of the community.

Commissioner Dunbar pointed out that the original location of pickleball was 500 feet from nearest house. He discussed the differences between Magnus and Livermore Downs and proposed project. Director Riley explained the evaluation of the project's disturbance area with regard to the EIR. Mr. Papani discussed impacts on wildlife, specifically special status species. Commissioner Dunbar stated he did not want to delay the rest of the project due to pickleball. Director Riley clarified that they could be separated.

Commissioner Kronzak indicated the mitigated negative declaration was appropriate and the measures proposed were adequate. In response to Commissioner Kronzak, Deputy City Attorney explained that the lead agency determined the level of significance; and the Courts generally deferred to the lead agency's determination. Commissioner Kronzak stated tennis courts would not solve the noise problem because they would be used for pickleball; and suggested a separate vote on the mitigated negative declaration and pivoting to remediation.

Vice Chair Fintschenko suggested looking at other agency standards; separating the projects and requiring a new mitigated negative declaration for pickleball courts. Planning Manager Steve Riley explained options for a supplemental or addendum to the mitigated negative declaration. Vice Chair Fintschenko suggested removing the pickleball component.

In response to Chair Anderson, Planning Manager Steve Riley explained options for direction on the Marlin Pound portion. Chair Anderson discussed the definition of community park; clear opposition by the neighbors to pickleball; and Planning Commission consensus to remove the pickleball courts.

In response to Commissioner Dunbar, Planning Manager Steve Riley suggested considering land use compatibility.

Commissioner Kronzak indicated it was a quasi-judicial matter and the Commission could determine it was not compatible with the existing neighborhood conditions; expressed sympathy to the requests to eliminate noise; and stated findings could be made for the Mitigated Negative Declaration and amendment to eradicate the pickleball courts but retain the tennis courts.

CONSENSUS
By consensus, the Commission determined to proceed with the SPDR, removing the pickle ball court.

Planning Manager Steve Riley discussed the need to determine if there was enough demand for just tennis courts and work with LARPD; and removal of Marlin Pound Park to reevaluate.

Planning Technician Emily LaDue explained the potential for an amendment or supplemental.

Commissioner Leary discussed the bus stop and crosswalk and traffic flow on Bluebell Drive; and suggested moving the bus stop and adding curb extensions.

Commissioner Dunbar discussed the need for traffic calming on Bluebell and bike and pedestrian access; support for balance of native plants and storage for disc golf.

Commissioner Kronzak discussed use of native plantings; bathroom stalls; parking spaces; noise; no response to the tribal requests; park as an asset; formalization of the informal path; and future consideration of a multiuse path.

Vice Chair Fintschenko concurred with findings.

Chair Anderson expressed excitement about the park and concurred with protected bike lanes. He suggested ensuring a barrier of protection between the parking stalls and play structures and indicated support for disc golf.

ON THE MOTION OF COMMISSIONER KRONZAK, SECONDED BY COMMISSIONER DUNBAR AND CARRIED ON A 5-0 VOTE, THE PLANNING COMMISSION ADOPTED THE FOLLOWING RESOLUTIONS:

Resolution 45-24 Adopting the Initial Study/Mitigated Negative Declaration for The Springtown Open Space Project per the provisions of the California Environmental Quality Act

Resolution 46-24 Approving Site Plan Design Review (SPDR)24-008 for the Springtown Open Space Project

FRIENDLY AMENDMENT
Commissioner Dunbar moved to amend the motion to include traffic calming on Bluebell Drive and curb extensions. Commissioner Kronzak accepted the amendment.

RECESS
Chair Anderson called a recess at 9:30 p.m. The meeting reconvened at 9:41 p.m. with all Commissioners present.

5. PUBLIC HEARINGS

5.1 Hearing to consider a request to authorize a Conditional Use Permit to allow an approximately 19,200 square-foot batting practice facility named D-BAT within an existing building at the northeast corner of Shannon Court and Patterson Pass Road.

Recommendation: Staff recommends the Planning Commission:
1. Adopt a resolution finding that the project is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301(a), Existing Facilities;
2. Adopt a resolution to approve Conditional Use Permit (CUP) 24-006, subject to the Conditions of Approval;

3. Direct the Planning Manager to instruct staff to file the Notice of Exemption with the Alameda County Clerk; and
4. Advise the applicant that the Planning Commission's action is final unless appealed to the City Council within 15 days.

Assistant Planner Kaitlyn Harrison presented the staff report.

Jeff Tarpley, owner/operator discussed his experience in coaching baseball and the D-BAT franchise.

Chairperson Anderson opened and closed the public comment period.

In response to Commissioner Kronzak, Assistant Planner Harrison explained the existing and required parking and shared parking agreement. Commissioner Kronzak indicated support for the project.

Commissioner Dunbar indicated support for the proposed project.

Commissioner Leary indicated support for staff recommendations.

Vice Chair Fintschenko indicated the site was well designed for the purpose and the findings could be made.

Chair Anderson stated the parking sharing was adequate and expressed excitement about the philosophy.

ON THE MOTION OF COMMISSIONER DUNBAR, SECONDED BY VICE CHAIR FINTSCHENKO AND CARRIED ON A 5-0 VOTE, THE PLANNING COMMISSION ADOPTED THE FOLLOWING RESOLUTIONS:

Resolution 47-24 Finding the batting practice facility within an existing building (D-Bat) at the corner of Shannon Court and Patterson Pass Road is exempt from the provisions of the California Environmental Quality Act (CEQA)

Resolution 48-24 Approving Conditional Use Permit (CUP) 24-006 for the D-Bat batting practice facility project

6. MATTERS FOR CONSIDERATION – NONE.

7. MATTERS INITIATED BY PLANNING COMMISSION AND STAFF

Planning Manager Steve Riley requested the Commission reconsider the Planning Commission calendar for 2025.

ON THE MOTION OF COMMISSIONER KRONZAK, SECONDED BY VICE CHAIR FINTSCHENKO AND CARRIED ON A 5-0 VOTE, RECONSIDER THE CONSENT CALENDAR AND CORRECT THE JULY DATE OF THE 2025 CALENDAR WITH THE CORRECT JULY DATE.

Chair Anderson discussed timing of Stockman Park lights.

Commissioner Kronzak mentioned questions submitted on Matters Initiated by Planning Commission (MIP)24-001 and forthcoming questions on Matters Initiated by Planning Commission (MIP)24-002; and requested reassessment of sound levels in the development code, including establishment of an LMax standard.

Commissioner Dunbar requested the light at Inman and First Street going towards Livermore High School be adjusted for summer hours. He expressed gratitude for staff and his colleagues.

The Commissioners commended Commissioner Dunbar for his service to the City.

8. ADJOURNMENT – at 10:12 pm to a Regular Planning Commission Meeting on Tuesday, December 17, 2024, at 7:00 pm, Civic Center Meeting Hall, City Council Chambers, 1016 S. Livermore Ave.

LIVERMORE
CALIFORNIA

PLANNING COMMISSION STAFF REPORT **ITEM NO. 3.3**

DATE: May 6, 2025

TO: Chairperson and Members of the Planning Commission

FROM: Steve Riley, Planning Manager

SUBJECT: Approval of the February 4, 2025 Planning Commission Draft Meeting Minutes.

RECOMMENDED ACTION

Staff recommends the Planning Commission approve the draft minutes.

SUMMARY

DISCUSSION

ATTACHMENTS

1. 02-04-2025 Draft Meeting Minutes

Prepared by: Michele Donley
Division Clerk

DRAFT MINUTES

LIVERMORE
CALIFORNIA

PLANNING COMMISSION
FEBRUARY 4, 2025

REGULAR MEETING

1. CALL TO ORDER – The regular meeting of the Planning Commission was called to order by Chairperson Yolanda Fintschenko at 7:02 pm, held in person at 1016 S. Livermore Avenue.

ROLL CALL – Present: Chairperson Yolanda Fintschenko, Vice Chairperson Tracy Kronzak, Commissioner Jacob Anderson, and Commissioner Daniel Leary.

Absent: None

PLEDGE OF ALLEGIANCE

Chairperson Fintschenko led the Pledge of Allegiance.

2. OPEN FORUM

Chairperson Yolanda Fintschenko opened the public comment period.

Connie Kopps expressed concern about her perception of the zoning and planning of the Spring Town Open Space and how it would correlate into trails with Midtown; impact to wildlife; waivers due to housing needs; density; and need to balance the populous into other districts.

There were no more speakers, and the public comment period was closed.

3. CONSENT CALENDAR

Chairperson Yolanda Fintschenko opened the public comment period.

Connie Kopps provided a comment on Item 3.5, expressing concern about how the minutes failed to reflect her concern on missed opportunities in Springtown; suggested ensuring the major points communicated were included; and provided written comments.

There were no more speakers, and the public comment period was closed.

ON THE MOTION OF VICE CHAIR KRONZAK, SECONDED BY COMMISSIONER ANDERSON AND CARRIED ON A 4-0 VOTE, THE PLANNING

COMMISSION APPROVED THE CONSENT CALENDAR.

3.1 Approval of the March 19, 2024 Planning Commission Draft Meeting Minutes.

3.2 Approval of the July 16, 2024 Planning Commission Draft Meeting Minutes.

3.3 Approval of the August 6, 2024 Planning Commission Draft Meeting Minutes.

3.4 Approval of the November 19, 2024 Planning Commission Draft Meeting Minutes.

3.5 Approval of the December 17, 2024 Planning Commission Draft Meeting Minutes.

4. PROJECT REVIEW – NONE

5. PUBLIC HEARINGS – NONE

6. MATTERS FOR CONSIDERATION

6.1 Discussion and direction regarding Comprehensive General Plan Update–Policy Topics Infrastructure, Public Services, and Mobility Elements.

Recommendation: Staff recommended the Planning Commission:
1. Receive a presentation on the Infrastructure Element, Public Services Element, and Mobility Element and consider General Plan Advisory Committee (GPAC) feedback on policy options.
2. Recommend policy updates for City Council consideration and direction.

Principal Planner Andy Ross presented the staff report.

Chairperson Fintschenko opened the public comment period.

Alan Burnham commented on the City's cooperation with the County on social services infrastructure and planning to ensure future services.

There were no more speakers, and the public comment period was closed.

Commissioner Anderson questioned how actions were being tacked to the appropriate planning documents. Principal Planner Ross explained the process, staff would itemize and compartmentalize the actions into the appropriate guiding documents including other master plans and procedure manuals. Planning Manager Steve Riley stated the ideas from master plans for different utilities like wastewater master plans and water master plans could be added. Commissioner Anderson stated the current General Plan identified issues but no policy solutions

and expressed the need to ensure that was fixed. In response to Commissioner Anderson, Principal Planner Ross explained the intent of the polices of the goals and polices of the General Plan was to guide fair and consistent decision making by the Planning Commission and Council with the intent of achieving the General Plan vision. Innovation and Economic Director Cardwell explained that prioritization occurred through process of building a workplan and budget; concurred with the importance of retaining the GPACs input consistent with the City strategic plan and action plans. Commissioner Anderson concurred with the proposal related to infrastructure, indicated the question of whether the extension of the sewer line should be contained in infrastructure or economic development.

Commissioner Leary discussed a comparison of the proposed infrastructure element with other jurisdictions and suggested the addition of tracking and monitoring stormwater structures, National and State standards such as NPDES, education on water efficiency, and life cycle cost analysis.

Vice Chair Kronzak suggested language modifications to include community engagement and age accessible and concurred with Commissioner Anderson regarding the need for investment in heritage and agricultural areas.

Chair Fintschenko concurred with the need to understand where the policies resided. In response to Chair Fintschenko, Principal Planner Ross suggested the term resiliency could be considered both environmental and economic resiliency and sustainability. Innovation and Economic Director Cardwell explained that the sewer could start in economic development and move to infrastructure once developed.

Vice Chair Kronzak suggested defining “underserved communities”. Principal Planner Ross discussed the State’s definition, which the city did not meet.

The Commission discussed Public Services – Childcare:

Commissioner Leary indicated the points were already covered in the General Plan.

Commissioner Anderson concurred with Commissioner Leary and stressed the need to provide childcare.

Vice Chair Kronzak agreed with Commissioners Leary and Anderson and suggested the language on Bullet Point 2 to incentivize. Principal Planner Ross explained potential inclusion of childcare in industrial uses. Innovation and Economic Director Cardwell discussed the challenge with term incentivize.

Chair Fintschenko concurred with the Commissioner’s comments.

The Commission discussed Healthy Food Access:

Commissioner Anderson expressed concern with the policy language to “provide

affordable water." Principal Planner Ross suggested “Remove barriers to people growing fruit and vegetables.” Commissioner Anderson suggested Economic Development include year-round markets other than year-round food access. Mr. Cardwell suggested farmers markets outside of town could provide access to healthy food.

Vice Chair Kronzak concurred with broadening the language to remove barriers and inclusion of local small businesses in year-round markets.

Chair Fintschenko concurred with encouraging innovation with how locally grown food could get to neighborhoods.

The Commission discussed Seniors and Aging Adults:

Commissioner Leary suggested inclusion Public Right of Way Accessibility Guidelines, PROAG, and discussed inclusion of universal design in the Housing Element.

In response to Vice Chair Kronzak, Principal Planner Ross explained the policy direction to allow decision makers to consider universal design. Vice Chair Kronzak emphasized the need to ensure age friendly access to restrooms. Principal Planner Ross explained the language to include senior service providers.

Chair Fintschenko concurred.

The Commission discussed the Mobility Element:

Commissioner Anderson suggested prioritizing modes to move most people to achieve climate goals; streets in mixed use design for comfort of people and bikes; minimize conflict points between rail and other connections; and work with Caltrans and regional partners to ensure safe and accessible connections across 580, prioritizing improvement that enhances pedestrian, bicycles and transit access.

Commissioner Leary commended the GPAC on inclusion of micromobility.

Vice Chair Kronzak commended the reframing by the GPAC; suggested design standards to remove barriers, calling out air transit types, and the need for public cooling due to impacts of climate change on Livermore.

Chair Fintschenko concurred with her fellow commissioners and suggested inclusion of the impact of air quality, especially due to fires and the need to include evacuation methods.

The Commission thanked the General Plan Advisory Committee and staff for its work.

7. MATTERS INITIATED BY PLANNING COMMISSION STAFF

7.1 Planning Staff Responses to Matters Initiated by the Planning Commission.

Commissioner Anderson indicated former Commissioner – now Councilmember Dunbar was suggesting minimizing the use of rolled curbs.

Vice Chair Kronzak indicated the need to ensure residents were protected from HOA issues and urged Item 2024-002 to proceed.

In response to Vice Chair Kronzak, Planning Manager Riley discussed the benefits of American Planning Association Chapter Board Membership for the Commissioners.

Planning Manager Riley reminded the Commissioners of the Planning Commissioners Academy.

Vice Chair Kronzak asked about options for Ethics Training.

9. ADJOURNMENT – at 8:37 pm to a Regular Planning Commission Meeting on Tuesday, February 18, 2025 at 7:00 pm, Civic Center Meeting Hall, City Council Chambers, 1016 S. Livermore Avenue.

LIVERMORE
CALIFORNIA

PLANNING COMMISSION STAFF REPORT **ITEM NO. 3.4**

DATE: May 6, 2025

TO: Chairperson and Members of the Planning Commission

FROM: Steve Riley, Planning Manager

SUBJECT: Approval of the March 18, 2025, Planning Commission Draft Meeting Minutes.

RECOMMENDED ACTION

Staff recommends the Planning Commission approve the draft minutes.

SUMMARY

DISCUSSION

ATTACHMENTS

1. 03-18-2025 Draft Meeting Minutes

Prepared by: Michele Donley
Division Clerk

DRAFT MINUTES

LIVERMORE
CALIFORNIA

PLANNING COMMISSION
MARCH 18, 2025

REGULAR MEETING

1. CALL TO ORDER – The regular meeting of the Planning Commission was called to order by Chairperson Yolanda Fintschenko at 7:00 pm, held in person at 1016 S. Livermore Avenue.

ROLL CALL – Present: Chairperson Yolanda Fintschenko, Vice Chairperson Tracy Kronzak, and Commissioner Jacob Anderson, Commissioner Nadine Horner, Commissioner Charity Steele.

PLEDGE OF ALLEGIANCE

Chairperson Fintschenko led the Pledge of Allegiance.

2. OPEN FORUM

Chairperson Fintschenko opened the public comment period.

There were no speakers, and the public comment period was closed.

3. CONSENT CALENDAR

Chairperson Fintschenko opened the public comment period.

There were no speakers, and the public comment period was closed.

ON THE MOTION OF COMMISSIONER ANDERSON, SECONDED BY VICE CHAIR KRONZAK AND CARRIED ON A 3-0 VOTE, WITH COMMISSIONER HORNER AND COMMISSIONER STEELE ABSTAINING DUE TO THEIR INELIGIBILITY TO VOTE, THE PLANNING COMMISSION APPROVED THE CONSENT CALENDAR:

3.1 Approval of the February 18, 2025 Planning Commission Draft Meeting Minutes.

4. PROJECT REVIEW – NONE

5. PUBLIC HEARINGS

5.1 Hearing to consider a request for a Conditional Use Permit for a restaurant and entertainment venue in an existing Downtown commercial building. In addition to being a restaurant, the business would provide a variety of entertainment options on the weekends including country line dancing, live music, trivia nights, karaoke, mechanical bull riding, and private events. No exterior modifications are proposed.

Recommendation: Staff recommended the Planning Commission:
1. Finding that the project is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301(a), Existing Facilities, which exempts minor interior or exterior alterations, and directing the Planning Manager to file a Notice of Exemption with the Alameda County Clerk.
2. Approving Conditional Use Permit (CUP) 25-001, subject to the attached Conditions of Approval.

Associate Planner Kam Purewal presented the staff report.

Kylene Hill, applicant, discussed the proposed project, including community support, concern around parking and the proposed parking capacity, support from neighbors, and contribution to revitalizing the Downtown.

Chairperson Fintschenko opened the public comment period.

David Bach indicated support for the proposed project.

Jacob Needel, Crossroads, addressed the Commission in support of the proposed project due to the need for additional dance locations.

There were no more speakers, and the public comment period was closed.

In response to Commissioner Anderson, Ms. Hill stated patrons would have to be over 21 years of age for the after-hours. Commissioner Anderson indicated excitement for the proposed project.

Commissioner Steele indicated the questions regarding parking had been resolved, agreed with staff's conclusions and was in favor of bringing the project to Livermore.

Commissioner Horner indicated support for the project

In response to Vice Chair Kronzak, Ms. Hill stated they were attempting to open by the second weekend in June. Vice Chair Kronzak indicated the findings could be made.

Chairperson Fintschenko explained the means of ensuring protection of parking at adjacent businesses.

ON THE MOTION OF VICE CHAIR KRONZAK, SECONDED BY COMMISSIONER ANDERSON AND CARRIED ON A 5-0 VOTE, THE PLANNING COMMISSION ADOPTED THE FOLLOWING RESOLUTIONS:

Resolution 09-25 Finding the Stampede restaurant and entertainment venue exempt from the provisions of the California Environmental Quality Act (CEQA)

Resolution 10-25 Approving Conditional Use Permit (CUP) 25-001 for the Stampede restaurant and entertainment venue project

5.2 Hearing to consider a request for a Conditional Use Permit and Site Plan Design Review to authorize a new AT&T wireless communications facility consisting of nine antennas mounted on a 68-foot-tall light standard and associated ground equipment on Livermore Area Recreation and Park District-owned land located at Max Baer Park.

Recommendation: Staff recommended the Planning Commission:
1. Adopt a resolution finding that the project is exempt under the California Environmental Quality Act (CEQA) Guidelines Section 15303, Class 3, which exempts new construction or conversion of small structures.
2. Adopt a resolution approving Conditional Use Permit (CUP) 24-008 and Site Plan Design Review (SPDR) 24-009, subject to the attached Conditions of Approval
3. Advise the Applicant that the approval is subject to a 15-day appeal period.

Assistant Planner Jennifer Ackerman presented the staff report.

Steve Pro, applicant, explained AT&T's site selection process; and requested approval of the project.

Vice Chair Kronzak confirmed that the Commission could not deny an application that filled a service gap.

In response to Commissioner Anderson, Mr. Pro discussed the proposed construction time frame.

Chairperson Fintschenko opened the public comment period.

There were no speakers, and the public comment period was closed.

Commissioner Anderson thanked AT&T for using existing poles.

ON THE MOTION OF COMMISSIONER ANDERSON, SECONDED BY VICE CHAIR KRONZAK AND CARRIED ON A 5-0 VOTE, THE PLANNING COMMISSION ADOPTED THE FOLLOWING RESOLUTIONS:

Resolution 11-25 Finding that Conditional Use Permit (CUP) 24-008 and Site Plan

Design Review (SPDR) 24-009 are exempt from the provisions of the California Environmental Quality Act

Resolution 12-25 Approving Conditional Use Permit (CUP) 24-008 and Site Plan Design Review (SPDR) 24-009 for a proposed wireless communications facility consisting of nine antennas mounted on a 68-foot-tall light standard and associated ground equipment located at Max Baer Park

5.3 Public Comment on the Notice of Preparation of an Environmental Impact Report for the Pacific and Livermore Townhomes Project (Subdivision 23-004 and Site Plan Design Review 23-006).

Recommendation: Staff recommended the Planning Commission:
Receive public comments regarding the Notice of Preparation (NOP) of an Environmental Impact Report (EIR) for the Pacific and Livermore Townhomes Project for a Subdivision (SUB) 23-004 and Site Plan Design Review (SPDR) 23-006. The Planning Commission will review and make a recommendation regarding the Project and the related Environmental Impact Report at a future public hearing.

Planning Manager Riley explained the purpose to receive comments for inclusion in the EIR.

In response to Vice Chair Kronzak, Planning Manager Riley confirmed that the full entitlements would come to the Planning Commission and City Council.

Assistant Planner Jennifer Ackerman presented the staff report.

Chairperson Fintschenko explained the process for comments received.

In response to Commissioner Anderson, Assistant Planner Ackerman explained the use of Builder's Remedy.

In response to Vice Chair Kronzak, Assistant Planner Ackerman confirmed that Builder's Remedy could be used because the City was not in compliance when the application was filed.

RECESS
Chairperson Fintschenko called a recess at 7:54 pm. The meeting reconvened at 8:00 pm with all Commissioners present.

Chairperson Fintschenko opened the public comment period.

Mike Tootle expressed concern about the loss of privacy due to three story buildings, loss of light, and construction noise.

Lon Overaker expressed concern about the dry-cleaning chemicals, rodents, asbestos, and construction noise.

Adam Thompson expressed concern about removal of the contaminated soil, height of the proposed project, and impact to existing businesses; and suggested the inclusion of retail space.

Cathryn Villasenor encouraged a grocery store rather than residential units and expressed concern about the loss of existing businesses, including the pet store.

Travis Pullen expressed concern about the three-story building taking away his view; zone change; soil contamination; water pollution, privacy; and shade.

Justin Carvacho expressed concern about impacts to privacy and shade, due to the three-story buildings on the northern boundary.

Jeffrey Kaskey discussed the desire for a local, walkable market and suggested the City offer incentives to encourage inclusion of a small market space.

Jason Bezis indicated opposition to the proposed project; and suggested the need to educate the public on the Builder's Remedy, move the three-story units away from existing residents, and consider historical resources, hazardous materials and parking.

Derick Hopkins requested study of traffic and parking impacts; business under apartments; need for a traffic signal on Livermore Avenue; soil contamination abatement plan; and impact on privacy by three stories.

There were no more speakers, and the public comment period was closed.

In response to Commissioner Anderson, Assistant Planner Ackerman indicated 20% of the units would be low income. Planning Manager Riley stated staff would work with the consultant on the economic analysis related to retail. Commissioner Anderson suggested study of the need to travel farther to reach commercial and added VMT; concerns about a food desert; impacts on pedestrian and bike; shade of buildings or landscaping blocking solar, energy consumption in regard to loss of energy from solar due to development; and traffic speeds on Livermore Avenue, with a roundabout as a possible solution. He requested the EIR be published earlier.

Commissioner Steele thanked the public for its input.

Vice Chair Kronzak expressed concern about the Builder's Remedy and asked about past efforts to transform projects into something more palatable. Planning Manager Riley indicated he was not certain about other Remedy Builder projects. Vice Chair Kronzak referenced the Bay Area Air Quality Management District requirements for asbestos and hazardous materials handling. In response to Vice Chair Kronzak, Theresa Wallace, LSA Environmental Consultant, discussed pests in terms of impacts to biological resources, not a threshold as far as hazards. Vice Chair Kronzak suggested creative solutions for CEQA regarding pests, due to rats on the site; and confirmed that the project would not be subject to LOS analysis.

Ms. Wallace stated it would be analyzed under VMT. Vice Chair Kronzak suggested review of the building in comparison to the other buildings in the area; effect of day and nighttime views and substantial light or glare; and noise analysis from pre and post construction.

Chairperson Fintschenko confirmed that the public comment period ended on April 3, 2025; and confirmed that hazards included those to the environment and human health; and that a small market could be considered as an alternative to the project.

Planning Manager Riley reiterated that public comments were due by 5 pm on April 3, 2025.

6. MATTERS FOR CONSIDERATION - NONE

7. MATTERS INITIATED BY PLANNING COMMISSION STAFF

Vice Chair Kronzak confirmed that the Commissioners received the APA membership sign up.

Planning Manager Riley welcomed the new commissioners and announced the upcoming APA Planning Conference in Monterey and opportunity for APA membership.

Chairperson Fintschenko welcomed the new Planning Commissioners.

8. ADJOURNMENT – at 8:47 pm to a Regular Planning Commission Meeting on Tuesday, April 1, 2025 at 7:00 pm, Civic Center Meeting Hall, City Council Chambers, 1016 S. Livermore Avenue.

LIVERMORE
CALIFORNIA

PLANNING COMMISSION STAFF REPORT **ITEM NO. 3.5**

DATE: May 6, 2025

TO: Chairperson and Members of the Planning Commission

FROM: Steve Riley, Planning Manager

SUBJECT: Approval of the April 1, 2025, Planning Commission Draft Meeting Minutes.

RECOMMENDED ACTION

Staff recommends the Planning Commission approve the draft minutes.

SUMMARY

DISCUSSION

ATTACHMENTS

1. 04-01-2025 Draft Meeting Minutes

Prepared by: Michele Donley
Division Clerk

DRAFT MINUTES

LIVERMORE
CALIFORNIA

PLANNING COMMISSION
APRIL 1, 2025

REGULAR MEETING

1. CALL TO ORDER – The regular meeting of the Planning Commission was called to order by Chairperson Yolanda Fintschenko at 7:00 pm, held in person at 1016 S. Livermore Avenue.

ROLL CALL – Present: Chairperson Yolanda Fintschenko, Vice Chairperson Tracy Kronzak, Commissioner Jacob Anderson, Commissioner Nadine Horner, and Commissioner Charity Steele.

PLEDGE OF ALLEGIANCE

Chairperson Fintschenko led the Pledge of Allegiance.

2. OPEN FORUM

Chairperson Fintschenko opened the public comment period.

Connie Kopps questioned the means of ensuring the City and Airport coordinated on Springtown development.

There were no more speakers, and the public comment period was closed.

3. CONSENT CALENDAR - NONE

4. PROJECT REVIEW – NONE

5. PUBLIC HEARINGS

5.1 Hearing to consider a request for a Specific Plan Amendment (SPPA 24-003) for a zone change in the Isabel Neighborhood Specific Plan (INSP) and Development Agreement (DA24-002). The site is located at 3011, 3055 and 3077 Triad Drive. The SPPA would redesignate the project site land use from the current INSP Business Park zone to an INSP Residential Transition zone, which allows 15-25 dwelling units per acre. The DA would vest the land use and project concept plan of approximately 450± multifamily units with a variety of building types, interior street patterns, utilities, driveways, paseos, landscaping, and common park space. Further, the DA establishes the terms and timing of funding contributions to the Social Opportunity Endowment (SOE) and Community Benefit Funds, a plan to

meet the City's inclusionary affordable housing requirements, and the construction of off-site Class IV bike lane improvements along North Canyons Parkway.

Recommendation: Staff recommended the Planning Commission adopt resolutions recommending the City Council:
1. Finding that project is covered by the previously approved 2024 Isabel Crossings Addendum and that none of the events under the California Environmental Quality Act (CEQA) Guidelines section 15162 have occurred and no subsequent Environmental Impact Report (EIR) is required; and find that none of the requirements under CEQA Guidelines section 15164 have occurred and no addendum to the Isabel Neighborhood Specific Plan (INSP) EIR is required, and Direct the Planning Manager to file a Notice of Determination, in accordance with the provisions of the California Environmental Quality Act (CEQA), subject to project approval;
2. Adopt a Resolution approving Specific Plan Amendment (SPPA) 24-003; and
3. Adopt an Ordinance authorizing Development Agreement (DA) 24-002.

Associate Planner Kam Purewal presented the staff report.

David Balducci, Align Real Estate, owner operator, discussed their development experience and involvement in the proposed project; efforts to lease the buildings; and proposed land use change.

Vice Chair Kronzak confirmed that the extension of the timeline was ministerial.

Commissioner Horner discussed the high-level design and expressed hope that the high level would be retained throughout development.

Chairperson Fintschenko opened the public comment period.

There were no speakers, and the public comment period was closed.

Commissioner Anderson concurred with staff's recommendations and requested careful consideration of land use changes; pointed out mislabeling of the design guideline labels; and suggested the eaves be longer for shading, designs match the area and raised crosswalks.

Commissioner Steele concurred with staff's recommendations.

Vice Chair Kronzak concurred with the CEQA analysis, development agreement goals and consistency; and requested use of California native trees.

Chairperson Fintschenko indicated the findings could be made and support for the project.

Principal Planner Ross clarified that extension of Development Agreement terms was not ministerial.

ON THE MOTION OF COMMISSIONER ANDERSON, SECONDED BY VICE CHAIR KRONZAK AND CARRIED ON A 5-0 VOTE, THE PLANNING COMMISSION ADOPTED THE FOLLOWING RESOLUTIONS WITH CORRECTIONS TO TYPOGRAPHICAL CHANGES:

Resolution 13-25 Recommending the City Council find that the project is covered by previously approved CEQA documents and direct the Planning Manager to file a Notice of Determination for the Triad Place Redevelopment Project

Resolution 14-25 Recommending that the City Council adopt an ordinance approving Development Agreement (DA) 24-002, for The Triad Place Redevelopment Project

RECESS
Chairperson Fintschenko called a recess at 7:23 pm. The meeting reconvened at 7:30 pm with all Commissioners present.

6. MATTERS FOR CONSIDERATION

6.1 2045 Comprehensive General Plan Update – Policy Topics

Recommendation: Staff recommends the Planning Commission:
1. Receive a presentation on the Land Use Element, Community Identity Element, and Economic Development Element and consider General Plan Advisory Committee (GPAC) feedback on policy options.
2. Recommend policy topics for City Council consideration and direction.

Principal Planner Ross, Director of Innovation Economic Development Cardwell, and Director of Community Development Smith presented the staff report.

Chairperson Fintschenko opened the public comment period.

Connie Kopps expressed concern about the residents being excluded from initial planning and suggested reconsideration of Springtown; suggested following the Danville Mayor's process of informing the public of the RHNA requirements and obtain public input; and stated the proposal disproportionately impacted one district.

There were no more speakers, and the public comment period was closed.

The Commission reviewed the elements and discussed, questioned and suggested the following:

- Policy Framework for Midtown
  - Connectivity and use by commuters
  - Incorporation of transit

- Revision to the scenic corridor

- Policy Framework for East of Greenville
  - Any additional study of land use east of Greenville should not be a barrier to adoption of the General Plan
  - Timelines for adoption of specific plans
  - Consideration of agricultural and/or work force housing
  - Preservation of open space
  - Potential of study for crisis response center

- Scenic Resources Policies for I-580 Scenic Corridor
  - Retain views of surrounding hills and open space
  - Appreciated the strategic perspective
  - State requirements for residential project and scenic corridor applying to commercial and industrial projects
  - Retention of policies related to grading into the hills and hill preservation
  - Use of development agreement for concessions and community benefits

- Economic Development Example Revisions
  - Potential goal for the policy
  - Misunderstanding of “tourism” and suggestion to include “craft”
  - Definitions of tourism, and experiential economy
  - Potential to include examples, to retain a high-level overview
  - include removing barriers to small businesses in support of missing middle of commercial
  - Move any policies regarding a research university to the innovation section as a means of facilitating growth in the innovation sector

7. MATTERS INITIATED BY PLANNING COMMISSION STAFF – None.

8. ADJOURNMENT – at 8:56 pm to a Regular Planning Commission Meeting on Tuesday, April 15, 2025 at 7:00 pm, Civic Center Meeting Hall, City Council Chambers, 1016 S. Livermore Avenue.

LIVERMORE
CALIFORNIA

PLANNING COMMISSION STAFF REPORT **ITEM NO. 3.6**

DATE: May 6, 2025

TO: Chairperson and Members of the Planning Commission

FROM: Steve Riley, Planning Manager

SUBJECT: Approval of the April 21, 2025 Special City Council and Planning Commission Draft Meeting Minutes.

RECOMMENDED ACTION

Staff recommends the Planning Commission approve the draft minutes.

SUMMARY

DISCUSSION

ATTACHMENTS

1. Joint City Council and Planning Commission Draft Meeting Minutes

Prepared by: Michele Donley
Division Clerk

MINUTES

LIVERMORE
CALIFORNIA

PLANNING COMMISSION
APRIL 21, 2025

CITY COUNCIL-PLANNING COMMISION JOINT MEETING

1. CALL TO ORDER – The meeting of the City Council was called to order by Mayor John Marchand at 6:00 pm, held in person at 1016 S. Livermore Avenue.

ROLL CALL – Present: Mayor John Marchand, Vice Mayor Evan Branning, Council Members Ben Barrientos, Steven Dunbar, and Kristie Wang. Chair Yolanda Fintschenko, Vice Chair Tracy Kronzak, Commissioners Jacob Anderson, Nadine Horner, and Charity Steele.

3. SPECIAL MEETING ITEM

3.1 Biennial Joint City Council and Planning Commission Municipal Authority Training.

Recommendation: Staff recommended the City Council and Planning Commission receive the presentation.

Mayor Marchand opened the public comment period.

John Pytlak provided a comment.

There were no more speakers, and the comment period was closed.

Planning Manager Steve Riley, Senior Planner Jake Potter, City Attorney Jason Alcala, and Assistant City Attorney Katherine Mirassou jointly presented the item.

THE CITY COUNCIL AND PLANNING COMMISSION RECEIVED THE PRESENTATION.

ADJOURNMENT – at 7:06 pm to a Regular Planning Commission Meeting on Thursday, May 6, 2025 at 7:00 pm, Civic Center Meeting Hall, City Council Chambers, 1016 S. Livermore Avenue.

LIVERMORE
CALIFORNIA

PLANNING COMMISSION STAFF REPORT **ITEM NO. 6.1**

DATE: May 6, 2025

TO: Chairperson and Members of the Planning Commission

FROM: Steve Riley, Planning Manager

SUBJECT: Consistency Determination 25-001 to determine the Fiscal Year (FY) 2025-2026 and Fiscal Year 2026-2027 Capital Improvement Plan (CIP) is consistent with the 2003-2025 Livermore General Plan.

RECOMMENDED ACTION

Staff recommends the Planning Commission adopt a resolution finding the proposed Capital Improvement Plan (CIP) for FY 2025-2026 and FY 2026-2027 consistent with Livermore's 2003-2025 General Plan and approving Consistency Determination (CD) 25-001.

SUMMARY

California Government Code Section 65103(c) requires the Livermore Planning Division annually review the City's CIP for consistency with the General Plan. The City adopts a two-year Capital Improvement Budget to coincide with the City's two-year Operating Budget. A mid-cycle review of the CIP is conducted in the off-year and adjusted as needed. The Livermore City Council will hold a budget workshop on May 19, 2025. The Council will consider the 2025-2027 Operating Budget, including the Capital Improvement Budget, on June 9, 2025. The City Council determines which projects and funding sources to include in the budget. The Planning Commission's role is to make a finding that the two-year CIP is consistent with the General Plan. Based on the staff analysis in Attachment 1, staff is recommending the Planning Commission find that the CIP for FY 2025-2026 and FY 2026-2027 is consistent with the 2003 Livermore General Plan.

DISCUSSION

For a complete project description and analysis of General Plan consistency of the FY 2025-2027 CIP, please review the attached staff analysis memo (Attachment 1).

ATTACHMENTS

1. Staff Analysis
2. Resolution - Project

STAFF ANALYSIS

TO:	Chairperson Fintschenko and Members of the Planning Commission
PREPARED BY:	Bageshri Thakar, Department Assistant
REVIEWED BY:	Steve Riley, Planning Manager
DATE:	May 6, 2025
SUBJECT:	Consistency Determination 25-001 to determine the Fiscal Year (FY) 2025-2026 and Fiscal Year 2026-2027 Capital Improvement Plan (CIP) consistent with the 2003 Livermore General Plan.

PROJECT CONTEXT

California Government Code Section 65103(c) requires the Livermore Planning Division bi-annually review the city's Capital Improvement Plan (CIP) for consistency with the General Plan. The city adopts a two-year Capital Improvement Budget to coincide with the city's two-year Operating Budget. A mid-cycle review of the CIP is conducted in the off-year and adjusted as needed. The City Council determines which projects and funding sources to include in the budget. The Planning Commission's role is to make a finding that the two-year CIP is consistent with the General Plan.

PROJECT DESCRIPTION

The city's CIP consists of planned expenditures for construction and improvements to capital facilities. The 2025-2027 two-year CIP consist of 12 project categories:

Airport
Downtown Revitalization
Parks and Beautification
Public Buildings
Public Safety
Storm Drain
Street Maintenance
Traffic Control
Trail, Bike, and Miscellaneous Street
Transportation Infrastructure
Wastewater
Water

The proposed 2025-27 CIP Plan includes over $141 million in appropriations to cover 120 projects over the funded two-year period.

STAFF ANALYSIS

The following analysis provides brief descriptions of the CIP project categories, project types, anticipated costs, and the finding of consistency with 2003 Livermore General Plan goals, objectives, policies, and actions.

Airport Projects

Projects at the Livermore Municipal Airport include a variety of projects to enhance airport safety and operations, rehabilitate existing facilities and promote innovation. The FY 2025-2027 CIP includes:

- Airport Pavement Maintenance
- Airport Airfield Markings Maintenance
- Aviation Innovation Center

Projects proposed total: $210,000 for FY 2025-26, and $60,000 for FY 2026-27.

General Plan Consistency Finding: The proposed Airport Projects include improvements, maintenance, and upgrades to existing facilities that are necessary to maintain safe levels of existing services. Airport projects are derived from the 2014 Airport Layout Plan. The projects will not affect or change the existing scale of airport operations and are consistent with the AIR (Airport) Zoning District adopted by the City Council on March 22, 2010. The projects are consistent with the following 2003 General Plan goals, objectives, and policies of the Circulation and Public Safety elements:

- Goal CIR-9 - Support and protect safe and efficient aviation operations at the Municipal Airport.
- Policy CIR-9.1.P1 - Future development and operations at the Municipal Airport shall be in conformance with an approved Airport zoning district and the Livermore Airport Land Use Compatibility Plan ("ALUCP"), dated August 2012. The overall scale of operations at the Municipal Airport shall not exceed the thresholds listed in the General Plan.
- Goal PS-5 - Minimize risks associated with aircraft operations at the Municipal Airport

Downtown Revitalization Projects

The purpose of Downtown Revitalization Projects is to revitalize and enhance the Downtown economically and aesthetically. Most of the projects involve implementing the Downtown Core Plan, adopted by the City Council in January 2019. Downtown Revitalization Projects include environmental clean-up, parking lots, parking structures, parks and pathways, downtown streetscape improvements, and upgrading streets and utilities. The FY 2025-2027 CIP includes:

- Downtown Sidewalk and Misc. Americans with Disabilities Act (ADA) Improvements & Bluestone Replacement
- Livermore Village Remediation
- Veterans Park
- Flagpole Plaza Improvements
- Livermore Village Infrastructure
- Livermore Village Parking Garage Construction

Projects proposed total: $6,190,000 for FY 2025-26, and $3,450,000 for FY 2026-27.

General Plan Consistency Finding: Downtown Revitalization Projects are consistent with General Plan goals, the Downtown Specific Plan strategies for the revitalization of the Downtown Area, and the Livermore Bicycle, Pedestrian and Trail Active Transportation Plan. The above-listed projects are consistent with and implement the following 2003 General Plan goals, objectives, policies, and actions found in the Community Character, Circulation, Infrastructure and Public Services, Public Safety, and Open Space and Conservation Elements of the Plan.

- Goal CIR-1 - Provide safe, efficient, comfortable, and convenient mobility for all users.
- Objective CIR-1.1 - Plan for Complete Streets that support all transportation systems throughout the City.
- Goal CIR-2 - Promote multi-modal transportation.
- Objective CIR-2.4 - Provide a pedestrian network that encourages walking for transportation and recreation.
- Policy CIR-2.4.P3 - The City shall require development to meet the requirements of the Americans with Disabilities Act to further facilitate the mobility of persons with accessibility needs.
- Goal CIR-10 - Provide adequate safe and convenient short and long-term vehicle and bicycle parking for all land uses in the City.
- Action CIR-10.1.A1 - Encourage, and where possible facilitate, the use of shared parking arrangements to ensure that existing parking is efficiently utilized, especially in the Downtown Area.
- Goal OSC-5 - Develop a full complement of parks and other recreational lands for public use and enjoyment.
- Objective OSC-5.1 - Provide a comprehensive system of parks and recreation facilities in Livermore.
- Policy OSC-5.1.P8 - The City shall coordinate with LARPD to develop adequate neighborhood, community, and other appropriate park space within Livermore to serve foreseeable population increases.
- Objective INF-4.1 - Facilitate the development and maintenance of all utilities at the appropriate levels of service to accommodate the City’s projected growth.
- Objective CC-2.1 Maintain and enhance Livermore’s urban design quality and encourage high-quality design in all new development and redevelopment.
- Objective CC-2.3 - Maintain High Quality Design of Public Facilities.
- Goal CC-3 - Preserve and enhance the City's cultural and historic resources not merely as positive reminders of the past, but also as relevant and unique alternatives for the present and the future – a source of community identity, architecture, and social ecological and economic vitality.
- Goal PS-4 Protect the community from the harmful effects of hazardous materials.
- Objective PS-4.1 Minimize Livermore residents’ exposure to the harmful effects of hazardous materials and waste.
- Policy PS-4.1.P7 - The City shall ensure that new development and redevelopment shall protect the public health and safety through environmental investigations, as required by State and Alameda County regulations, relating to potential hazardous material releases from prior uses and lead and asbestos present in building materials.

The Downtown Revitalization Projects implement Downtown Specific Plan strategies for the Downtown Area that include:

- Strategy 1.c - Focus capital improvements downtown to provide a highly visible demonstration of the City Council's commitment to downtown revitalization.
- Strategy 8 - Revive the role of the First Street and Livermore Avenue intersection as the Heart of the City.
- Strategy 11 - Enhance the convenience of Downtown parking and access. Make it easy for people to come Downtown and to stay there by providing visible, easily accessible public parking throughout the Core.
- Strategy 11.b - Build new public parking lots and structures as new development occurs. A key location for a new parking structure is behind the First Street Shops within the former Lucky's site to serve the Downtown Core.

The Downtown Revitalization Projects also implement the Livermore Bicycle, Pedestrian, & Trails Active Transportation Plan including:

- Goal 1 - Safe and Comprehensive Network – Provide a safe, efficient, and connected bicycle, pedestrian, and trail network that accommodates all users and abilities.
- Policy 1.3 - Build cross town connections for the bicycle, pedestrian, and trail network.
- Policy 1.4 - Improve the pedestrian and bicycle network to and through Downtown Livermore to increase access, safety, and mobility.

Parks and Beautification Projects

Parks and Beautification projects are intended to improve, renovate, and enhance existing City-owned or maintained park areas, public spaces, roadways, walls, and medians. This also includes street landscaping and various beautification projects to city entryways and corridors. The FY 2025-2027 CIP includes:

- Doolan Park Landscape Rehabilitation Project
- LARPD Park Expansion Projects
- Springtown Open Space Improvements
- Springtown Blvd. Median Improvements Near I-580 - Developer Reimbursements
- Railroad and Stanley Blvd. Median Improvements
- Fence Repair West Side Holmes Street - El Camino to Mocho
- Fence Repair East Side Holmes Street - south of Concannon

Projects proposed total: $10,620,000 for FY 2025-26, and $3,750,000 for FY 2026-27.

General Plan Consistency Finding: Projects in the Parks and Beautification category are consistent, overall, with General Plan goals to maintain high standards of urban design, preserve Livermore's natural setting, protect public views and provide a comprehensive park system. The above-listed projects are consistent with and implement the following General Plan goals, objectives, and policies found in the Community Character, Circulation, Open Space and Conservation, and Public Services Elements:

- Objective OSC-5.1 - Provide a comprehensive system of parks and recreation facilities in Livermore.
- Policy OSC-5.1.P1 - Livermore's existing parks shall be maintained and enhanced, as appropriate.
- Policy OSC-5.1.P8 - The City shall coordinate with LARPD to develop adequate neighborhood, community, and other appropriate park space within Livermore to serve foreseeable population increases.
- Goal CC-2 - Maintain high standards of urban design in Livermore.
- Policy CC-2.3.P3 - The City shall adopt public improvement standards to implement improvements of high quality public facilities. Excellence in the appearance of public facilities shall be of utmost importance and consideration.
- Objective CC-2.4 - Preserve and enhance all entry corridors to Livermore.
- Objective CIR-6.1 - Use circulation improvements to enhance Livermore's community character and maintain the quality of life in residential neighborhoods.

Public Building Projects

The city owns, operates, and maintains 20 buildings. Some city buildings provide essential city services (e.g., City Hall, Police Headquarters, Fire Stations), while other buildings provide spaces for community enrichment (e.g., Bankhead Theater, libraries, historical buildings) or directly serve the public (e.g., rental facilities, parking facilities). Public Building projects include maintenance, rehabilitation, and construction of public buildings, such as civic buildings and library facilities. The FY 2025-2027 CIP includes:

- Carpet Replacement for City Buildings
- Uninterruptible Power Supply Replacements at Civic Center
- Fleet Shop Expansion
- 241 North M Street Demolition
- Civic Center Library and Maintenance Building HVAC Improvements
- Civic Center Library Teen Space Improvement
- Multi-Service Center Upgrade
- City Fleet Electrification Phase 2

Proposed projects total: $2,030,000 for FY 2025-26, and $7,800,000 for FY 2026-27.

General Plan Consistency Finding: Public Building Projects are consistent with the overall economic development goal to provide the most efficient and financially sound system of public services to protect the health, safety, and general welfare of the public, and consistent with public safety objectives. Public Building Projects are also consistent with 2022 Climate Action Plan municipal strategies to reduce greenhouse gas emissions from city operations. The above-listed projects are consistent with and implement the following General Plan goals and policies found in the Infrastructure and Public Services, and Economic Development and Fiscal Elements:

- Goal ED-4 - Provide the most efficient and financially sound system of public services commensurate with the highest standards required to protect the health, safety, and general welfare of all persons living and working in the Planning area.

- Policy ED-4.1.P1 - Phased programs for the systematic provision of all public facilities and services shall be in accordance with short-, medium-, and long-range financial plans.
- Policy ED-4.1.P2 - The financial plan for the City shall consist of the capital improvements program, the public services program, and the revenue program necessary to support adequate public services.
- Goal INF-11 Provide sufficient library service to meet the information, cultural and educational needs of the population of Livermore.
- Action INF-11.1.A1 - Maintain or expand City funding of library operations as the City budget allows.
- Objective CLI-1.3 - Support measures that encourage alternative modes of transportation and alternative fuels in order to reduce emissions associated with vehicle travel.
- Objective CLI-1.3.P1 - ALTERNATIVE FUEL VEHICLE INFRASTRUCTURE/PUBLIC – Provide the necessary facilities and infrastructure to encourage the use of City-owned low or zero-emission vehicles such as electric vehicle charging facilities and conveniently locate alternative fueling stations.

The Public Buildings Projects are also consistent with the 2023 Livermore Housing Element:

- Program 3.2.2. Support land dedication and acquisition of properties for conversion or construction of affordable units in opportunity-rich areas to increase the supply of affordable housing to both reduce displacement risk and increase mobility opportunities

The Public Buildings Projects are also consistent with the 2022 Livermore Climate Action Plan:

- Strategy M-3: Electrify the City's vehicle fleet and encourage City employees to utilize alternative transportation and teleworking opportunities.

Public Safety Projects

The goal of the Public Safety projects is to enhance public safety through improvements to Police Department and Livermore/Pleasanton Fire Department facilities, equipment and public safety systems. Public Safety projects within the 2025-2027 CIP cycle include building improvement and upgrade and replacement of equipment necessary to implement General Plan goals related to the provision of high-quality fire and police protection. The FY 2025-2027 CIP includes:

- Automated License Plate Readers
- Fire Station No. 6 on East Avenue Building Improvements
- Police Building Renovations
- Police Department Radio Replacement

Proposed projects total $3,480,000 for FY 2025-26 and $4,475,000 for FY 2026-27.

General Plan Consistency Finding: The above category and listed projects are consistent with and implement the following 2003 General Plan goals, objectives, and policies found in the Infrastructure and Public Services, and the Economic Development and Fiscal Elements.

- Goal INF-5 - Maintain a safe environment in Livermore through enforcement of the law, prevention of crime, and the function of partnerships with the community.
- Objective INF-5.2 - Maintain and improve law enforcement and crime prevention services to keep pace with Livermore's changing population.
- Goal INF-6 - Minimize loss of life and property from fires, medical emergencies and public emergencies.
- Objective INF-6.1 - Plan for ongoing management and development of fire protection services.
- Goal ED-4 - Provide the most efficient and financially sound system of public services commensurate with the highest standards required to protect the health, safety, and general welfare of all persons living and working in the Planning area.

Storm Drain Projects

The city maintains a storm drainage pipe system, flood control system including streams, culverts, detention and retention facilities, and certain channel improvements. Zone 7 is the flood control agency for the Tri-Valley; however, they own and operate only one-third of the total stream systems. The city owns and operates another third while the remaining third is under private ownership. The Storm Drain Projects category includes a variety of projects to address existing drainage problems, maintenance along the arroyos, and storm drain transmission facilities needed by new development. Projects are also needed to meet new requirements in the city's Municipal Regional Stormwater Permit. After major storms, projects are required to repair damage to creeks and other storm drainage system infrastructure. The FY 2025-2027 CIP includes:

- Cottonwood Creek Permanent Repairs Collier Canyon Creek Silt Basin
- Arroyo Las Positas Desilting through Las Positas Golf Course
- Golf Course Damage Repairs
- Storm Drains for Ponding Areas
- 2024 Storm Drain Trash Capture
- Stream Maintenance by Contractors
- Golf Course Clubhouse Parking Lot Drainage Improvements
- Springtown Flood Protection
- Storm Damage Permanent Repair C-G

Proposed projects total: $11,060,000 for FY 2025-26 and $6,992,000 for FY 2026-27.

General Plan Consistency Finding: Storm Drain Projects implement the General Plan goal to collect, store, and dispose storm water by the safest, most sanitary, and financially sound methods, while still maintaining high standards. In addition, storm drain projects meet the intent of the General Plan to comprehensively manage and protect the City's waterways. The above-listed projects implement the following 2003 General Plan goal, objectives, policies, and actions regarding storm water collection found in the Infrastructure and Public Services and Open Space and Conservation Elements:

- Goal INF-3 - Collect, store, and dispose of storm water in ways that are safe, sanitary, environmentally acceptable, and financially sound while maintaining the highest standards required to enhance the quality of life for existing and future residents.
- Objective INF-3.1 - Plan, manage, and develop the City's storm water collection system in a logical, timely and appropriate manner.
- Action INF-3.1.A2 - Prioritize storm drainage improvements recommended in the storm drainage master plan and implement the projects through the City's Capital Improvement Program.
- Policy INF-3.1.P3 - The City shall take all necessary measures to regulate runoff from urban uses to protect the quality of surface and ground water and other resources from detrimental conditions.
- Objective INF-3.3 - Maintain creeks and arroyos in as natural a state as possible, while maintaining the health and safety of residents, providing flood control, preserving habitat and providing recreational use.
- Goal OSC-2 - Conserve Livermore's waterways, tributaries, and associated riparian habitats.

Street Maintenance Projects

Street Maintenance Projects provide for the preservation and maintenance of existing transportation and pedestrian infrastructure throughout the city. The city owns and maintains approximately 310 miles of paved streets. With programmed rehabilitation and preventative maintenance, the street condition will remain at a good level for a longer period avoiding costly reconstruction.

Projects generally encompass roadway reconstruction and widening, street resurfacing, sidewalk repair, ADA access ramps, and median improvements. The FY 2025-2027 CIP includes:

- Bluebell Drive Bridge Repair at Altamont Creek
- Street Resurfacing Airway Blvd and First Street
- Slurry Seal
- Americans with Disabilities Act (ADA) Access Ramps
- Bridge Rehabilitation - Bridge Preventive Maintenance and Seismic evaluation in Local Hazard Mitigation Plan (LHMP)
- Murrieta Road Settlement
- Private Sidewalk Repair Revolving Fund
- Sidewalk Repair
- Street Resurfacing
- North K Street Reconstruction
- Railroad Crossings at Junction and L Street

Proposed projects total: $7,950,000 for FY 2025-26, and $10,320,000 for FY 2026-27.

General Plan Consistency Finding: Street Maintenance Projects implement the General Plan goals and objectives to provide a safe and efficient roadway system and pedestrian network.

The above-listed projects are consistent with the following 2003 General Plan goals, objectives, and policies found in the Circulation Element.

- Objective CIR-1.3 - Make Complete Streets practices a routine part of everyday operations.
- Policy CIR-1.3.P1 - The City shall incorporate Complete Streets into all planning, funding, design, approval, and implementation processes for any construction, reconstruction, retrofit, expansion, maintenance, operations, alteration, or repair of streets
- Goal CIR-4 - Provide a local roadway system for the safe, efficient, and convenient movement of vehicular traffic.
- Objective CIR-4.1 - The City shall provide adequate road linkages throughout Livermore.
- Objective CIR-2.4 - Provide a pedestrian network that encourages walking for transportation and recreation.
- Policy CIR-2.4.P1 - Ensure the safe and convenient movement of pedestrians throughout the City and within neighborhoods.
- Policy CIR-2.4.P3 - The City shall require development to meet the requirements of the Americans with Disabilities Act to further facilitate the mobility of persons with accessibility needs.
- Policy CIR-11.2.P2 - The City shall require and implement improvements at rail grade crossings as rail and vehicular traffic conditions warrant.

Active Transportation Plan Consistency: In addition, the 2018 Active Transportation Plan (ATP) established a set of Guiding Principles, which include coordinating new bicycle and pedestrian facilities with other City sponsored projects to take advantage of economy of scale, including staging, traffic control, materials, and mobilization costs. The recommended Street Maintenance Projects are consistent with this ATP principle and provide an opportunity to continue to expand and upgrade the bicycle and pedestrian network and improve connectivity.

Traffic Control Projects

Traffic control projects in the 2025-2027 Capital Improvement Plan support the safe and efficient movement of vehicles, bicycles, and pedestrians on the City's street network. Projects such as traffic signal installation and modifications, street lighting, signing and striping, pedestrian crossing enhancements, and traffic calming are included in this program. This category involves the maintenance and upgrading of the City's traffic control system, as well as the installation of new signals throughout the City's street network. The FY 2025-2027 CIP includes:

- Street Lighting
- Traffic Signal Modifications
- Miscellaneous Traffic Signing/Striping
- Stanley Blvd at Isabel Ave Connector Ramp Crossing Improvements
- Traffic Calming
- Crosswalk Safety Improvements

- Portola and Sedona Common Traffic Signal Improvements
- Crosswalk Safety Improvements
- Street Lighting
- Traffic Signals
- Transportation Safety Projects

Proposed projects total: $6,129,750 for FY 2025-26, and $3,077,870 for FY 2026-27.

General Plan Consistency Finding: This category implements General Plan goals to provide a safe and efficient roadway system for all users and to maintain relatively free flowing traffic conditions. The above-listed projects are consistent with the following 2003 General Plan goals, objectives, policies, and actions found in the Circulation Element and with intersection improvements listed in the Circulation Element, Figure 5-2, page 5-53.

- Goal CIR-1 - Provide safe, efficient, comfortable, and convenient mobility for all users.
- Objective CIR-1.1 - Plan for Complete Streets that support all transportation systems throughout the City.
- Goal CIR-2 - Promote multi modal transportation.
- Objective CIR-2.3 - Provide a bicycle and trails network.
- Objective CIR-2.4 - Provide a pedestrian network that encourages walking for transportation and recreation.
- Policy CIR-2.4.P1 - The City shall ensure the safe and convenient movement of pedestrians throughout the City and within neighborhoods.
- Objective CIR-3.3 - Minimize local cut-through traffic in residential neighborhoods.
- Policy CIR-3.3.P2 - The City shall consider using traffic calming methods to reduce local cut-through traffic, where appropriate.
- Goal CIR-4 - Provide a local roadway system for the safe, efficient, and convenient movement of vehicular traffic.
- Objective CIR-4.1 - The City shall provide adequate road linkages throughout Livermore.
- Policy CIR-4.1.P1 - The City shall maximize the carrying capacity of major streets by providing a well-coordinated traffic-signal control system, controlling the number of intersections and driveways, limiting residential access points, and requiring sufficient off-street parking.
- Goal CIR-5 - Maintain relatively free-flowing traffic, except where the City has identified intersections or areas of the City that are exempt from the Citywide standard.
- Objective CIR-5.1 - Maintain adequate levels of service for all areas of the City.
- Policy CIR-5.1.P5 - The City shall place highest priority in City annual capital improvement planning and budgeting on feasible improvements to road components where existing traffic flows exceed the acceptable LOS standard.
- Policy CIR-5.1.P6 - The City shall improve traffic flow on the local roadway system to achieve these citywide policies.
- Objective CIR-6.1 - Use circulation improvements to enhance Livermore's community character and maintain the quality of life in residential neighborhoods.

- Action CIR-6.1.A2 - Utilize traffic calming, as appropriate, to control the traffic volume and speed.

Trail, Bike, and Miscellaneous Street Projects

The Active Transportation Plan (ATP) establishes goals, policies, and network recommendations to create a well-connected and safe bicycle and pedestrian system within Livermore. The ATP also includes a framework for implementation of the network through project coordination, phasing, and further study.

Projects in the 2025-27 Capital Improvement Plan will include implementing pedestrian, bicycle and trails facilities identified in the ATP. They include enhancement of trail and bike connections and maintenance leading to schools, parks, residential and commercial areas, and transit routes. The FY 2025-2027 CIP includes:

- Arroyo Las Positas Trail – Walmart
- South Livermore Valley Trail T-10 Extension Project
- Arroyo Road Path
- Las Colinas Trail (T-6, Segment E1)
- Arroyo Road Trail (T-13, Segment B)
- 2022 ATP Bike Lane Improvements
- East Avenue Corridor ATP Implementation
- Isabel Pedestrian Bridge and Trail
- Arroyo Mocho Trail at Concannon Blvd

Proposed projects total: $1,815,000 for FY 2025-26, and $8,740,000 for FY 2026-27.

General Plan Consistency Finding: The above category is consistent with the General Plan goal to promote alternative transportation modes. The above-listed projects implement the following 2003 General Plan goals, objectives, and policies found in the Circulation, Open Space and Conservation, and Climate Change Elements.

- Goal CIR-1 - Provide safe, efficient, comfortable, and convenient mobility for all users.
- Objective CIR-1.1 - Plan for Complete Streets that support all transportation systems throughout the City.
- Goal CIR-2 - Promote multi modal transportation.
- Objective CIR-2.3 - Provide a bicycle and trails network.
- Policy CIR-2.3.P1 - Develop a comprehensive bikeway and trails system as a viable alternative to the automobile for all trip purposes in order to maximize the number of daily trips made by nonmotorized means for residents of all abilities.
- Policy CIR-2.3.P2 - Consider bicycle, pedestrian, and equestrian access in all aspects of City Planning and coordinate with other agencies to improve nonmotorized access within the City of Livermore and to surrounding regional areas and facilities.
- Policy CIR-2.3.P3 - Provide related facilities and services necessary to allow bicycle and pedestrian travel to assume a significant role as a local alternative mode of transportation.

- Policy CIR-2.3.P5 - Maintain all roadways and multi-use trails so that they provide safe and comfortable bicycling, walking and equestrian conditions.
- Policy CIR-2.3.A2 - Develop bicycle routes and multi-use trails in accordance with the City's adopted master plan for a bikeway and trails network, as shown in Figure 5-4.
- Action CIR-2.3.A4 - Special attention shall be made to make freeway interchanges, overpasses, and other grade separations safe for bicycles and pedestrians.
- Policy OSC-5.4.P1 - The City shall continue to encourage public access to and maintenance of existing recreational trails in the Planning Area.
- Objective CLI-1.3 - Support measures that encourage alternative modes of transportation and alternative fuels in order to reduce emissions associated with vehicle travel.

Active Transportation Plan Consistency: In addition, the projects identified in this category are consisted with the following 2018 Active Transportation Plan Goals and Policies:

- Goal 1 - Provide a safe, efficient, and connected bicycle, pedestrian, and trail network that accommodates all users and abilities.
- Policy 1.1 - Develop and implement projects and improvements to address bicycle and pedestrian safety.
- Policy 1.2 - Connect neighborhoods, schools, workplaces, transit facilities, and other destinations with on-street facilities and/or separated trails.
- Policy 1.3 - Build cross town connections for the bicycle, pedestrian, and trail network.
- Policy 1.5 - Establish safe crossings of barriers including high volume roadways, freeway interchanges, railroads, arroyos, and other barriers.
- Policy 1.6 - Coordinate with other agencies, adjacent jurisdictions, and regional partners to plan and implement projects that improve Livermore's network and connections to the region.
- Goal 2 - Build a well-designed and comfortable bicycle, pedestrian, and trail network with support services and facilities to serve users of all ages and abilities.
- Goal 3 - Maintain roadways, sidewalks, and multi-use trails to provide safe and comfortable active transportation conditions for all users and abilities.
- Goal 4 – Maintain the active transportation network.

Transportation Infrastructure Projects

Transportation Infrastructure Projects include a variety of projects to address transportation mobility and capacity needs, relieve traffic congestion, meet the City's adopted roadway level of service standards, meet air quality and energy efficiency standards and to ensure safe travel ways. Transportation Infrastructure Projects include major street improvements, such as road widening, reconstruction, and realignment projects, new road construction, interchange projects, and median improvements. The FY 2025-2027 CIP includes:

- Isabel Ave./ I-580 Interchange
- Vasco Rd./ I-580 Interchange
- North Canyons Pkwy. / Dublin Blvd. Connection
- El Charro Specific Plan Infrastructure

- Vasco Road Widening
- Intersection Improvements at Jack London Blvd./ Isabel Ave.
- Arroyo Las Positas at Heather Lane Bridge
- Airway Blvd Culvert Replacement
- Valley Link Station Areas

Proposed projects total: $1,970,000 for FY 2025-26, and $5,020,000 for FY 2026-27.

General Plan Consistency Finding: Transportation Infrastructure Projects are consistent with the overall General Plan circulation goals to provide a safe, efficient, and convenient local roadway system and ensure a well-coordinated regional system. The above-listed projects implement the following 2003 General Plan goals, objectives, policies, and actions found in the Circulation Element.

- Goal CIR-2 - Promote multi-modal transportation.
- Objective CIR-2.1 - Provide viable alternatives to single-occupant vehicle travel.
- Policy CIR-2.1.P4 - The City shall provide neighborhoods and commercial areas with adequate freeway access.
- Action CIR-2-1.A4 - Preserve right-of-way adjacent to I-580 to allow widening for HOV lanes, auxiliary lanes, and BART (Now Valley Link).
- Goal CIR-4 - Provide a local roadway system for the safe, efficient, and convenient movement of vehicular traffic.
- Objective CIR-4.1 - The City shall provide adequate road linkages throughout Livermore.
- Policy CIR-4.1.P1 - The City shall maximize the carrying capacity of major streets by providing a well-coordinated traffic-signal control system, controlling the number of intersections and driveways, limiting residential access points, and requiring sufficient off-street parking.
- Goal CIR-5 - Maintain relatively free-flowing traffic, except where the City has identified intersections or areas of the City that are exempt from the Citywide standard.
- Objective CIR-5.1 - Maintain adequate levels of service for all areas of the City.
- Goal CIR-8 - Ensure a well-coordinated regional transportation system that serves Livermore and the surrounding region.
- Objective CIR-8.1 - Coordinate Livermore's transportation policies and programs with other jurisdictions in the region.

Active Transportation Plan Consistency: In addition, the 2018 ATP establishes a set of Guiding Principles, which include coordinating new bicycle and pedestrian facilities with other City sponsored projects to take advantage of economy of scale, including staging, traffic control, materials, and mobilization costs. The recommended Transportation Infrastructure Projects are consistent with this ATP principle and provide an opportunity to continue to expand and upgrade the bicycle and pedestrian network and improve connectivity.

Wastewater Projects

The city operates a sewer collection system that conveys sewage across the entire City to the Water Reclamation Plant (WRP), at the western end of the city where sewage is treated. Effluent from the Water Reclamation Plant is discharged to the regional system where it is pumped to the west and discharged in the bay. A portion of wastewater at the Water Reclamation Plant is treated further to produce recycled water which is used for irrigation and other non-potable applications in the northwest portion of the city. Wastewater projects include replacing, upsizing, or extending sewer lines; improvements at the sewer lift stations; rehabilitation and process improvements; and building upgrades at the Water Reclamation Plant. This categoryinclude a variety of projects to enhance the capacity and to rehabilitate the City's sewer collection and wastewater treatment system . The FY 2025-2027 CIP includes:

- Springtown Trunkline Replacement
- WRP Primary and Secondary Treatment Improvements
- Annual Sanitary Sewer-line Replacements (various locations)
- WRP UV Treatment System Replacement
- WRP SCADA Server & Network Upgrade
- Sewer Replacement
- WRP Primary & Secondary Treatment Improvements Phase II
- WRP SCADA PLC Controls Upgrade
- South Livermore Sewer Extension
- WRP Digester Heating Loop Replacement
- WRP Occupied Building Repairs – Administration
- WRP Occupied Building Repairs – Maintenance
- WRP RW Fill Station Project
- WRP Waste Oil Tank Removal

Proposed projects total: $17,547,000 for FY 2025-26, and $13,675,000 for FY 2026-27.

General Plan Consistency Finding: Overall, the above-listed projects further the General Plan Goals and Objectives to collect, treat, and dispose wastewater in safe, sanitary, and financially sound ways, and to plan and manage wastewater collection in a timely and appropriate manner. The above-listed wastewater projects implement the following 2003 General Plan goals, objectives, policies, and actions found in the Infrastructure and Public Services.

- Goal INF-2 - Collect, treat and dispose of wastewater in ways that are safe, sanitary, environmentally acceptable and financially sound while maintaining the highest standards required to enhance the quality of life for existing and future residents.
- Objective INF-2.1 - Plan, manage, and develop wastewater collection, treatment and disposal systems in a logical, timely and appropriate manner.
- Policy INF-2.1.P4 - The City shall implement a wastewater disposal master plan designed to provide for disposal of peak wet weather flows anticipated under buildout of the General Plan.
- Policy INF-2.1.P12 - The City of Livermore shall pursue the implementation of Water Reclamation Plant capacity improvements necessary to accommodate the peak hour wet weather flows anticipated under buildout of the General Plan.

- Action INF-2.1.A1 - Prepare a master plan for sewer and update as needed, to identify current deficiencies and quantify needs based on development patterns established in the General Plan.

Water Projects

The City of Livermore is the water retailer in the northwest, northeast, and east portions of the city. (The central and southern parts of the city are served by a private water purveyor, the California Water Service Company, and the Lawrence National Laboratory obtains water from the Hetch Hetchy Water System). Zone 7 Water Agency supplies water to the City of Livermore water system through metered turnout facilities. The city system contains pump stations that lifts the water into city reservoirs. Water is conveyed to customers through the water pipeline system. The FY 2025-2027 CIP includes:

- Airway Lift Station Improvements
- Springtown Water Service Replacements

Proposed projects total is $1,950,000 for FY 2025-26 and $3,200,000 for FY 2026-2027.

General Plan Consistency Finding: Overall, the above-listed projects further the General Plan goals and objectives to provide sufficient water supplies and facilities to serve the City in the most efficient and financially sound manner. The above-listed water projects implement the following 2003 General Plan goals and objectives found in the Infrastructure and Public Services Element.

- Goal INF-1 - Provide sufficient water supplies and facilities to serve the City in the most efficient and financially sound manner, while maintaining the highest. standards required to enhance the quality of life for existing and future residents.
- Objective INF-1.1 - Plan, manage and develop the public water treatment, storage, and distributions systems in a logical, timely and appropriate manner.

ENVIRONMENTAL DETERMINATION

A Consistency Determination for the capital improvement plan does not constitute a project for the purposes of the California Environmental Quality Act (CEQA) per section 21065 of the California Environmental Quality Act and CEQA Guidelines. Therefore, no environmental review under CEQA is required.

IN THE PLANNING COMMISSION OF THE CITY OF LIVERMORE, CALIFORNIA

A RESOLUTION FINDING THE FISCAL YEAR 2025-2026 AND FISCAL YEAR 2026-2027 CAPITAL IMPROVEMENT PLAN CONSISTENT WITH THE 2003 LIVERMORE GENERAL PLAN AND APPROVING CONSISTENCY DETERMINATION (CD) 25-001

The City initiated application Consistency Determination (CD) 25-001 to determine if the FY 2025-2026 and FY 2026-2027 Capital Improvement Plan is consistent with the 2003 General Plan.

The Planning Commission, as the City's planning agency, is required by Government Code Section 65103(c) to annually review the City's Capital Improvement Plan (CIP) for consistency with the general plan ("Project").

A Consistency Determination for the Capital Improvement Plan does not constitute a project for the purposes of the California Environmental Quality Act (CEQA) per section 21065 of the California Environmental Quality Act and the CEQA Guidelines. Therefore, no environmental review under CEQA is required.

On May 6, 2025, the Planning Commission held a duly noticed public meeting to consider the Project, staff recommendations, all public comments and testimony, and findings.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Livermore that prior to taking action on the Project, and at a properly noticed public meeting, the Planning Commission reviewed written and oral staff reports, took testimony, and received into the record all pertinent documents related to the Project (collectively, the "Record Evidence"). The Planning Commission's determination is based on the Record Evidence, which is incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED, with respect to the Consistency Determination 25-001 application, the Planning Commission finds based upon the information presented:

1. All projects in the proposed FY 2025-2027 CIP are consistent with the 2003 Livermore General Plan goals, objectives, policies, and actions referenced below.

Response:

1. Airport

- Goal CIR-9 - Support and protect safe and efficient aviation operations at the Municipal Airport.

- Policy CIR-9.1.P1 - Future development and operations at the Municipal Airport shall be in conformance with an approved Airport zoning district and the Livermore Airport Land Use Compatibility Plan ("ALUCP"), dated August 2012. The overall scale of operations at the Municipal Airport shall not exceed the thresholds listed in the General Plan.
- Goal PS-5 - Minimize risks associated with aircraft operations at the Municipal Airport.

2. Downtown Revitalization Project

- Goal CIR-1 - Provide safe, efficient, comfortable, and convenient mobility for all users.
- Objective CIR-1.1 - Plan for Complete Streets that support all transportation systems throughout the City.
- Goal CIR-2 - Promote multi-modal transportation.
- Objective CIR-2.4 - Provide a pedestrian network that encourages walking for transportation and recreation.
- Policy CIR-2.4.P3 - The City shall require development to meet the requirements of the Americans with Disabilities Act to further facilitate the mobility of persons with accessibility needs.
- Goal CIR-10 - Provide adequate safe and convenient short and long-term vehicle and bicycle parking for all land uses in the City.
- Action CIR-10.1.A1 - Encourage, and where possible facilitate, the use of shared parking arrangements to ensure that existing parking is efficiently utilized, especially in the Downtown Area.
- Goal OSC-5 - Develop a full complement of parks and other recreational lands for public use and enjoyment.
- Objective OSC-5.1 - Provide a comprehensive system of parks and recreation facilities in Livermore.
- Policy OSC-5.1.P8 - The City shall coordinate with LARPD to develop adequate neighborhood, community, and other appropriate park space within Livermore to serve foreseeable population increases.
- Objective INF-4.1 - Facilitate the development and maintenance of all utilities at the appropriate levels of service to accommodate the City’s projected growth.
- Objective CC-2.1 - Maintain and enhance Livermore’s urban design quality and encourage high-quality design in all new development and redevelopment.

- Action CC-2.1.A5 - Continue to implement an attractive, coordinated system of “street furniture,” including fire hydrants, litter containers, newspaper vending machines, paving patterns, planters, signposts, traffic signals, benches, and light standards.
- Objective CC-2.3 - Maintain High Quality Design of Public Facilities.
- Goal CC-3 - Preserve and enhance the City's cultural and historic resources not merely as positive reminders of the past, but also as relevant and unique alternatives for the present and the future – a source of community identity, architecture, and social ecological and economic vitality.
- Goal PS-4 - Protect the community from the harmful effects of hazardous materials.
- Objective PS - 4.1 Minimize Livermore residents’ exposure to the harmful effects of hazardous materials and waste.
- Policy PS-4.1.P7 - The City shall ensure that new development and redevelopment shall protect the public health and safety through environmental investigations, as required by State and Alameda County regulations, relating to potential hazardous material releases from prior uses and lead and asbestos present in building materials.

3. Parks and Beautification Projects

- Objective OSC-5.1 - Provide a comprehensive system of parks and recreation facilities in Livermore.
- Policy OSC-5.1.P1 - Livermore’s existing parks shall be maintained and enhanced, as appropriate.
- Policy OSC-5.1.P8 - The City shall coordinate with LARPD to develop adequate neighborhood, community, and other appropriate park space within Livermore to serve foreseeable population increases.
- Goal CC-2 - Maintain high standards of urban design in Livermore.
- Policy CC-2.3.P3 - The City shall adopt public improvement standards to implement improvements of high quality public facilities. Excellence in the appearance of public facilities shall be of utmost importance and consideration.
- Objective CC-2.4 - Preserve and enhance all entry corridors to Livermore.
- Objective CIR-6.1 - Use circulation improvements to enhance Livermore's community character and maintain the quality of life in residential neighborhoods.

4. Public Building Projects

- Goal ED-4 - Provide the most efficient and financially sound system of public services commensurate with the highest standards required to protect the health, safety, and general welfare of all persons living and working in the Planning area.
- Policy ED-4.1.P1- Phased programs for the systematic provision of all public facilities and services shall be in accordance with short-, medium-, and long-range financial plans.
- Policy ED-4.1.P2 - The financial plan for the City shall consist of the capital improvements program, the public services program, and the revenue program necessary to support adequate public services.
- Goal INF-11 - Provide sufficient library service to meet the information, cultural and educational needs of the population of Livermore.
- Action INF-11.1.A1 - Maintain or expand City funding of library operations as the City budget allows.
- Objective CLI-1.3 - Support measures that encourage alternative modes of transportation and alternative fuels in order to reduce emissions associated with vehicle travel.
- Objective CLI-1.3.P1 - ALTERNATIVE FUEL VEHICLE INFRASTRUCTURE/PUBLIC – Provide the necessary facilities and infrastructure to encourage the use of City-owned low or zero-emission vehicles such as electric vehicle charging facilities and conveniently locate alternative fueling stations.
- Program 3.2.2 - Support land dedication and acquisition of properties for conversion or construction of affordable units in opportunity-rich areas to increase the supply of affordable housing to both reduce displacement risk and increase mobility opportunities.

5. Public Safety Projects

- Goal INF-5 - Maintain a safe environment in Livermore through enforcement of the law, prevention of crime, and the function of partnerships with the community.
- Objective INF-5.2- Maintain and improve law enforcement and crime prevention services to keep pace with Livermore's changing population.
- Goal INF-6 - Minimize loss of life and property from fires, medical emergencies and public emergencies.
- Objective INF-6.1 - Plan for ongoing management and development of fire protection services.
- Goal ED-4 - Provide the most efficient and financially sound system of public services commensurate with the highest standards required to protect the health, safety, and general welfare of all persons living and working in the Planning area.

6. Storm Drain Projects

- Goal INF-3 - Collect, store, and dispose of storm water in ways that are safe, sanitary, environmentally acceptable, and financially sound while maintaining the highest standards required to enhance the quality of life for existing and future residents.
- Objective INF-3.1 - Plan, manage, and develop the City's storm water collection system in a logical, timely and appropriate manner.
- Action INF-3.1.A2 - Prioritize storm drainage improvements recommended in the storm drainage master plan and implement the projects through the City's Capital Improvement Program.
- Policy INF-3.1.P3 - The City shall take all necessary measures to regulate runoff from urban uses to protect the quality of surface and ground water and other resources from detrimental conditions.
- Objective INF-3.3 - Maintain creeks and arroyos in as natural a state as possible, while maintaining the health and safety of residents, providing flood control, preserving habitat and providing recreational use.
- Goal OSC-2 - Conserve Livermore's waterways, tributaries, and associated riparian habitats.

7. Street Maintenance Projects

- Objective CIR-1.3 - Make Complete Streets practices a routine part of everyday operations.
- Policy CIR-1.3.P1 - The City shall incorporate Complete Streets into all planning, funding, design, approval, and implementation processes for any construction, reconstruction, retrofit, expansion, maintenance, operations, alteration, or repair of streets.
- Goal CIR-4 - Provide a local roadway system for the safe, efficient, and convenient movement of vehicular traffic.
- Objective CIR-4.1 - The City shall provide adequate road linkages throughout Livermore.
- Objective CIR-2.4 - Provide a pedestrian network that encourages walking for transportation and recreation.
- Policy CIR-2.4.P1 - Ensure the safe and convenient movement of pedestrians throughout the City and within neighborhoods.
- Policy CIR-2.4.P3 - The City shall require development to meet the requirements of the Americans with Disabilities Act to further facilitate the mobility of persons with accessibility needs.

- Policy CIR-11.2.P2 - The City shall require and implement improvements at rail grade crossings as rail and vehicular traffic conditions warrant.

8. Traffic Control Projects

    - Goal CIR-1 - Provide safe, efficient, comfortable, and convenient mobility for all users.
    - Objective CIR-1.1 - Plan for Complete Streets that support all transportation systems throughout the City.
    - Goal CIR-2 - Promote multi modal transportation.
    - Objective CIR-2.3 - Provide a bicycle and trails network.
    - Objective CIR-2.4 - Provide a pedestrian network that encourages walking for transportation and recreation.
    - Policy CIR-2.4.P1 - The City shall ensure the safe and convenient movement of pedestrians throughout the City and within neighborhoods.
    - Objective CIR-3.3 - Minimize local cut-through traffic in residential neighborhoods.
    - Policy CIR-3.3.P2 - The City shall consider using traffic calming methods to reduce local cut-through traffic, where appropriate.
    - Goal CIR-4 - Provide a local roadway system for the safe, efficient, and convenient movement of vehicular traffic.
    - Objective CIR-4.1 - The City shall provide adequate road linkages throughout Livermore.
    - Policy CIR-4.1.P1 - The City shall maximize the carrying capacity of major streets by providing a well-coordinated traffic-signal control system, controlling the number of intersections and driveways, limiting residential access points, and requiring sufficient off-street parking.
    - Goal CIR-5 - Maintain relatively free-flowing traffic, except where the City has identified intersections or areas of the City that are exempt from the Citywide standard.
    - Objective CIR-5.1 - Maintain adequate levels of service for all areas of the City.
    - Policy CIR-5.1.P5 - The City shall place highest priority in City annual capital improvement planning and budgeting on feasible improvements to road components where existing traffic flows exceed the acceptable LOS standard.
    - Policy CIR-5.1.P6 - The City shall improve traffic flow on the local roadway system to achieve these citywide policies.

- Objective CIR-6.1 - Use circulation improvements to enhance Livermore's community character and maintain the quality of life in residential neighborhoods.
- Action CIR-6.1.A2 - Utilize traffic calming, as appropriate, to control the traffic volume and speed.

9. Trail, Bike, and Miscellaneous Street Projects

- Goal CIR-1 - Provide safe, efficient, comfortable, and convenient mobility for all users.
- Objective CIR-1.1 - Plan for Complete Streets that support all transportation systems throughout the City.
- Goal CIR-2 - Promote multi modal transportation.
- Objective CIR-2.3 - Provide a bicycle and trails network.
- Policy CIR-2.3.P1 - Develop a comprehensive bikeway and trails system as a viable alternative to the automobile for all trip purposes in order to maximize the number of daily trips made by nonmotorized means for residents of all abilities.
- Policy CIR-2.3.P2 - Consider bicycle, pedestrian, and equestrian access in all aspects of City Planning and coordinate with other agencies to improve nonmotorized access within the City of Livermore and to surrounding regional areas and facilities.
- Policy CIR-2.3.P3 - Provide related facilities and services necessary to allow bicycle and pedestrian travel to assume a significant role as a local alternative mode of transportation.
- Policy CIR-2.3.P5 - Maintain all roadways and multi-use trails so that they provide safe and comfortable bicycling, walking and equestrian conditions.
- Policy CIR-2.3.A2 - Develop bicycle routes and multi-use trails in accordance with the City's adopted master plan for a bikeway and trails network, as shown in Figure 5-4.
- Action CIR-2.3.A4 - Special attention shall be made to make freeway interchanges, overpasses, and other grade separations safe for bicycles and pedestrians.
- Policy OSC-5.4.P1 - The City shall continue to encourage public access to and maintenance of existing recreational trails in the Planning Area.
- Objective CLl-1.3 - Support measures that encourage alternative modes of transportation and alternative fuels in order to reduce emissions associated with vehicle travel.

10. Transportation Infrastructure Projects

- Goal CIR-2 - Promote multi-modal transportation.
- Objective CIR-2.1 - Provide viable alternatives to single-occupant vehicle travel.
- Policy CIR-2.1.P4 - The City shall provide neighborhoods and commercial areas with adequate freeway access.
- Action CIR-2-1.A4 - Preserve right-of-way adjacent to I-580 to allow widening for HOV lanes, auxiliary lanes, and BART (Now Valley Link).
- Goal CIR-4 - Provide a local roadway system for the safe, efficient, and convenient movement of vehicular traffic.
- Objective CIR-4.1 - The City shall provide adequate road linkages throughout Livermore.
- Policy CIR-4.1.P1 - The City shall maximize the carrying capacity of major streets by providing a well-coordinated traffic-signal control system, controlling the number of intersections and driveways, limiting residential access points, and requiring sufficient off-street parking.
- Goal CIR-5 - Maintain relatively free-flowing traffic, except where the City has identified intersections or areas of the City that are exempt from the Citywide standard.
- Objective CIR-5.1 - Maintain adequate levels of service for all areas of the City.
- Goal CIR-8 - Ensure a well-coordinated regional transportation system that serves Livermore and the surrounding region.
- Objective CIR-8.1 - Coordinate Livermore's transportation policies and programs with other jurisdictions in the region.

11. Wastewater Projects

- Goal INF-2 - Collect, treat and dispose of wastewater in ways that are safe, sanitary, environmentally acceptable and financially sound while maintaining the highest standards required to enhance the quality of life for existing and future residents.
- Objective INF-2.1 - Plan, manage, and develop wastewater collection, treatment and disposal systems in a logical, timely and appropriate manner.
- Policy INF-2.1.P4 - The City shall implement a wastewater disposal master plan designed to provide for disposal of peak wet weather flows anticipated under buildout of the General Plan.
- Policy INF-2.1.P12 - The City of Livermore shall pursue the implementation of Water Reclamation Plant capacity improvements necessary to accommodate the peak hour wet weather flows anticipated under buildout of the General Plan.

- Action INF-2.1.A1 - Prepare a master plan for sewer and update as needed, to identify current deficiencies and quantify needs based on development patterns established in the General Plan.

12. Water Projects

- Goal INF-1 - Provide sufficient water supplies and facilities to serve the City in the most efficient and financially sound manner, while maintaining the highest. standards required to enhance the quality of life for existing and future residents.
- Objective INF-1.1 - Plan, manage and develop the public water treatment, storage, and distributions systems in a logical, timely and appropriate manner.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Livermore has considered the findings set forth above and adopts these findings as part of this resolution. Based upon the Planning Commission's independent review of the Record Evidence and considerations, the Planning Commission finds the FY 2025-2026 and FY 2026-2027 Capital Improvement Plan is consistent with Livermore's General Plan and hereby approves Consistency Determination 25-001.

The documents that constitute the record of proceedings upon which this decision is based can be found in the Community Development Department 1052 S. Livermore Avenue, in Livermore, California.

The Planning Commission's decision is subject to a 15-day appeal period in accordance with Livermore Development Code Chapter 9.15.

On the motion by Commissioner _____ , seconded by Commissioner _____, the foregoing Resolution was adopted at the Planning Commission meeting of May 6, 2025, by the following vote:

AYES:
NOES:
ABSENT:

Yoland Fintschenko, Chairperson

by Steve Riley, Planning Manager
Secretary to the Planning Commission

LIVERMORE
CALIFORNIA

PLANNING COMMISSION STAFF REPORT **ITEM NO. 6.2**

DATE: May 6, 2025

TO: Chairperson and Members of the Planning Commission

FROM: Steve Riley, Planning Manager

SUBJECT: Draft framework for the Comprehensive Housing Update to the Livermore Development Code and Citywide Objective Design Standards.

RECOMMENDED ACTION

Staff recommends the Planning Commission receive the report and provide discussion and direction on the following:

1. The areas of local discretion afforded in State Housing Law;
2. The proposed Development Agreement pathways for affordable housing and design;
3. The proposed review authority framework for permit streamlining;
4. The applicability of the Objective Design Standards; and
5. The proposed Objective Design Standard architectural styles, building forms, and frontage types

SUMMARY

Staff is conducting a comprehensive update of the Livermore Development Code to incorporate various state housing laws, pertaining to various types of housing in the City, and to establish citywide Objective Design Standards that apply to streamlined residential and mixed-use projects.

This project will implement the City's General Plan Housing Element and specifically produce:

- Comprehensive Code updates to bring the Livermore Development Code into full compliance with state housing law;
- New Livermore Objective Design Standards to supplement the City’s existing objective and subjective residential design criteria, and ensure full compliance with Senate Bills 35 and 330; and,
- A new housing chapter in the Development Code ("Part 11 Housing") pertaining to all forms of housing in Livermore.

Staff is also proposing additional housing-related updates to the Development Code, not required by State law, pertaining to the provision of affordable housing and project review streamlining, in support of Livermore's General Plan Housing Element.

This project is being partially funded by a California Department of Housing and Community Development (HCD) grant of approximately $100,000 through the Local Early Action Planning (LEAP) program.

DISCUSSION

Background

The State of California has recognized the high costs of housing in California, where California residents cannot afford suitable housing, and has determined California is in a housing crisis. The state estimates California cities and counties must plan for over 300,000 homes annually, but have only permitted about a third of that each year. In order to address the shortfall, the state has taken an increasingly active role in legislating the local housing permitting process. Although California has had a range of state housing requirements for decades, beginning in 2015, the state began issuing a series of regulations and passing a range of new laws aimed at reducing barriers to housing production. Over the past five years, the state has passed over 100 new housing laws that impact local governments.

In 2023, in conformance with state housing laws, the City Council adopted Livermore's 2023-2031 Housing Element. The Housing Element contains a series of policies that seek to implement and codify state housing law, further production of all housing types, streamline the housing permit review process, establish Objective Design Standards, and update the Livermore Development Code. In 2023, the City Council also authorized staff to enter into an agreement with a legal consultant, Shute, Mihaly & Weinberger, to assist in updating the City's codes and design standards to conform to state law.

Staff has also worked with an outside volunteer design committee made up of local architects, urban designers, and planners to develop the Objective Design Standards.

Livermore's Design Standards and Guidelines were adopted in 2004, and the Development Code was last comprehensively updated in 2010, prior to the state's adoption of new housing laws and prior to Livermore's 2023-2031 Housing Element. Therefore, staff is proposing: 1) a comprehensive Development Code update that would codify each of the new housing laws and bring the Development Code into full compliance with state requirements; and 2) new Citywide Objective Design Standards for streamlined housing and mixed-use development projects.

Comprehensive Development Code Update

The Comprehensive Development Code update would ensure Livermore's local standards comply with state laws, are consistent with the Livermore Housing Element, and provide certainty for staff, developers, and the public. The update would also clarify the development process for a range of different project types, and allow the City to exercise local discretion in key areas, as described below. The update contains four primary components: compliance with state laws, updates to Livermore's Inclusionary Affordable Housing Ordinance, permit streamlining, and a variety of other consistency cleanups.

State Law Compliance and Local Discretion

The proposed comprehensive Development Code update would create a new housing chapter

implementing the following State laws. In general, the City is required to implement state law as written, with a few areas of discretion as identified below in this section.

- Permit Streamlining Act (Gov't Code § 65920 et seq.)
- Housing Accountability Act (Gov't Code § 65589.5 and 65589.6)
- Housing Crisis Act (SB 330)
- Accessory Dwelling Units (Gov't Code § 66310 through § 66342, and AB 345, AB 3182, AB 68, AB 881, SB 13, AB 587, AB 670, AB 671, AB 2221, and SB 897)
- Density Bonus Law (Gov't Code § 65915 – 65918)
- Two Unit Residential Development and Urban Lot Splits (Gov't Code § 65852.21 and § 66411.7 and SB 9)
- Multifamily/Mixed Use in Residential Zoning Districts (SB35/423)
- Multifamily/Mixed Use in Non-Residential Zoning Districts (AB 2011)
- Supportive Housing (Gov't Code §§ 65650 through 65656 and AB 2162)
- Affordable Housing on Faith and Higher Education (Gov't Code § 65913.16 and SB 4)
- Adaptive Reuse (Gov't Code § 65913.12 and AB 1490)
- Low Barrier Navigation Centers (Gov't Code §§ 65660 through 65666)
- Emergency Shelters (Gov't Code § 65583)
- Agricultural Employee Housing (Health and Safety Code §17021.6 and 17021.8)
- Residential Development on Non-Residential Properties (Gov't Code § 65852.24 and SB 6)
- Mobile Homes and Mobile Home Parks (Health and Safety Code §§ 18300 through 18307)
- Streamlined Review in Non-Residential Zoning Districts (Gov't Code § 65912.100 through § 65912.130)
- Streamlined Review in Residential Zoning Districts (Gov't Code § 65913.4)
- Streamlined Review of Eligible Subdivisions (Gov't Code § 65852.28, § 65913.4.5, and § 66499.41)
- Mixed-Use and Multi-Family Objective Design Standards (SB 35 and SB 330)

A summary of each of the new housing laws is provided in Attachment 1. While the proposed Development Code update is largely procedural and concerned with ensuring the Development Code is consistent with state law, the following are areas where the City has some discretion in implementation of the laws. The section below also includes staff's recommended action on each area of discretion.

- **Accessory Dwelling Units**:
    - The City has discretion to create objective standards related to landscape design, building design, and historic resources, as long as the standards don't prohibit a detached ADU of a maximum of 800 square feet with a minimum of 4' side and rear setbacks.
    - Staff Recommendation: Staff recommends establishing objective historic and design standards for ADUs, regulating features like color, materials, and landscaping.
- **Density Bonus Law**
    - The City can grant a greater density bonus than state law requires or a proportionally lower density bonus if the development does not satisfy the law's requirements. The City could incorporate this additional bonus into the City's Density Bonus ordinance. Decisions to only grant a proportionally lower density bonus would be on a project by project basis.
    - Staff Recommendation: Staff recommends adopting a Density Bonus Ordinance that is consistent with, and not does exceed, state law requirements.

- **Two Unit Residential Development and Urban Lot Splits**
    - The City has discretion to create objective standards related to height, historic resources, building design, and landscape design, as long as the standards don't prohibit the development of two units of at least 800 SF.
    - Staff Recommendation: Staff recommends adopting objective standards to ensure single story SB9 units, and to regulate color, material, landscaping, and historic features.
- **Multifamily/Mixed Use in Non-Residential Zoning Districts**
    - The City has discretion to create standards related to setbacks and ground-floor uses.
        - State does not require minimum setbacks or minimum percentage of non-residential use on ground-floor.
    - Staff Recommendation: Staff recommends adopting local standards requiring ground-floor commercial for residential projects proposed pursuant to this state law in commercial districts.
- **Residential Development in Non-Residential Zoning Districts**
    - The City has discretion to create standards related to ground-floor uses.
    - Staff Recommendation: Staff recommends adopting local standards requiring ground-floor commercial for residential projects proposed pursuant to this state law, in zoning districts where office or commercial are a principally permitted use.
    -

Inclusionary Affordable Housing Ordinance

The Code update proposes to move the City's existing affordable housing Inclusionary Ordinance requirements from their current location in the Development Code "Part 10 Subdivisions" to the newly proposed housing chapter, "Part 11 Housing". The update also proposes to modify the affordable housing alternatives section by replacing the "Accessory Dwelling Units" and "Off-Site Construction" options with the following "Alternative Affordable Plan" option:

- Staff Recommendation: Alternative Affordable Plan
    A. A developer may satisfy the requirements of this Chapter through an alternative affordable plan.
    B. The alternative affordable plan shall meet the following requirements:
        i. May only be considered as part of a Development Agreement between a developer and the City of Livermore;
        ii. Shall not conflict with affirmatively furthering fair housing and state housing requirements;
        iii. The Development Agreement may only allow for the following deviations from this Chapter:
            a. Timing of affordable unit construction.
            b. Quantity of affordable units.
            c. Affordability Level of affordable units.
            d. Bonding Structure and timing.
            e. Deed Restriction Term for Rental Units.
            f. Location of affordable units.
            g. Comparability of affordable units.

The existing "Accessory Dwelling Units" and "Off-Site Construction" options have not been utilized since their inception in 2021 and are seen by city staff as less feasible options for producing the quantity and

quality, comparable to market-rate, of affordable housing consistent with the City's affordable housing goals. As with the other alternatives, the "Alternative Affordable Plan" option would provide flexibility for unique projects and require prior City Council authorization.

Permit Streamlining

The Code update proposes to modify the City's existing project review authority requirements and processes in "Part 9 Permits and Approvals" and "Part 10 Subdivisions" to streamline residential development entitlement review. As proposed, certain projects that would currently require City Council review would require only Planning Commission review, and certain projects that currently require Planning Commission Review would only require staff-level review.

For example, today projects of five or more units require Planning Commission approval, but as proposed, projects up to 39 units could be approved at staff level. Another example, today Parcel Maps (four or fewer parcels) require Planning Commission approval, but as proposed, Parcel Maps could be approved at staff level.

Existing precedent for some of the proposed changes exist within the Downtown Specific Plan, where larger (unit quantity) projects are reviewed at staff-level than elsewhere in the City. Also, precedent for some of the changes exists in new state laws which require certain land subdivisions, of ten parcels or less, to be processed at staff-level. Further, the proposed modifications implement Housing Element policy that calls for updates to the Development Code to streamline the regulatory approval process for housing developments [Policy 1.3 and Policy 1.4].

Other Cleanups

The proposed Code update would also contain a range of other minor modifications to ensure internal consistency across all Development Code chapters and sections, including new definitions and processes.

Objective Design Standards

Livermore's existing Citywide Design Standards and Guidelines contain numerous subjective standards that staff, the Planning Commission, and City Council rely on during project design review. However, today, state laws like the Housing Accountability Act and Housing Crisis Act prohibit local jurisdictions from using subjective design standards to deny a streamlined housing or mixed-use project. Therefore, Livermore cannot enforce many of its existing design standards. For this reason, the Code update also proposes citywide Objective Design Standards. Given that the standards would be objective, staff, the Planning Commission and City Council can enforce each standard in their respective design review roles.

- **Mixed-Use and Multi-Family Objective Design Standards**
  - Discussion:
    - For projects invoking state laws which exempt them from local subjective design standards, the City has discretion to require projects to be of specific architectural styles, building forms, or combinations thereof, anywhere throughout the city, through the implementation of objective design standards.

- Staff Recommendation: Staff proposes exercising the City's discretion as follows:
  - **Architectural Style and Location**: For projects invoking State laws which exempt them from local subjective design standards, projects shall be limited to certain architectural styles, building forms and frontage types based on their location within the City. For example, different standards would be used in Specific Plan areas like Isabel and Downtown versus outside of those Specific Plan areas to better ensure compatibility with surrounding land uses, especially existing neighborhoods.
  - The proposed architectural styles are provided in Attachment 2, Building Forms in Attachment 3, Frontage Types in Attachment 4, Architectural Style by location table in Attachment 5, and Attachment 6 is a map of the City's existing Specific Plans. The developer can choose, based on the project location, to use one of the specified architecturally styles, combined with one building form and one frontage type. It is important to note that most of the these architectural styles, building forms and frontage types are already permitted in the Development Code and supported by the current Design Standards and Guidelines, but staff is proposing to refine and update them and more strategically apply them to appropriate locations in the City based on state law, anticipated growth areas of the City, and recent project approvals.
  - **Universal Objective Design Standards**: Projects invoking state laws which exempt them from local subjective design standards shall be subject to various universally applicable objective design standards, relating to architecture, building form, site planning, and landscaping, regardless of specific architectural style, building form, frontage type, or geography.
  - **Development Agreement Alternative**: Projects that seek flexibility from any Objective Design Standard may enter into a Development Agreement with the City of Livermore. As with other Development Agreements, the "Development Agreement Alternative" option would require prior City Council authorization.

Housing Element and Local Early Action Planning (LEAP) Grant Funding

This project is being funded in part by a grant of approximately $103,000.00 the City has received from the California Department of Housing and Community Development (HCD) through the Local Early Action Planning (LEAP) program.

The Development Code update directly relates to the LEAP goals as it serves to further housing production in Livermore in accordance with the sixth cycle Regional Housing Needs Allocation (RHNA) by implementing Livermore’s Housing Element, establishing local policies and procedures implementing state housing laws, streamlining review of housing projects, and creating objective design standards for housing project review.

Remaining Project Timeline

Staff will incorporate feedback received at this May 6, 2025 Planning Commission Study Session and bring the project back to Planning Commission on June 3, 2025, to review and provide a recommendation to City Council. The City Council will review and make a determination on the project at its July 14, 2025, regular meeting.

ATTACHMENTS

1. State Housing Law Summaries
2. Proposed Architectural Styles
3. Proposed Building Forms
4. Proposed Frontage Types
5. Building Type and Architectural Style by Location
6. Existing Specific Plans

Prepared by: Turhan Sonmez
Associate Planner

SHUTE, MIHALY & WEINBERGER LLP

State Housing Laws: Summaries Prepared for Livermore

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Actions to Consider

Several of the newer housing laws either require cities to take certain actions or offer opportunities for cities to implement certain aspects of the laws. These requirements and opportunities are discussed in the summaries following this section, while this section provides an overview and links to each.

- Livermore may adopt an ordinance implementing SB 9 and has discretion within the ordinance to establish objective development standards. See Section SB 9-VI.
- Livermore may adopt an AB 2011 implementing ordinance and exempt certain parcels from application of the law. See Section AB 2011-V.
- If ground floor retail is important to maintain on the parcels along commercial corridors subject to AB 2011, then Livermore may adopt a standard requiring up to one-half of the ground floor of a qualifying housing development to be dedicated to retail use. See Section AB 2011-V.
- Livermore should consider identifying what parcels could qualify for SB 6 developments and determine if any of these parcels should be exempted from the law. See Section SB 6-V.
- AB 2234 imposes specific deadlines on cities to provide requirements for, examples of, and an online application system for postentitlement phase permits. The City should review this section and ensure that it will meet the January 1, 2024 deadline. See Section AB 2234-III.A.
- If a postentitlement phase permit is determined to be incomplete or denied or determined to be noncompliant, the City has to allow the applicant to appeal but it can decide how to direct the appeal. Livermore may decide whether to direct it to the City Council, Planning Commission, or both. See Section AB 2234-III.B.3.
- Livermore may adopt objective development standards for Accessory Dwelling Units (ADUs). See Section ADU-II.

SB 35

I. Summary of the Law

Adopted in 2017, and codified in Government Code sections 65913.4, SB 35 requires jurisdictions that have not kept up with their RHNA allocations to process certain housing projects in a streamlined, ministerial way. If a jurisdiction is subject to SB 35, and a project meets SB 35's criteria and is consistent with objective planning standards, then the jurisdiction must approve the project ministerially. Because these projects are approved ministerially, the California Environmental Quality Act (CEQA) does not apply.

The jurisdiction retains very little discretion in processing an SB 35 project, because it may not apply any standards that are not "objective." Objective standards are defined as "standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant . . . and the public official prior to submittal."[1]

II. Jurisdictions Eligible for SB 35 Streamlining

HCD determines which cities are eligible for the streamlined approval process. A city is eligible if the number of units that received building permits is less than the city's share of the RHNA by income category for that reporting period.

In particular, a jurisdiction that has made insufficient progress toward its Above Moderate income RHNA, or that failed to submit its latest Housing Element Annual Progress Report on time, is subject to the streamlined ministerial approval process.[2] Projects in those jurisdictions are entitled to streamlining if they dedicate a minimum of 10% of the units to housing affordable to households making at or below 80% of the area median income.[3] In any of these jurisdictions in the San Francisco Bay Area, a project may also qualify for streamlining if it dedicates 20% of the units to housing affordable to households making at or below 120% of the area median income.[4]

A jurisdiction that has made insufficient progress toward its Lower income RHNA, which includes Very Low and Low income levels, is subject to the streamlined ministerial

[1] Gov. Code § 65913.4(a)(5). HCD has published an "Updated Streamlined Ministerial Approval Process Government Code Section 65913.4 Guidelines" ("SB 35 Guidelines") last updated March 30, 2021 and available at https://www.hcd.ca.gov/policy-research/docs/sb-35-guidelines-update-final.pdf. The SB 35 Guidelines implement and interpret Government Code section 65913.4.

[2] Gov. Code § 65913.4(a)(4)(B)(i).

[3] Gov. Code § 65913.4(a)(4)(B)(i)(I).

[4] Gov. Code § 65913.4(a)(4)(B)(i)(II)(ia).

approval process for proposed developments that dedicate 50% of the units to housing affordable to households making at or below 80% of the area median income.[5]

Currently, Livermore is eligible for streamlining due to insufficient progress toward its Lower income RHNA. As a result, a project would need to dedicate 50% of the units to affordable housing to qualify for streamlining.

III. Types of Housing Projects Eligible for Streamlining under SB 35

Housing development is **eligible** for SB 35 streamlining in Livermore if:

- it is multifamily (2 or more units);
- it is within a city;
- it is located on a site where 75% of the perimeter adjoins parcels that are developed with urban uses;
- it is zoned or designated in the general plan for residential uses, or it is zoned for office or retail commercial uses and satisfies the Middle Class Housing Act of 2022 (CA Gov. Code § 65852.24);
- at least two-thirds of the development is designated for residential use;
- it will be subject to a restriction ensuring that lower or moderate income housing units will remain affordable for certain periods of time;
- it is consistent with objective standards;
- it is a "public work" or pays prevailing wages;
- if over a certain size and within a jurisdiction of a certain size, it uses a skilled and trained workforce for developments;
- it dedicates at least 50% of units as affordable; and,
- if it involves subdivision, it pays prevailing wages and uses "skilled and trained workforce."[6]

Housing development is **ineligible** for streamlining in Livermore if:

- it is located on prime farmland/farmland of statewide importance, wetlands, a delineated earthquake fault zone, a floodplain/floodway, or lands under conservation easement.[7]
- it would involve the demolition of existing affordable housing, housing occupied by tenants within the past ten years, or a historic structure.[8]

[5] Gov. Code § 65913.4(a)(4)(B)(ii).

[6] Gov. Code § 65913.4(a)(1)-(5), (8)-(9). [NOTE that the legislature is considering removing the "skilled and trained workforce" requirements. Note also that we have been told by an SB 35 developer in Saratoga that it is basically impossible to use a "skilled and trained workforce" because there are so few workers who meet those qualifications.]

[7] Gov. Code § 65913.4(a)(6)(A)-(K).

[8] Gov. Code § 65913.4(a)(7).

- it is on a site governed by the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act.[9]

IV. Process Requirements

Step 1: Applicant submits "notice of intent."

Applicants for a streamlined, SB 35 project must submit a "notice of intent" in the form of a preliminary application.[10]

Step 2: City sends consultation notices to tribes.

Within 30 days of receiving the notice of intent, the local government must provide that notice to any California Native tribe that is traditionally and culturally affiliated with the geographic area.[11] The tribe then has 30 days from receipt of notice to engage in scoping consultation.[12] If the project could affect a tribal cultural resource, the tribe and local government must enter into an enforceable agreement regarding tribal cultural resource treatment, or the project will not be eligible for the SB 35 streamlining process.[13] This agreement must be a condition of approval for the project application for SB 35 approval.[14]

Step 3: City determines consistency with SB 35 requirements and local objective standards.

Upon the completion of the consultation process described above and confirmation that the project is still eligible for SB 35 streamlining, the applicant may submit an application.[15] For a project of more than 150 housing units, a city has **90 days** from submittal of the application to determine whether the project conflicts with any of the requirements in subsection 65913.4(a).[16] If the development contains 150 units or fewer, the local government must make its initial determination within **60 days** of submittal.[17]

After the initial determination, the city has a second period to carry out its "design review or public oversight" of the project.[18] While SB 35 suggests that this review may be used to

[9] Gov. Code § 65913.4(a)(10).

[10] Gov. Code § 65913.4(b)(1)(A)(i), (ii).

[11] Gov. Code § 65913.4(b)(1)(A)(iii)(I).

[12] Gov. Code § 65913.4(b)(1)(A)(iii)(II).

[13] Gov. Code § 65913.4(b)(2)(B), (C).

[14] Gov. Code § 65913.4(b)(2)(B).

[15] Gov. Code § 65913.4(a).

[16] Gov. Code § 65913.4(c)(1)(B).

[17] Gov. Code § 65913.4(c)(1)(A).

[18] Gov. Code § 65913.4(d)(1).

determine whether the project complies with the criteria for streamlined projects and with any objective design standards effective in the local jurisdiction, other provisions of SB 35 say that any inconsistency with local objective standards is waived if not raised in the initial 60/90 day period.[19] Therefore, we recommend identifying all inconsistencies in the original review period. The city may use this additional time to hold a design review hearing or to resolve any disputes with the developer regarding the city's consistency determination.

Step 4: Approval/denial.

At the end of the design review or public oversight process, the local government must either approve the development or inform the developer that the project conflicts with relevant standards.[20] For a project with more than 150 housing units, this process must be completed within **180 days** of submittal of the application (i.e., 90 days after its initial consistency determination); for a project with 150 or fewer units, the process must be completed within **90 days** of the submittal (i.e., 30 days after the initial determination).

V. Conditions of Approval

Parking. The local government may not impose any parking requirements on qualifying development located in the following areas:

- within a half mile of public transit;
- within an architecturally and historically significant historic district;
- when on-street parking permits are required but not offered to the occupants of the development;
- when there is a car share vehicle located within one block of the development.[21]

For all other qualifying projects, the city may require one parking space per unit.[22]

Other COAs. The SB 35 Guidelines allow cities to impose "standard conditions of approval as long as those conditions are objective and broadly applicable to development within the locality, regardless of streamlined approval, and such conditions implement objective standards that had been adopted prior to submission of a development application."[23]

VI. Duration of Approval

A project approval under this streamlining provision is valid for **three years**, unless the project includes public investment in housing affordability *and* at least 50% of the project's units

[19] *Id.*

[20] *Id.*

[21] Gov. Code § 65913.4(e)(1).

[22] Gov. Code § 65913.4(e)(2).

[23] SB 35 Guidelines § 301(a)(4).

are affordable to households making at or below 80% of the area median income and the project includes, in which case the approval may never expire.[24]

VII. Post-approval Modifications

A developer may request a modification to its approval before issuance of the final building permit.[25] The local government must approve the request, so long as it is consistent with objective planning standards in effect when the application was first submitted.[26] If the requested modification revises the total number of residential units or the total square footage by a certain level, then the local government may apply objective standards that were adopted after the initial application was submitted.[27]

VIII. Discretion Retained

SB 35 removes all discretion from cities by making the review and approval process for SB 35 projects entirely objective.

IX. Case Law

Ruegg & Ellsworth v. City of Berkeley (2021) 63 Cal.App.5th 277 ("*Ruegg I"*).

Appellants, developers, challenged the city's determination that their proposed housing development was not eligible for ministerial approval under Government Code section 65913.4 (added by the enactment of Senate Bill 35, or SB 35). The proposed mixed-use development included 260 residential units, 50% of which were designated affordable to low-income households.

The city determined that the project was not entitled to ministerial approval because: (1) the project conflicted with the city's affordable housing mitigation fee (AHMF) ordinance and its Landmarks Preservation Ordinance; (2) if the West Berkeley Shellmound, a site listed in the California Register of Historic Places, was located on the site, the project could require demolition of a historic structure that was placed on a historic register rendering it ineligible for ministerial approval; (3) the project conflicted with the city's requirements for offsite impacts and intensity of use in relation to traffic capacity. The city then denied ministerial approval, and developers filed a petition for writ of mandate and complaint for declaratory and injunctive relief. Shortly thereafter, the Confederated Villages of Lisjan, a tribe, intervened based on the questions surrounding the Shellmound.

[24] Gov. Code § 65913.4(f)(1), (2).

[25] Gov. Code § 65913.4(g)(1)(A).

[26] Gov. Code § 65913.4(g)(1)(B).

[27] Gov. Code § 65913.4(g)(3).

The trial court denied developer's petition on the grounds that the city's decision about the Shellmound was not unsupported, and that section 65913.4 did not apply to mixed-use developments, and so did not reach the other issues presented by the action.

On appeal, the court found in favor of developers, holding that the Shellmound was not a "structure" for purposes of section 65913.4, that section 65913.4 did not violate the city's right to home rule and applied to mixed-use developments, and that the city was incorrect to deny ministerial approval due to conflict with "objective zoning standards, subdivision standards, and objective design review standards." The court did not reach the claim that the city's denial violated the Housing Accountability Act.

Most relevant to Livermore are the court's holdings related to conflict with objective standards. The court concluded the city could not deny ministerial approval due to alleged conflicts with the AHMF ordinance and the city's offsite impacts and traffic capacity requirements. Under the AHMF ordinance, the city required a fee to be paid if a development failed to provide 20% of its units at rates affordable to low- and very low-income households, with 50% of those units affordable to very low-income households. The city denied ministerial approval here because the project did not comply with the AHMF ordinance because none of the affordable units were affordable to very low-income households. Developers argued that their application could not be denied on this basis, because the ordinance was not an objective planning *standard*. The court agreed with developers, noting the fee might be enforceable against the developer, it "did not provide [the city] with a valid basis for denying ministerial approval due to conflict with an objective planning standard," and also "frustrated the purpose" of section 65913.4. (Page 326.)

The project's "potential conflict" with applicable performance standards for offsite impacts and possible exceedance of available traffic capacity were also not a valid ground for the city to deny ministerial approval. The denial letter to developers did not mention any specific criteria for which the project was noncompliant, and furthermore, those provisions were not "objective zoning standards" that could serve as a basis for denying ministerial review under section 65913.4.

The court reversed the trial court's judgment and remanded with directions to grant the petition for writ of mandate.

Density Bonus Law

I. Summary of the Law

Originally adopted in 1979, codified as Government Code sections 65915, 65915.7. The Density Bonus Law provides incentives for developers to include affordable, senior, or student housing in their projects. Depending on the percentage and type of housing offered in a project, the city must award a density bonus allowing the development to exceed maximum density (sometimes referred to as "base density") at the project site. The city must also award benefits for the project, including a certain number of incentives and/or concessions that contribute to the affordability of the affordable housing, as many waivers of development standards as required to allow the project to be built at the densities allowed under the law, and certain relaxed parking standards.

The Density Bonus Law is available for all residential and mixed use projects in Livermore that include the requisite amount of affordable, senior, or student housing.

II. Process Requirements

The city must adopt an ordinance specifying how it will comply with the Density Bonus Law.[28] They city must also adopt procedures and timelines for processing a density bonus application; provide a list of all documents and information required to be submitted with the density bonus application; and notify the applicant for a density bonus whether its application is complete in a manner consistent with the timelines in Section 65943.[29] The city may not require an applicant to submit any additional report or study, though it may require documentation to establish eligibility for a density bonus, incentive or concession, waiver or reduction in development standard, or parking ratio.[30] If the city notifies the applicant that its application is deemed complete, it must also notify the applicant as to the amount of the density bonus, the parking ratio, and whether the applicant has provided enough information to make a determination about any requested incentives, concessions, or waivers or reductions of standards.[31] The city's determinations are based on the project at the time the application is deemed complete; the city must adjust the density bonus and parking ratios based on any changes to the project during its development.[32]

[28] Gov. Code § 65915(a)(1).

[29] Gov. Code § 65915(a)(3)(A)-(C).

[30] Gov. Code § 65915(a)(2).

[31] Gov. Code § 65915(a)(3)(D)(i).

[32] Gov. Code § 65915(a)(3)(D)(ii).

III. Eligible Projects

A project is eligible for the density bonus, incentives or concessions, waivers or reductions of development standards, and/or parking ratios described in the Density Law if it meets any of the following criteria:

- Ten percent of the total units of a housing development, including a shared housing building development,[33] will be offered for rent or sale to lower income households (as defined in Health & Saf. Code § 50079.5);
- Five percent of the total units of a housing development, including a shared housing building development, will be offered for rent or sale to very low income households (as defined in Health & Saf. Code § 50105);
- The project contains a senior citizen housing development (as defined in Civil Code §§ 51.3, 51.12), including a shared housing building development, or a mobilehome park limited to housing for older persons (pursuant to Civil Code §§ 798.76 or 799.5);
- If all of the units are offered to the public for purchase, ten percent of the total dwelling units of a housing development are sold to persons and families of moderate income (as defined in Health & Saf. Code § 50093);
- Ten percent of the total units of a housing development are for transitional foster youth (defined in Educ. Code § 66025.9), disabled veterans (Gov. Code § 18541), or homeless persons (defined in 42 U.S.C. § 11301 et seq.), and these units are subject to a recorded affordability restriction of 55 years and provided at very low income affordability levels;
- Twenty percent of the total units are for lower income students in a student housing development that is exclusively for full time undergraduate, graduate, or professional students;
- One hundred percent of all units in the development (including the density bonus units, and including a shared housing building development) are for lower income households (defined in Health & Saf. Code § 50079.5), except that up to 20 percent of the units may be for moderate-income households (defined in Health & Saf. Code § 50053).[34]

The law sets out requirements to ensure the continued affordability of all rental and sale units that are the basis for a project's eligibility for a density bonus.[35]

An applicant that donates land to the city is also entitled to a 15 percent increase above the otherwise maximum allowable residential density, subject to certain restrictions and requirements on the donated land.[36] A project that also includes a childcare facility, subject to

[33] This type of development includes private bedrooms and bathrooms with shared kitchens and dining areas. *Id.* § 65915(*o*)(7)(B).

[34] Gov. Code § 65915(b)(1)(A)-(G).

[35] Gov. Code § 65915(c)(1)-(2).

[36] Gov. Code § 65915(g)(1)-(2).

certain requirements, is entitled to either an additional density bonus or an additional concession or incentive, unless the city finds that the community has adequate childcare facilities.[37]

A project is ineligible for a density bonus or the other incentives or concessions under the Density Bonus Law if the project is proposed on property on which rental units are or were in the previous five years restricted to or inhabited by lower or very low income households, or subject to another form of rent or price control.[38] However, the law provides an exception if the proposed housing replaces those units and either contains the percentage of affordable units required by this law, or all units are affordable to and occupied by a lower or very low income household.[39]

IV. Density Bonus

A density bonus is an increase in density over what would otherwise be allowed as of the date of application.[40] The amount of density bonus to which the applicant is entitled depends on the percentage of affordable housing included in the project.[41] Tables to calculate each density bonus are included in the statute.

V. Incentives or Concessions

The law allows for incentives or concessions that result in identifiable and actual cost reductions in the cost of the affordable housing provided in the project.[42] The law sets out the number of incentives or concessions to which an applicant is entitled, based on the type and amount of qualifying housing included in the project.[43]

The city must grant a requested concession or incentive unless it makes a written finding, based on substantial evidence that the concession or incentive:

- Does not result in cost reductions to provide for affordable housing cost;
- Would have a specific adverse impact on public health or safety or on a historic property for which there is no method to mitigate or avoid the risk without making the development unaffordable; or
- Would be contrary to state or federal law.[44]

[37] Gov. Code § 65915(h)(1)-(3).

[38] Gov. Code § 65915(c)(3).

[39] Gov. Code § 65915(c)(3)(A)(i)-(ii).

[40] Gov. Code § 65915(f).

[41] Gov. Code § 65915(f)(1)-(5).

[42] Gov. Code § 65915(k).

[43] Gov. Code § 65915(d)(2).

[44] Gov. Code § 65915(d)(1)(A)-(C).

The city bears the burden of proof in court if it denies a requested concession or incentive and that denial is challenged.[45]

VI. Waivers of Development Standards

The law allows an applicant to apply for waivers of any development standard that physically precludes construction of the density bonus project at the densities and with the concessions or incentives permitted.[46] A development standard includes height limitations, setback requirements, floor area ratios, parking ratios, and the like.[47] An applicant is entitled to an unlimited number of waivers. Waivers apply to the development itself, as well as its amenities, which include open space, high ceilings, and other project features beyond the housing units.

The city is not required to waive or reduce development standards if doing so would have a specific adverse effect on health and safety or on any historic property, or would be contrary to state or federal law.[48]

VII. Parking Standards

The city may not require a parking ratio (including accessible and guest parking) for a density bonus project that exceeds the following:

- For zero to one bedroom: one onsite parking space
- For two to three bedrooms: one and one-half onsite parking spaces
- For four and more bedrooms: two and one-half parking spaces.[49]

The law also limits the city's ability to impose parking ratios on developments that meet certain criteria and that have unobstructed access to a major transit stop within one-half mile.[50]

VIII. Special Circumstances

The law provides for a "Super Density Bonus." In particular, certain 100% affordable developments near transit may have no density limit.[51] Additionally, 100% affordable projects in a "very low vehicle travel area" in a designated county (including the Bay Area), may qualify for

[45] Gov. Code § 65915(d)(4).

[46] Gov. Code § 65915(e)(1).

[47] Gov. Code § 65915(*o*)(2).

[48] Gov. Code § 65915(e)(1).

[49] Gov. Code § 65915(p)(1).

[50] Gov. Code § 65915(p)(2).

[51] Gov. Code § 65915(f)(3)(D)(ii).

a Super Density Bonus.[52] A "very low vehicle travel area" is an urbanized area where existing residential development generates vehicle miles traveled per capita that is below 85 percent of either regional vehicle miles traveled per capita, or city vehicle miles traveled per capita.[53]

The city must grant a commercial developer a development bonus when an applicant for a commercial development enters into an agreement for partnered housing with an affordable housing developer to contribute affordable housing through a joint project or two separate projects encompassing affordable housing.[54] The city must annually submit to the Department of Housing and Community Development information describing an approved commercial development bonus.[55] This provision is automatically repealed in 2028.[56]

IX. Discretion Retained

The law gives the city options if a density bonus project is proposed on property with dwelling units subject to rent or price control within the preceding five years and that are or were occupied by persons above lower income.[57] The city may either require that the replacement units be affordable and occupied by low-income persons, or that the units be replaced in compliance with the city's rent or price control ordinance.[58]

The city may grant a greater density bonus than what the law describes, or a proportionately lower density bonus than is required if the development does not satisfy the law's requirements.[59]

X. Case Law

Wollmer v. City of Berkeley (2011) 193 Cal.App.4th 1329.

A community member challenged the City of Berkeley's approval of two proposals for developments based on alleged violations of the city's zoning ordinances, the Density Bonus Law, and CEQA. Developers had received city approval to build either of two projects: a housing development with a mixture of regular residential units and affordable residential units, for which they would be entitled to a 32.5% density bonus, or a mixture of regular residential units and senior affordable residential units, for which they would be entitled to a 30.7% density bonus. The project approvals each included a condition that allowed the developers to receive

[52] Gov. Code § 65915(f)(3)(D)(iii).

[53] Gov. Code § 65915(*o*)(9).

[54] Gov. Code § 65915.7.

[55] Gov. Code § 65915.7(k).

[56] Gov. Code § 65915.7(m).

[57] Gov. Code § 65915(c)(3)(C).

[58] Gov. Code § 65915(c)(3)(C)(i), (ii).

[59] Gov. Code § 65915(n).

Section 8 rent subsidies for density bonus-qualifying units in addition to waivers of its standards for height, number of stories and setback. The waivers would allow developers to build an additional story and forego setbacks on two corners, and include "amenities" such as a courtyard, plaza, and taller ceilings.

The challenges under the Density Bonus Law were threefold: (1) the condition allowed developers to receive Section 8 subsidies in addition to low-income tenants' rent payments, such that they would receive more than the rent cap set out in the California Health and Safety Code; (2) the approval of amenities should not have been considered when deciding what standards should be waived to accommodate the project; and (3) the city improperly calculated the project's density bonus. The court rejected each of these arguments.

First, the court concluded that the fact that developers would receive more than the amount of the affordable housing rent cap in the Health and Safety Code did not violate the Density Bonus Law. (Page 1344.) To qualify for the density bonus, developers must set aside a percentage of units offering "affordable rent," which for the purposes of the law, "is concerned with the rent that a tenant pays, not with the compensation received by the housing provider." (Page 1352.) Under the Density Bonus Law, the developer has a responsibility "to build the agreed-upon affordable units and ensure the continued affordability of the units that qualified it for the density bonus, and that is all." (Page 1343.) Accordingly, the court reasoned, prohibiting developers from also receiving Section 8 subsidies would be "hostile to the letter and spirit of the density bonus law." (Page 1344.)

Regarding amenities, the court rejected the argument that the city cannot waive standards "to accommodate certain project 'amenities,' namely an interior courtyard, a community plaza and 15–foot ceilings in the commercial space and nine-foot ceilings in the residential units." (Page 1346.) Because the 2008 amendments to the Density Bonus Law removed the requirement to show that the waiver was necessary to render the project economically feasible, "nothing in the statute requires the applicant to strip the project of amenities…that would require a waiver of development standards." (*Ibid.*) If the development, as designed, meets the requirements for a density bonus, then a city is required to grant the necessary waivers. (*Ibid.*)

Finally, the court upheld the city's density bonus calculation, pointing out that the city's approach—applying the density standards applicable to the surrounding areas to determine if the growth on one parcel is consistent with the general plan goals and objectives—was proper, especially given that this project would increase the density to 19 units per acre, well below the development standard of 40 units per acre. (Page 1345).

The court also rejected the challenge under CEQA, which alleged that the City incorrectly determined that the proposed projects were exempt from CEQA pursuant to the in-fill development exemption. (Page 1347.) To qualify for the in-fill development CEQA exemption, projects must comply with all *applicable* general plan and zoning. (*Ibid.*) The appellant argued that because the project had needed waivers of development standards, it did not comply with the general plan and zoning. (Page 1348.) The court rejected this argument and found that waived zoning standards are not applicable and the projects met the requirements of CEQA's in-fill exemption. (Page 1349.)

Schreiber v. City of Los Angeles (2021) 69 Cal.App.5th 459.

Appellants, residents of a single-family home near the property at issue, challenged the City of Los Angeles's approval of an application for a mixed-use development, and its decision granting concessions[60] and waivers of permit requirements under the Density Bonus Law. The approved application included 54 units, with five very low income units and five moderate income units, entitling it to a density bonus of 35%, as well as a waiver of the height and story limits, allowing the project to reach a height of 75 feet in seven stories, where the existing zoning limited these to 43 feet and three stories. Appellants argued that the applicant was required to submit financial information proving that the requested concessions were necessary to render the development "economically feasible." (Page 552.)

Like the Density Bonus Law, the city's implementing ordinances required approval of concessions, incentives, and waivers unless one of the statutory exceptions applied. The local law also provided a "menu" of incentives that developers could request, as well as "off-menu" incentives that had a stricter application process, including requiring "pro forma or other documentation to show that the waiver or modification of any development standards are needed in order to make the Restricted Affordable Units economically feasible."

The court concluded that, because the plain language of the Density Bonus Law imposed no requirement for applicants to prove that the incentives will result in cost reductions or that a waiver is necessary to render the project economically feasible (and indeed had been amended in 2008 to remove such a requirement), a city or county could not require such documentation. (Page 557.) While the city could "consider[] information relevant to cost reductions," the only grounds for denying a concession, incentive, or waiver are contained in the three narrow statutory exceptions, and the city bears the burden of proof for the denial of a requested concession, incentive, or waiver. (Page 557.) Thus, a project applicant is not required to prove that the requested incentives will lead to cost reductions, nor must they show that absent a waiver of permit requirements, the project will not be economically feasible. Furthermore, the court held that the city's specific ordinance was preempted by state law due to its conflict with the requirement to show that the concession or waiver will make the development economically feasible. Finally, because the statute does not require evidence of economic feasibility, no such showing was required, and the city's determination was supported by substantial evidence.

Bankers Hill 150 v. City of San Diego (2022) 74 Cal.App.5th 755.

Several neighborhood associations challenged the city's approval of a proposed mixed-use development. A developer sought to exceed the maximum number of units allowed (147) by setting aside 18 units for very low-income households, in order to increase the total number of units to 204 under the Density Bonus Law, a 38.75% bonus. The project also sought incentives that would allow it deviate from the city's regulations by eliminating a setback on one street, removing two truck loading spaces, and reducing the amount of storage space for residents. It

[60] The court held that "concession" was synonymous with "incentives" for the purposes of the Density Bonus Law, and used the two interchangeably.

also sought a waiver of the typical height limit of 65 feet in order to implement its design, which reached 170 feet. The City Planning Commission found that the proposed project was consistent with the city's general plan, the community-level plan, and the municipal land development code, and approved the project.

A community planning group appealed from the Planning Commission's approval of the project to City Council. In its resolution denying the group's appeal, the City Council noted that the project was entitled to a density bonus. The community group filed a petition for writ of mandate challenging the City Council's denial of its appeal, which the trial court denied, finding that the project was consistent with the community-level plan and that the incentives were appropriate and consistent with the Density Bonus Law. (Page 768.)

On appeal, the community group argued that the project was inconsistent with the City's general plan, the community-level plan, and that the City's findings were not supported by substantial evidence. The court rejected the community group's arguments, because "the City could deny the Project due to [the alleged violations of the various plans] only if it made specific findings that certain exceptions applied." (Pages 772, 774.) Because the City could not have made any of the findings that would lead to the application of an exception, the court concluded the project was entitled to the 38.75% density bonus, the setback deviation incentive, and the waiver of the height limit.

(The court's application of the Housing Accountability Act in this case is discussed below.)

Housing Accountability Act

I. Summary of the Law

Originally adopted in 1982 and codified in Government Code sections 65589.5 and 65589.6, the Housing Accountability Act ("HAA") requires that local governments not reject or make infeasible housing developments without making certain written findings supported by a preponderance of the evidence. Additionally, a local governments may not disapprove a housing project or reduce its density if it complies with all objective, written development standards, unless it finds the project would impact public health and safety with no feasible way to mitigate the impact.

The HAA applies to all housing development projects (including mixed use, transitional housing, or supportive housing projects) in Livermore.

II. Applicable Projects

The HAA defines a "housing development project" as a use consisting of any of the following:

- Residential units only;
- Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.
- Transitional housing or supporting housing.[61]

A housing project is "affordable" for purposes of the HAA if at least 20% of the units are sold or rented to lower income households, or 100% are sold or rented to moderate or middle income households.[62] Certain provisions of the HAA apply only to affordable housing development projects.

III. Required Findings

The city cannot disapprove an *affordable* housing development project unless it makes written findings supported by a preponderance of the evidence that:

- The city's Housing Element is in substantial compliance with state law and the city has met or exceeded its RHNA;
- The project would have an adverse impact on public health or safety;
- Denial is required to comply with another state or federal law;
- The project is on land zoned for agriculture; or

[61] Gov. Code § 65589.5(h)(2).

[62] Gov. Code § 65589.5(h)(3).

- The project is inconsistent with both zoning and general plan land use designations, is not proposed on a site identified in the housing element, and there are sufficient sites to accommodate the RHNA and to satisfy emergency shelter requirements.[63]

For *all* housing development projects, the city cannot disapprove a housing project or reduce its density if the project complies with all "objective, quantifiable, written development standards, conditions and policies appropriate to and consistent with meeting city's share of [RHNA]," unless it finds both:

- That the project would have specific adverse impacts upon public health or safety, and
- That there is no feasible method to mitigate those impacts other than to reduce the project's density.[64]

"Objective" standards are defined the same way as in SB 35: "objective" means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.[65]

IV. Process Requirements

If the city considers a housing development to be inconsistent with an applicable plan, program, standard, or the like, it must provide the applicant with notice and documentation identifying the inconsistencies.[66] If the housing project contains 150 or fewer housing units, the city must provide notice within 30 days of the application being determined complete.[67] If the project contains more than 150 units, the city must provide notice within 60 days of the application being determined to be complete.[68] An application is "determined to be complete" if the applicant has submitted a complete application pursuant to Section 65943.[69] If the city fails to provide the required notice, the project will be deemed consistent and compliant with the relevant plan, program, or standard.[70]

[63] Gov. Code § 65589.5(d).

[64] Gov. Code § 65589.5(f)(1), (j)(1)(A), (B).

[65] Gov. Code § 65589.5(h)(8).

[66] Gov. Code § 65589.5(j)(2)(A).

[67] Gov. Code § 65589.5(j)(2)(A)(i).

[68] Gov. Code § 65589.5(j)(2)(A)(ii).

[69] Gov. Code § 65589.5(h)(9).

[70] Gov. Code § 65589.5(j)(2)(B).

If a project is consistent with objective general plan standards and criteria, but the zoning for the project site is inconsistent with the general plan, the city may not find the project to be inconsistent with the zoning standards and may not require a rezoning.[71]

If a housing development project complies with applicable, objective standards in effect at the time the application is "deemed complete," the city shall not conduct more than 5 hearings after application is deemed complete. "Deemed complete" means the applicant submitted a preliminary application pursuant to Section 65941.1, or has submitted a complete application pursuant to Section 65943.[72]

A housing development project shall be subject only to the ordinances, policies, and standards adopted and in effect when a preliminary application including all of the information required by subdivision (a) of Section 65941.1 was submitted, except as follows:

- An automatic annual adjustment of a fee, charge, or other monetary exaction based on an independently published cost index referenced in the ordinance or resolution establishing the fee or exaction;
- A preponderance of evidence establishes that subjecting the project to the other ordinance, policy, or standard is necessary to mitigate or avoid a specific adverse impact upon the public health or safety as defined in Subdivision (j)(1)(A);
- Subjecting project to the other ordinance, policy, or standard is necessary to avoid or substantially lessen project impacts under CEQA;
- The project has not commenced construction within 2.5 years following the date of final approval (meaning the project has received all necessary approvals to be eligible to obtain permits, and any appeal or challenge period has expired); or
- The project is revised after submittal of preliminary application so residential units or square footage changes by 20% or more, exclusive of any increase resulting from a density bonus, incentive, concession, or waiver. "Square footage of construction" means the building area as defined in the California Building Standards Code.[73]

If a court finds that the city violated the HAA, it will compel the city to comply with the law, including by taking action on an application within 60 days.[74] If the court finds the city acted in bad faith, it may order the city to approve the project.[75] The court must order fines against the city if the city fails to come into compliance within 60 days of the original court order.[76]

[71] Gov. Code § 65589.5(j)(4).

[72] Gov. Code § 65589.5(h)(5).

[73] Gov. Code § 65589.5(*o*).

[74] Gov. Code § 65589.5(k)(1)(A)(ii).

[75] *Id.*

[76] Gov. Code § 65589.5(k)(1)(B).

Whenever the city must determine whether a project site is historic, the city shall make that determination at the time the application is deemed complete.

V. Discretion Retained

The city retains the authority to require mitigation measures to lessen the impacts of the project under CEQA, as long as CEQA applies to the housing development project.[77]

The city may also impose conditions of approval to enforce subjective development standards, provided those conditions do not render the project financially infeasible or effectively reduce its density.

The city may impose fees and other exactions authorized by law that are essential to provide necessary public services and facilities to the housing development project at issue.[78]

After a project has been approved and completed, and a certificate of occupancy has been issued, the city may apply later enacted ordinances, policies, and standards related to the use and occupancy of the residential units, including rental housing inspection, rent stabilization, and restrictions on short-term renting.[79]

XI. Case Law

California Renters Legal Advocacy & Education Fund v. City of San Mateo (2021) 68 Cal.App.5th 820.

This appeal challenged a city planning commission's denial of a housing project. A legal advocacy organization challenged the denial on the ground that it was based on design standards that were not objective or applicable. The city argued that the portions of the statute that required project compliance only with objective design standards violated the California constitution. The court rejected the city's argument, holding that the city planning commission violated the HAA.

Developers applied for a permit for a ten-unit, multifamily residential building on a parcel designated in the general plan and zoned for high-density, multifamily dwellings. The planning commission seemed poised to approve the project based on a report from city staff, but at a hearing on the application, residents opposed the project because it was "out of scale with the adjacent single-family residential area." (Page 832.) Subsequently, the commission disapproved the project. In drafting proposed findings to support the denial, the commission noted that there was a two-story differential between the project and the adjacent buildings, in violation of a city design standards ("the guidelines") which required projects with a differential of greater than one-story to include a transition or stepback to ease the transition between buildings. The proposal included plans to plant trees and build trellises to mitigate the height differential.

[77] Gov. Code § 65589.5(*o*)(6).

[78] Gov. Code § 65589.5(f)(3).

[79] Gov. Code § 65589.5(*o*)(7).

Because the HAA prohibits cities from disapproving or reducing density of a proposed development that complies with applicable, objective standards and criteria, the court's analysis focused on whether the guidelines at issue here were applicable and objective. Whether the standard was applicable and objective is a question of law and reviewed de novo by an appellate court; whether a proposed project is consistent with those standards is a question of fact and reviewed under subdivision (f)(4) of the HAA, which requires substantial evidence that would allow a reasonable person to conclude that the housing development complies with the relevant standards. (Page 837.)

After finding the guidelines applicable to the housing project, the court used both the dictionary definition of "objective," and the definition provided in subdivision (h)(8) of the HAA to conclude that "a standard that cannot be applied without personal interpretation or subjective judgment is not 'objective' under the HAA." (Page 840.) Applied, the court reasoned that because the stepback/ transition requirement was ambiguous, in that it was unclear if certain design proposals in the application—the trees and trellises—would meet the guidelines, such that the determination would require interpretation or judgment. (Page 841.) Further, the guidelines were silent on how extensive a stepback must be, such that staff would again have to interpret and subjectively evaluate each proposal. (Page 842.) The court finally declined to defer to the city's interpretation of their guidelines because there was no long-standing or consistent interpretation of the guideline (page 843), and because the HAA clearly "cabins the discretion of a local agency to reject proposals for new housing." (Page 844.) Therefore, because the guidelines' standards were not objective as a matter of law, and because a reasonable person could conclude that this project satisfied the given standard, the city violated the HAA in denying the application. (Page 845.)

The court pointed out that the HAA allows local agencies to establish and enforce appropriate design standards, but they must be objective and in place at the time an application is complete; furthermore, where standards are not objective, the city may still impose conditions on the approval of a project, just not conditions that the project be developed at a lower density unless the city makes the statutory health or safety findings. (Page 846.)

The court also upheld the HAA as constitutional. It concluded that it did not violate the home rule doctrine. (Page 849.) It also concluded that this was not an improper delegation of municipal functions to a private party (insofar as any private person could submit into the record evidence that a project appeared to meet the objective standard, thus arguably forcing the city to grant a permit) because the city maintains its final decision making authority over applications and is still held to a "substantial evidence" standard. (Pages 851-52.) Finally, the court held that the HAA did not violate the due process rights of adjacent landowners simply by imposing nondiscretionary, objective standards, and even if it did, it would have found no violation here. (Pages 853-54.)

Bankers Hill 150 v. City of San Diego (2022) 74 Cal.App.5th 755.

(See above summary for relevant factual background.) The challengers in that case also argued that, under subdivision (f)(4) of the HAA, the city should have denied the application because it failed to meet certain standards that it felt were objective. The court found none of the

standards the community group relied on applied to the proposed development, and so did not reach the question of whether they were objective.

Reznitsky v. County of Marin (2022) 79 Cal.App.5th 1016.

Individuals applied for a permit to build a single-family home. The county denied the application as "outsized" compared with the surrounding neighborhood. Applicants challenged the denial of the application as contrary to the HAA because they claimed the proposal was for a "housing development project," within the definition of the HAA and the county's denial was based on a subjective criterion.

The court rejected these claims on the ground that a single family home is not a "housing development project" under the HAA. The court referred to subdivision (h) of the HAA, which defines "housing development project" as use consisting of: (1) residential units only, (2) mixed use developments with at least two-thirds of the square footage designated for residential use, or (3) transitional or supportive housing. As a matter of first impression, the court concluded that this definition of "housing development" did not include a single, single-family dwelling. (Page 1037.) Accordingly, the HAA did not apply, and the county did not violate the statute when it denied the permit.

Save Lafayette v. City of Lafayette (2022) 85 Cal.App.5th 842.

In this appeal, a citizen group challenged the approval of a housing development project on the grounds that the EIR was insufficient and that the project was inconsistent with the site's general plan land use designation, as well as its zoning. Developers first submitted a completed application for a residential development comprised of 14 buildings with 315 units in 2011. Over the next nine years, the project took on various forms and sizes. Notably, the developers paused the processing of their application when they pursued a smaller development, ultimately resuming the original, 2011 plan in 2018 and informing the city accordingly. The project was finally approved in 2020. A citizen group challenged the approval of the project because in the intervening years, the project site had been "down-zoned" to allow for less housing development, such that the project, which had been consistent with the regulations in place in 2011, was no longer consistent with the regulations in place by the time the developers asked the city to resume processing the application in 2018.

The court addressed the interaction of the HAA and the Permit Streamlining Act (PSA), listing several reasons to construe the PSA as allowing the 2011 standards to govern. One reason was that the PSA does not exist "in a vacuum, but rather in its relation to the HAA." (Page 855.) In affirming the trial court's decision, the court reasoned that the HAA's express findings "direct[] [the court] to interpret and implement the HAA to 'afford the fullest possible weight to the interest of, and the approval of and provision of, housing.'" (*Ibid*, *quoting* Gov't Code, § 65589.5 subd. (a)(2)(L).) Therefore, it fixed the date on which the application was complete on the day the city made that determination, which was July 5, 2011. (Page 856.) That, in combination with the other reasons given (discussed further below), led the court to conclude that the project was subject to the 2011 zoning regulations.

Save Livermore Downtown v. City of Livermore (2022) 87 Cal.App.5th 1116.

Appellants, a citizen group, challenged the City of Livermore's approval of a 130-unit affordable housing project as part of a redevelopment plan in the downtown area. In addition to a CEQA challenge, appellants alleged that the project violated local planning and zoning laws because it was inconsistent with the downtown plan and its design standards, specifically: (1) the lobby did not open onto a primary street; (2) parking existed between the street and the building; (3) the four-story portions of the building took up more than the allowed 60% of frontage along a particular street; (4) the external appearance of the units "lacks individuality," and so failed to "convey a sense of home"; (5) some windows were wider than they were tall, violating the requirement that they be vertically proportioned; and (6) that the project failed to satisfy private and public open space requirements.

The court first noted that the HAA applied to this project as a housing development project for low-income households. (*See* Pages 1124-25.) Thus, the city could not disapprove of the development or condition it in a manner that rendered the project infeasible unless it made specific findings, including adverse impacts on health and safety or inconsistency with the zoning ordinance and land use designation at the time the application was deemed complete. Additionally, regardless of the income level the housing project is to serve, the agency may not disapprove a project that complies with applicable objective standards and criteria in effect at the time the application was completed, unless there are adverse impacts on public health and safety. (Page 1125.)

In reviewing the city's decision, the court rejected each of appellant's alleged "inconsistencies" with the downtown plan as a potential basis for denial, using the standard of review articulated in the HAA and solidified in *California Renters*: whether there is "substantial evidence that would allow a reasonable person to conclude that the housing development project complies with the pertinent standards." Under that standard, it found adequate evidence in the record to support the city's conclusion that the project complied with the downtown plan's standards with respect to lobby orientation and siting, parking, frontage, individuality, window dimensions, and open space requirements. (Pages 1127-29.) Of note, it found that the "individuality" requirement was probably a subjective standard and thus could not be the basis for a denial of a project application under the HAA, but in any event, that there was substantial evidence on the record to support the city's finding that it complied with the standard.

Ruegg & Ellsworth v. City of Berkeley (2023) 89 Cal.App.5th 258.

Following the Court of Appeal's remand in *Ruegg I*, the trial court issued a writ requiring the city to grant the ministerial approval of the mixed-use development project. In addition, the trial court found that the denial of the application violated the Housing Accountability Act and section 65913.4. This appeal did not concern the merits of the HAA or SB 35 claims, but rather only whether the trial court "had jurisdiction to entertain and decide the HAA issues." (Page 261.) The court concluded that it did because, in reversing the trial court's decision in *Ruegg I*, it made the HAA issues that *Ruegg I* did not address relevant to defining the terms of the writ, so the trial court did not err in addressing the HAA claim.

Permit Streamlining Act

I. Summary of the Law

Originally adopted in 1977 and codified as Government Code sections 65920 et seq., the Permit Streamlining Act establishes timelines for processing land use applications, and it limits the information the city may require in development applications.

The Permit Streamlining Act applies to development projects in Livermore.

II. Projects Eligible for Permit Streamlining Act

The PSA applies to applications for "development projects," which are defined as projects undertaken for the purpose of development, and which include projects involving issuance of a permit for construction or reconstruction, but not a permit to operate.[80] The Permit Streamlining Act does not apply to ministerial permits or to legislative acts, like General Plan or zoning amendments.

III. Process Requirements for the City

The city must make lists available to the public that specify in detail the information required for an application for a development project.[81] If the city revises its list, the revision will generally only apply prospectively and not to pending applications.[82] They city may not require an applicant to submit at the initial application stage all of the information required by the city to take final action on the project.[83] The city may not require that the applicant submit the equivalent of an EIR to have its application deemed complete, but it may require enough information to make a determination of whether an EIR is required.[84]

The city must post its list of information required for an application on its website.[85] It must also post on its website various other information, including its schedule of fees, exactions, and affordability requirements; and all zoning ordinances and development standards that apply to each parcel.[86]

[80] Gov. Code § 65928.

[81] Gov. Code § 65940(a)(1).

[82] Gov. Code § 65942.

[83] Gov. Code § 65944(b).

[84] Gov. Code § 65941(b).

[85] Gov. Code § 65940.1(a)(1)(C).

[86] Gov. Code § 65940.1(a)(1)(A), (B).

The city must also compile a checklist and application form for housing development projects to satisfy the preliminary application requirements for housing development projects adopted by SB 330 (discussed below).[87] The list may not include information beyond what is listed in Government Code § 65941.1(a).[88] If a city doesn't develop its own application form, HCD will adopt a standardized form. A preliminary application is "deemed submitted" upon providing listed information (e.g., location, existing uses, historic or cultural resources onsite), and payment of a permit processing fee.[89] If an applicant revises its project's square footage or number of residential units by more than 20 percent after submitting its preliminary application, that preliminary application is not deemed submitted until it is revised accordingly.[90]

IV. Timelines for Processing Applications

Within 180 days of submitting a **preliminary application**,[91] an applicant must submit a full application with all the information required by sections 659940, 65941, and 65941.1.[92] If the city determines that an application isn't complete pursuant to section 65943, the applicant must submit the required information to complete the application within 90 days of receiving the incomplete letter identifying the necessary information.[93] Failure to submit this information within 90 days means application expires "and shall have no further force or effect."[94]

Within 30 days of receiving an **application**, the city must send an incomplete letter, or the application will be deemed complete.[95] The city must immediately transmit the determination to the applicant.[96] If the application is determined to be incomplete, the city must provide an exhaustive list of items that are not complete.[97] The city can only find an application to be incomplete if it is missing items required by the submittal requirement checklist.[98] If the city

[87] Gov. Code § 65941.1(b)(1).

[88] Gov. Code § 65941.1(b)(3).

[89] Gov. Code § 65941.1(a).

[90] Gov. Code § 65941.1(c).

[91] Applicants are not required to submit a preliminary application, but it is an option available to applicants to ensure that the ordinances, policies, and standards adopted and in effect at the time that the preliminary application was submitted apply to their final application regardless of changes in law between submission of the preliminary application and the final application. Gov. Code § 65589.5(o)(1).

[92] Gov. Code § 65941.1(d)(1).

[93] Gov. Code § 65941.1(d)(2).

[94] *Id.*

[95] Gov. Code § 65943(a).

[96] *Id.*

[97] *Id.*

[98] *Id.*

misses its deadline to send its determination, the application is deemed complete.[99] When the applicant resubmits its application, a new 30-day period begins for the city to determine if the application is complete.[100]

The city must develop a process for the appeal of a completeness determination.[101] The city must make a final written determination on the appeal no later than 60 calendar days after receipt of the appeal.[102] If not, the application is deemed complete.[103]

The applicant and the city can agree to an extension of time limits.[104] The city can require a reasonable fee to cover the cost of implementing the provisions as part of the application fee for the development permit.[105]

V. Special Circumstances

The law contains various deadlines unique to projects undergoing CEQA review. For example, if the city is the lead agency for a development project, it must approve or disapprove a project within 180 days of certifying the EIR; within 90 days of certifying the EIR for a housing development project; and within 60 days of certifying the EIR for a housing development project that meets certain requirements, including requirements related to affordability.[106] The applicant and the city may mutually agree to extend any of these time limits.[107]

A tentative map may not be deemed approved under the Permit Streamlining Act under any circumstances unless the map satisfies all applicable subdivision regulations, and all due process requirements are satisfied.[108]

VI. Discretion Retained

The city retains discretion to request and obtain information that may be needed to comply with CEQA.[109] The city also retains discretion to develop its process for the appeal of an application completeness determination, so long as the process is completed within 60 days of

[99] *Id.*

[100] Gov. Code § 65943(a), (b).

[101] Gov. Code § 65943(c).

[102] Gov. Code § 65943(c).

[103] *Id.*

[104] Gov. Code § 65943(d).

[105] *Id.*

[106] Gov. Code § 65950(a).

[107] Gov. Code § 65950(b).

[108] Gov. Code §§ 66452.4; 65952.1(b).

[109] Gov. Code § 65944(c).

receiving the appeal.[110] And, the city retains discretion to approve or disapprove projects in shorter periods of time than set out in the law.[111]

XII. Case Law

Save Lafayette v. City of Lafayette (2022) 85 Cal.App.5th 842.

(See above summary for relevant factual background.) Appellants, a citizen group challenging the approval of an application for development argued that the application was subject to the 2018 zoning requirements. This argument invoked the PSA because that statute introduces strict time limits to the permitting process: after an application is deemed complete for the purposes of the PSA, a deadline is established by which time the agency must approve or deny the application. Here, that was 180 days from the certification of the EIR, with one 90-day extension allowed. The court notes that "if the agency fails to act within the statutory period and the applicant provides timely notice (enabling the agency to cure)," the PSA allows the project to "proceed without agency action, as if it had been approved." (Page 852.) After 1998 amendments to the PSA, its time limits cannot be waived. (*Ibid*.) Appellants proffered an interpretation of the PSA that would have meant that, if the agency failed to take action on an application after 180 or 270 days, that application would be "deemed disapproved by operation of law." (Page 853.)

The court rejected appellants' challenge for four reasons. First, because the PSA is silent as to whether an application is deemed approved or disapproved if an agency fails to meet this decision deadline, the court found no reason to hold that an applicant must "perfect" its right to deemed approval by providing public notice under Government Code section 65956 (Page 854.) Second, it found that the resumption of the application process was not a "resubmittal" for the purposes of Government Code, section 65943 subd. (a), which provides that, "Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application." Instead, the court concluded that, because the application was deemed complete in 2011, the resumption of the process was not a "resubmittal," because a resubmittal in this context refers only to those applications that are submitted in response to requests for more information. (Page 855.) Third, because the PSA elsewhere states that disapprovals must be supported by specific reasons other than failure to timely act, the court reasoned that any disapproval of the application would have been made by the agency's silence and thus naturally unsupported by specific reasons other than timeliness. (*Ibid.*) The court's final reason for rejecting appellants' interpretation of the statute was that it read the PSA together with the HAA and found that the Legislature had intended the HAA to increase the approval and construction of housing by curbing the capability of local governments to block or curtail it. (*Ibid*.) And therefore, this strong legislative intent weighed in favor of fixing the date in 2011 rather than after the city had attempted to curtail housing at the site. (*Ibid*.)

[110] Gov. Code § 65943(c).

[111] Gov. Code § 65953.

SB 330: Housing Crisis Act

I. Summary of the Law

Adopted in 2019, and codified in various sections of the Government Code, SB 330 aimed to suspend certain restrictions on housing development and to expedite permitting of housing. SB 330 added a provision to state Planning and Zoning law to limit the number of hearings that may be held on a housing development project to five. It also created the Housing Crisis Act, which prohibits local governments from taking certain actions to reduce residential development capacity or implement growth control measures, and imposes replacement housing and relocation requirements on projects that demolish residential units. SB 330 also amended the Housing Accountability Act and the Permit Streamlining Act; those changes have been addressed in the summaries of those laws.[112]

II. Limitation on Hearings on Proposed Housing

SB 330 added Section 65905.5 to the Government Code, which provides that a city may hold no more than five hearings on a proposed housing development project that complies with applicable, objective general plan and zoning standards at the time an application is deemed complete, meaning that it met all the requirements in the list compiled pursuant to Section 65940.[113]

"Hearing" is broadly defined to include any public hearing, workshop, or similar meeting conducted by the city with respect to the housing project, whether by the city council or any other agency or body of the city, or any committee thereof.[114] "Hearing" does not include a hearing to review a legislative approval required for a proposed housing development project, including a general plan, specific plan, or zoning amendment.[115] If the city continues a hearing to another date, the continued hearing shall count as one of the five hearings allowed under this section.[116]

For purposes of this section, a "housing development project" includes a proposal to build a single dwelling unit.[117]

[112] With respect to the Housing Accountability Act, SB 330 amended Section 65589.5. With respect to the Permit Streamlining Act, it amended section 65940, and added sections 65941.1, 65943, and 65950.

[113] Gov. Code. § 65905.5(a).

[114] Gov. Code § 65905.5(b)(2).

[115] *Id.*

[116] Gov. Code § 65905.5(a).

[117] Gov. Code § 65905.5(b)(3)(C).

If a project is consistent with the objective general plan standards and criteria, but the zoning for the project site is inconsistent with the general plan, the housing project will not be found inconsistent with the applicable zoning, and the city may not require a rezoning.[118]

III. Prohibition on Reducing Intensity of Land Use

SB 330 added Government Code section 66300, the Housing Crisis Act, which imposes restrictions on "affected cities," i.e., those that are in an urbanized area or cluster.[119] **Per the Department of Housing and Community Development, Livermore is an "affected city," subject to the requirements of the Housing Crisis Act.**

As such, the city may not change the zoning, general plan land use designation, or specific plan land use designation of a parcel to a less intensive use, or reduce the intensity of land use within an existing zoning, general plan, or specific plan designation, below what was allowed under that designation on January 1, 2018.[120] Reducing the intensity of land use includes "reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or any other action that would individually or cumulatively reduce the site's residential development capacity."[121]

The city is also prohibited from imposing a moratorium or similar restriction on housing development, other than to specifically protect against an imminent threat to the health and safety in the area subject to the restriction.[122] It may not impose or enforce non-objective design standards that were established after January 1, 2020.[123] In addition, the city is prohibited from limiting the number of land use approvals or permits that will be issued within all or a portion of the city, adopting a cap on the number of housing units that can be approved or constructed during any given period, or limiting the population of the city.[124]

However, the city (or its electorate, acting through the initiative process) may change a land use designation or zoning ordinance to a less intensive use, or may reduce the intensity of land use, if the city concurrently changes the development standards, policies, and conditions applicable to other parcels in the city to ensure there is no net loss in residential capacity.[125]

[118] Gov. Code § 65905.5(c)(2).

[119] Gov. Code § 66300(b)(1).

[120] Gov. Code § 66300(b)(1)(A).

[121] Gov. Code § 66300(b)(1)(A).

[122] Gov. Code § 66300(b)(1)(B)(i).

[123] Gov. Code § 66300(b)(1)(C).

[124] Gov. Code § 66300(b)(1)(E).

[125] Gov. Code § 66300(i)(1).

IV. Restrictions on Demolition of Housing Units

The city may not approve a housing development project that will demolish one or more residential dwelling units, unless it will create at least as many units as are demolished.[126] The city also may not approve a housing development project that will require the demolition of occupied or vacant protected units, unless the project meets the following criteria:

- The project will replace all existing or demolished protected units;
- The project will include at least as many residential dwelling units as the greatest number of residential dwelling units that existed on the site within the last five years;
- Any existing occupants will be allowed to occupy their units until six months before the start of construction activities; and
- The developer agrees to provide certain benefits and protections to existing occupants of any protected units that are lower income households.[127]

A "protected unit" includes any of the following residential dwelling units:

- That are or were within the last five years subject to a recorded covenant, ordinance, or law restricting rent to affordable levels for lower or very low income individuals
- That are or were subject to any form of rent or price control within the past five years;
- That are or were rented by lower or very low income households within the past five years;
- That were withdrawn from rent or lease subject to an Ellis Act eviction within the past ten years.[128]

V. Determination of a Historic Site

SB 330 requires that the city determine whether the site of a proposed housing development project is historic at the time the application is deemed complete.[129] An application is deemed complete when it has met all the requirements in the list pursuant to Section 65940.[130] Again, in this section, a "housing development project" includes a single dwelling unit.[131]

VI. Discretion Retained

As stated in SB 330, the city may reduce density/intensity of residential development in one area as long as it increases density/intensity elsewhere to ensure no net loss.

[126] Gov. Code § 66300(d)(1).

[127] Gov. Code § 66300(d)(2)(A)-(D).

[128] Gov. Code § 66300(d)(2)(F)(vi).

[129] Gov. Code § 65913.10(a).

[130] Gov. Code § 65913.10(b)(1).

[131] Gov. Code § 65913.10(b)(2).

The city may still adopt new subjective development standards for non-residential uses.

The city may enact a policy to prohibit the commercial use of land designated for residential use, including a limit on short-term occupancy of a residence, consistent with the authority conferred on the city by other law.[132]

The city may also adopt or amend a development policy, standard, or condition in a way that allows greater density, facilitates the development of housing, reduces the costs to a housing development project, or imposes or implements mitigation measures required to comply with CEQA.[133]

The city may change a land use designation or zoning ordinance to a less intensive unit on a mobilehome park site, as defined in Health & Safety Code section 18214, and the no net loss requirement of section 66300(i)(1) will not apply.[134]

The city may also enact a development policy, standard, or condition to preserve or facilitate the production of housing for lower income households, including mobilehome parks, single-room occupancy units, or units subject to any form of rent or price control.[135]

XIII. Case Law

Reznitsky v. County of Marin (2022) 79 Cal.App.5th 1016.

(See above summary for factual background.) The opinion in this case also discussed Senate Bill 8, which expanded the Housing Crisis Act of 2019 by amending the definition of "housing development project" in Government Code section 65905.5, such that it now includes "a proposal to construct a single dwelling unit." However, it goes on to read, "This subparagraph shall not affect the interpretation of the scope of the HAA's definition of "housing development project." The court explained that SB 8 created "contradictions" between the HAA and the Housing Crisis Act in their respective definitions of "housing development project." (Page 1035.) As applied to this case, the amended definition was unhelpful to the applicants; the court pointed out that SB 8 extended the Housing Crisis Act's protections to "housing projects of any size," it did not go so far as to amend the definition of a housing development project in the HAA. (*Ibid.*)

[132] Gov. Code § 66300(c).

[133] Gov. Code § 66300(f)(3).

[134] Gov. Code § 66300(i)(4).

[135] Gov. Code § 66300(j).

SB 9: Ministerial Lot Splits, Duplexes in SFR Zone

I. Summary of the Law

SB 9 was adopted in 2021, and went into effect January 1, 2022. Also referred to as the Housing Opportunity and More Efficiency (HOME) Act, it is codified at Government Code sections 65852.21 and 66411.7.

The law allows property owners in single-family residential zones to build two units on each parcel, and to split each parcel into two by right. Accordingly, a lot with one single family home could be split into two, and the owner could build up to two units per lot, for a total of four units. The city must ministerially approve such projects, as long as they conform with the requirements of SB 9.

This law applies in Livermore on all properties zoned single-family residential and in zones whose primary purpose is single-family residential uses..

II. Criteria for Ministerial Approval of Two Units

A proposed housing development of no more than two units[136] in a single-family residential zone is eligible for ministerial approval if it meets the following requirements:

- The parcel is located within a city;
- The parcel is not located in certain farmland or agricultural lands, wetlands, high fire hazard zone, a hazardous waste site, an earthquake fault zone, a special flood hazard area, a regulatory floodway, conservation lands, or habitat for protected species;[137]
- The proposed housing would not require demolition or alteration of affordable housing, housing subject to rent or price control, or housing occupied by a tenant in the last three years;
- The parcel has not been subject to an Ellis Act eviction within the prior 15 years;
- The proposed development does not allow the demolition of more than 25 percent of the existing exterior structural walls, unless the site has not been occupied by a tenant in the last three years, or a local ordinance so allows;
- The development is not in a historic district based on state or local designations.[138]

III. Process Requirements for Ministerial Approval of Two Units

The city may impose objective zoning, subdivision, and design review standards, unless those standards would physically preclude constructing up to two units on a parcel, or would

[136] "A housing development contains two residential units if the development proposes no more than two new units or if it proposes to add one new unit to one existing unit." Gov. Code § 65852.21(i)(1).

[137] Gov. Code § 65913.4(a)(6)(B)-(K)

[138] Gov. Code § 65852.21(a)(1)-(6).

preclude either of the two units from being at least 800 square feet.[139] For purposes of SB 9, "objective standards" are those "that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal."[140]

The city may not require a setback for an existing structure, or a structure built in the same location and with the same dimensions as an existing structure.[141] However, in all other circumstances, the city may require a setback of up to four feet from the side and rear lot lines.[142]

The city may also require the following conditions when considering an application for two residential units pursuant to this provision:

- One off-street parking space per unit, unless the parcel is within a half-mile of a high-quality transit corridor or a major transit stop, or there is a car share vehicle located within one block of the parcel.[143]
- If the residential units are connected to an onsite wastewater treatment system, a percolation test within the last 5 or 10 years.[144]

The city may deny a proposed housing development project pursuant to this provision if the building official makes a written finding that the project would have a specific adverse impact on public health and safety or the physical environment for which there is no feasible method to mitigate or avoid the impact.[145] Such an impact is defined as "a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete."[146] Inconsistency with a zoning ordinance or general plan land use designation, and the eligibility to claim a welfare tax exemption do not constitute specific, adverse impacts on public health or safety.[147]

The city is not required to permit an ADU or JADU on parcels that both split the lot, pursuant to Gov. Code section 66411.7, and add two units per lot, pursuant to section 65852.21.

[139] Gov. Code § 65852.21(b)(1), (2)(A).

[140] Gov. Code § 65852.21(i)(2).

[141] Gov. Code § 65852.21(b)(1)(B)(i).

[142] Gov. Code § 65852.21(b)(1)(B)(ii).

[143] Gov. Code § 65852.21(c)(1).

[144] Gov. Code § 65852.21(c)(2).

[145] Gov. Code § 65852.21(d).

[146] Gov. Code § 65589.5(2).

[147] *Id.*

IV. Criteria for Ministerial Lot Split Under SB 9

The city shall ministerially approve a parcel map for an urban lot split if it meets all of the following requirements:

- The proposed subdivision creates no more than two new parcels of approximately equal lot area; no single parcel may be smaller than 40% of the original lot being split;
- Each parcel must be at least 1,200 square feet in area, unless the city adopts a smaller minimum lot size by ordinance;
- The parcel meets all the same requirements for ministerial approval of two units (e.g., it is in a single-family residential zone);
- The parcel has not been previously subject to an urban lot split under this provision;
- Neither the owner of the lot nor any person acting in concert with the owner has previously subdivided an adjacent parcel using the urban lot split process under this provision.[148]

V. Process Requirements for Ministerial Approval of Lot Split

The city shall approve or deny an urban lot split parcel map application ministerially.[149] The city shall only approve a lot split if it conforms to all objective requirements of the Subdivision Map Act.[150] The city shall not require dedications of rights-of-way or the construction of offsite improvements for parcels that are created through a lot split.[151]

The city may impose objective zoning, subdivision, and design review standards to a parcel created by a lot split, but may not impose such standards that would physically preclude constructing two units on either of the resulting parcels, or that would result in a unit size of less than 800 square feet.[152] The city may not require a setback for an existing structure or a structure constructed in the same location and with the same dimensions as an existing structure, but in all other circumstances may require a setback of up to four feet from the side and rear lot lines.[153]

The local government may deny a proposed lot split if the building official makes a written finding that the project would have a specific adverse impact on public health and safety or the physical environment for which there is no feasible method to mitigate or avoid the impact.[154]

[148] Gov. Code § 66411.7(a).

[149] Gov. Code § 66411.7(b)(1).

[150] Gov. Code § 66411.7(b)(2).

[151] Gov. Code § 66411.7(b)(3).

[152] Gov. Code § 66411.7(c)(1), (2).

[153] Gov. Code § 66411.7(c)(3).

[154] Gov. Code § 66411.7(d).

The city may require certain conditions when considering a lot split application:

- Easements required to provide public services and facilities;
- A requirement that the parcels have access to, provide access to, or adjoin the public right-of-way;
- Up to one off-street parking space per unit, unless the parcel is within a half-mile of a high-quality transit corridor or a major transit stop, or there is a car share vehicle located within one block of the parcel.[155]

The applicant for an urban lot split must sign an affidavit affirming that they intend to occupy one of the units as their principle residence for a minimum of three years, unless the applicant is a community land trust or a nonprofit.[156]

The city may not require the correction of nonconforming zoning conditions as a condition for ministerial approval of a lot split.[157]

VI. Discretion Retained

The city retains the ability to impose objective zoning, subdivision, and design review standards that do not conflict with SB 9, meaning that they do not physically preclude dividing a lot into two or constructing 800 square feet units.[158]

With respect to both applications for a lot split and for approval of two units on one lot, the city retains the discretion to decide whether to require a setback from the side and rear lot lines (so long as the new development is not built in the same location and with the same dimensions as an existing structure);[159] and whether to require less than one parking space per unit.[160]

With respect to an application for approval of two units, the city retains discretion to decide whether to require a percolation test for a unit connected to an onsite wastewater treatment system.[161]

With respect to an application for an urban lot split, the city retains the discretion to adopt an ordinance allowing a smaller minimum lot size than 1,200 square feet.[162]

[155] Gov. Code § 66411.7(e).

[156] Gov. Code § 66411.7(g)(1), (2).

[157] Gov. Code § 66411.7(i).

[158] Gov. Code § 65852.21(b)(1), (2)(A).

[159] Gov. Code §§ 65852.21(b)(1)(B)(ii), 66411.7(c)(3).

[160] Gov. Code §§ 65852.21(c)(1), 66411.7(e).

[161] Gov. Code § 65852.21(c)(2).

[162] Gov. Code § 66411.7(a).

SB 10: Upzoning without CEQA Review

I. Summary of the Law

Adopted in 2021 and codified at Government Code section 65913.5, SB 10 creates a streamlined process for cities to voluntarily increase residential density up to 10 units per parcel on eligible parcels. The law authorizes the city to adopt an ordinance to zone a parcel for up to 10 units, at a height to be specified by the city. Any ordinance, resolution, or other regulation adopted pursuant to SB 10 is not subject to CEQA.

II. Types of Parcels Eligible for SB 10 Upzoning

Parcels must be located within an urban infill site or transit-rich area.[163] A transit rich-area is within one-half mile of (i) an existing rail or bus rapid transit station, (ii) ferry terminal served by either bus or rail services, or (iii) a high-quality bus corridor.[164] An urban infill site satisfies the following requirements:

- It is located in a city that includes an urbanized area or urban cluster as designated by the United States Census Bureau (defined as a geographic area of 50,000 or more people, and a geographic area of at least 2,500 and less than 50,000 people, respectively)—so Livermore qualifies;
- At least 75% of the perimeter of the site adjoins parcels that are developed with urban uses; and
- The site is zoned for or has a general plan designation that allows residential use or residential mixed use, with at least two-thirds of the square footage of the development designated for residential use.[165]

A parcel is not eligible if it is located within a high or very high fire hazard severity zone as determined by the Department of Forestry and Fire Protection, unless fire hazard mitigation measures have been adopted pursuant to existing building standards.[166] Similarly, property designated as open-space land or for park or recreational purposes through a local initiative is not eligible for SB 10 upzoning.[167]

III. Process Requirements

To utilize SB 10 to upzone parcels, the city must comply with the following requirements:

- Adopt an ordinance explicitly invoking Government Code section 65913.5;

[163] Gov. Code § 65913.5(a)(1).

[164] Gov. Code § 65913.5(e)(2).

[165] Gov. Code § 65913.5(e)(3).

[166] Gov. Code § 65913.5(a)(4)(A).

[167] *Id.*

- Clearly demarcate the areas that will be upzoned pursuant to the law;
- Make a finding that the increased density is consistent with the City's statutory obligation to affirmatively further fair housing;
- If the ordinance supersedes a zoning restriction adopted by local initiative, it must be adopted by a two-thirds vote of the city council.[168]

The adopted ordinance may not reduce the density of any parcel.[169] Any ordinance rezoning a parcel pursuant to SB 10 must be adopted prior to January 1, 2029.[170]

Once the city has adopted a zoning ordinance under SB 10, it may not subsequently reduce the density of any parcel subject to the ordinance.[171]

If a residential or mixed-use project of more than 10 residential units is proposed for a parcel that was subject to upzoning under SB 10, that project is not eligible for ministerial or by right approval, and is not exempt from CEQA.[172] However, the creation of up to two ADUs or JADUs pursuant to SB 9 does not count toward the total number of units for purposes of this provision.[173]

IV. Discretion Retained

If the city upzones a parcel under SB 10, it retains discretion to decide how many units it will permit on the parcel, up to a limit of 10. However, if a proposed project exceeds 10 units on parcels rezoned under the law, that project is not eligible for any CEQA exemption, or any ministerial or by-right process that would otherwise apply.[174] For example, if a parcel has been rezoned to allow 10 units, an applicant may not use a density bonus to exceed the 10 unit limit and then SB 35 to obtain ministerial review. Notwithstanding this limitation, up to two accessory dwelling units and junior ADUs may be ministerially approved on a parcel; these units would not count toward the 10-unit limit.[175] If an applicant desires to construct more than 10 units on a parcel zoned under SB 10, the parcel must be rezoned without using the provisions of SB 10.[176] Such an ordinance would not be exempt from CEQA.[177]

[168] Gov. Code § 65913.5(b).

[169] Gov. Code § 65913.5(d)(1).

[170] Gov. Code § 65913.5(a)(2).

[171] Gov. Code § 65913.5(d)(2).

[172] Gov. Code § 65913.5(c)(1).

[173] Gov. Code § 65913.5(c)(3).

[174] Gov. Code § 65913.5(c)(2).

[175] Gov. Code § 65913.5(c)(3).

[176] Gov. Code § 65913.5(c)(1).

[177] *Id*.

AB 2011: Housing in Commercial Zones

I. Summary of the Law

Adopted in 2022, codified as Government Code section 65912.100 et seq, and called the Affordable Housing and High Road Jobs Act of 2022, this bill became operative July 1, 2023 and will remain in effect until January 1, 2033.

AB 2011 allows for ministerial, by-right approval of affordable housing on commercially-zoned lands, and also allows such approvals for mixed-income housing along commercial corridors, as long as the projects meet specified affordability, labor, and environmental criteria.

II. Jurisdictions Subject to AB 2011 Streamlining

This law applies in all California jurisdictions that have sites meeting the eligibility criteria. Its application is not tied to RHNA or other population or housing-specific standards.

III. Types of Projects Eligible for AB 2011 Streamlining

AB 2011 requires cities and counties to streamline their approval of certain multi-family housing in two types of areas: commercial zones and "commercial corridors."

A. Affordable Housing Developments in Commercial Zones

To qualify for streamlining in commercial zones, a project must dedicate **100 percent of the units to lower income households** at an affordable cost or rent, and this dedication must be recorded in a deed restriction for 55 years for rental units and 45 years for owner-occupied units.[178]

The **project must be located on a site** that meets the following criteria:[179]

- zone where office, retail, or parking are a principally permitted use;
- legal parcel within a city whose boundaries include some portion of an urbanized area or urban cluster or a legal parcel in an unincorporated area where the project parcels are wholly within the boundaries of an urbanized area or cluster;
- 75 percent of the perimeter of the site adjoins parcels developed with urban uses; not a site or adjoined to a site where more than one-third of the square footage on the site is dedicated to industrial use;
- site is not located on prime farmland/farmland of statewide importance, wetlands, a delineated earthquake fault zone, a floodplain/floodway, or lands under conservation easement;
- not a site subject to various mobilehome laws;
- site within a neighborhood plan area must meet certain conditions;

[178] Gov. Code § 65912.112 (excludes the manager's unit).

[179] Gov. Code § 65912.111.

- for a vacant site, the site cannot contain tribal cultural resources nor can it be within a very high fire hazard severity zone.

The **project itself must meet the following additional criteria**:

- multifamily housing development project;
- residential density that meets or exceeds the applicable density appropriate to accommodate housing for lower income households in that jurisdiction as specified in state housing law;
- phase I environmental assessment must be completed and certain actions taken if a recognized environmental condition is found;
- housing on the site cannot be located within 500 feet of a freeway or 3,200 feet of a facility that actively extracts or refines oil or natural gas;
- development meets certain objective zoning, subdivision, and design review standards in effect at time application submitted to the local government—the applicable standards will be those for the zone that allows residential use at a greater density between the following two: the existing zoning designation for the parcel if the existing zoning allows multifamily residential use or the zoning for the closest parcel that allows residential use at a density that meets the residential density requirements above.[180] The objective standards "mean standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal."[181]

B. Mixed-Income Housing Developments Along Commercial Corridors

To qualify for streamlining along commercial corridors, a project must meet the following (much more limited) affordability criteria. If it is a rental housing development, it must either dedicate 8 percent of the units for very low income households and 5 percent of the units for extremely low income households or dedicate 15 percent of the units for lower income households.[182] This affordability restriction must remain in place for 55 years.[183] If it is an owner-occupied housing development, it must either include 30 percent of the units at an affordable housing cost to moderate-income households or include 15 percent of the units at an affordable housing cost to lower income households.[184] This affordability restriction must remain in place for 45 years.[185] If the local government has a local affordable housing requirement, the project must meet the highest required percentage of affordable units and the lowest income

[180] Gov. Code § 65912.113.

[181] Gov. Code § 65912.113(g).

[182] Gov. Code § 65912.122(a)(1).

[183] Gov. Code § 65912.122(a)(2).

[184] Gov. Code § 65912.122(b)(1).

[185] Gov. Code § 65912.122(b)(2).

targeting in either policy.[186] Affordable units in the development project must have the same bedroom and bathroom count ratio as the market rate units, be equitably distributed within the project, and have the same type or quality of appliances, fixtures, and finishes.[187]

The **project must be located on a site** that meets the following criteria:

- zoned where office, retail, or parking are a principally permitted use;
- legal parcel within a city whose boundaries include some portion of an urbanized area or urban cluster or a legal parcel in an unincorporated area where the project parcels are wholly within the boundaries of an urbanized area or cluster;
- site abuts a "commercial corridor"[188] and has frontage of at least 50 feet along the commercial corridor; site is not greater than 20 acres;
- 75 percent of the perimeter of the site adjoins parcels developed with urban uses;
- not a site or adjoined to a site where more than one-third of the square footage on the site is dedicated to industrial use;
- site is not located on prime farmland/farmland of statewide importance, wetlands, a delineated earthquake fault zone, a floodplain/floodway, or lands under conservation easement;
- not a site that would require demolition of certain types of housing or a historic structure or had housing was demolished within 10 years, or contains one to four dwelling units, or is vacant and zoned for housing but not multifamily residential use;
- not a site subject to various mobilehome laws;
- site within a neighborhood plan area must meet certain conditions;
- for a vacant site, the site cannot contain tribal cultural resources nor can it be within a very high fire hazard severity zone.[189]

The **project itself must meet the following additional criteria**:

- multifamily housing development project;
- density that meets or exceeds either the residential density allowed on the parcel or densities ranging from 20-80 units/acre depending on whether the site is within a metropolitan jurisdiction and the size of the project site;
- height limit that is the greater of the height allowed on the parcel or between 35-65 feet based on the width of the commercial corridor or its specific location criteria;
- specific setback standards described in the law;

[186] Gov. Code § 65912.122(c).

[187] Gov. Code § 65912.122(d).

[188] "Commercial corridor" is defined as "a highway, as defined in Section 360 of the Vehicle Code, that is not a freeway, as defined in Section 332 of the Vehicle Code, and that has a right-of-way, as defined in Section 525 of the Vehicle Code, of at least 70 and not greater than 150 feet." Gov. Code § 65912.101(a).

[189] Gov. Code § 65912.121.

- no parking required beyond bicycle, EV supply parking, or accessible parking spaces otherwise applicable to the development;
- phase I environmental assessment must be completed and certain actions taken if a recognized environmental condition is found;
- housing on the site cannot be located within 500 feet of a freeway or 3,200 feet of a facility that actively extracts or refines oil or natural gas;
- notice to commercial tenants and relocation assistance;
- development meets other objective zoning, subdivision, and design review standards in effect at time application submitted to the local government—the applicable standards will be those for the closest zone in the locality that allows multifamily residential use at the residential density allowed under this law or, if no zone exists that allows that residential density the applicable objective standards shall be those for the zone that allows the greatest density within the locality.[190] A locality may include a requirement that up to one-half of the ground floor of the housing development be dedicated to retail use.[191]

C. Labor Standards

Both types of eligible projects must meet certain labor standards. Eligible projects, except those that are in their entirety a public work, must pay prevailing wage. The developer is required to include the prevailing wage requirement in all contracts for the performance of the work and all contractors and subcontractors must pay prevailing wages and maintain and verify payroll records unless subject to a project labor agreement.[192] For eligible projects with 50 or more units, the developer must require contractors to employ construction craft employees or let subcontracts for at least 1,000 hours to participate in an apprenticeship program and make specified health care contributions.[193] It must also provide monthly reports to the local government demonstrating compliance with these requirements and failure to do so will result in penalties.[194]

The developer must also certify to the local government that the applicable labor standards will be met regardless of the size of the project.[195]

IV. Process Requirements

The process requirements for both types of housing developments eligible for streamlining under AB 2011 are nearly identical. If a local government determines that a development submitted under this law meets the objective planning standards described, then it

[190] Gov. Code § 65912.123.

[191] Gov. Code § 65912.123(j)(3).

[192] Gov. Code § 65912.130(b), 65912.131(e).

[193] Gov. Code § 65912.131.

[194] Gov. Code § 65912.131(d).

[195] Gov. Code §§ 65912.130(a), 65912.131(a).

must approve the development.[196] And if it identifies any conflict, then it must provide written documentation of the conflict and an explanation within strict timeframes: **60 days of submittal for developments of 150 or fewer housing units or 90 days for developments with more than 150 housing units**.[197] Failure to do so results in the development being deemed to satisfy the required objective planning standards.[198]

As long as there is "substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards," then the development is consistent regardless of missing application materials.[199]

Additional design review is allowed as long as it is "objective and [] strictly focused on assessing compliance with criteria required for streamlined, ministerial review of projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submittal of the development to the local government."[200] The **design review must occur within 90 days of submittal for developments of 150 or fewer housing units or 180 days for developments with more than 150 housing units**.[201] Similar to SB 35, we recommend identifying all inconsistencies in the original review period. The city may use this additional time to hold a design review hearing or to resolve any disputes with the developer regarding the city's consistency determination.

Housing developments subject to this law are eligible for a density bonus, incentives, waivers, and parking ratios under the state's Density Bonus Law.[202] For projects along a commercial corridor approved pursuant to that section of the law, the project cannot use a concession to reduce a local government's requirement for the provision of ground floor retail.[203]

The local government is required to ensure that the project satisfies the housing replacement and tenants' rights requirements of the Housing Crisis Act of 2019 (specifically Government Code section 66300(d)), regardless of whether the jurisdiction is normally subject to the Housing Crisis Act.[204] The local government must also process any requested subdivision ministerially and without CEQA review as long as the development is consistent with objective subdivision standards.[205] The expiration of the development approval, process for proposed modifications or subsequent permits, and requirements for public improvements are subject to

[196] Gov. Code §§ 65912.114(a)(1), 65912.124(a)(1).

[197] Gov. Code §§ 65912.114(a)(2), 65912.124(a)(2).

[198] Gov. Code §§ 65912.114(b), 65912.124(b).

[199] Gov. Code §§ 65912.114(c), 65912.124(c).

[200] Gov. Code §§ 65912.114(e), 65912.124(e).

[201] Gov. Code §§ 65912.114(e), 65912.124(e).

[202] Gov. Code §§ 65912.114(f), 65912.124(f).

[203] Gov. Code § 65912.124(f).

[204] Gov. Code §§ 65912.114(g), 65912.124(g).

[205] Gov. Code §§ 65912.114(h), 65912.124(h).

the same requirements as in SB 35.[206] And local governments are prohibited from imposing any requirements or fees that apply to the project solely on the basis that the project is eligible to receive streamlined, ministerial review under this law.[207]

V. Discretion Retained

Through a local implementing ordinance, a local government may exempt a parcel from eligibility under this statute before a development proponent submits an application if the local government makes the following written findings:

- it has identified other parcel(s) that meet certain eligibility criteria in Government Code sections 65912.111 and 65912.112;
- if the other parcel(s) it has identified would not otherwise be eligible for development under this law, then the implementing ordinance must permit the parcel(s) to be developed pursuant to the law or, if the other parcel(s) would be eligible for development under the law, then the implementing ordinance must authorize the parcel(s) to be developed ministerially at residential densities above the residential densities required under the law, as well as, for parcels on commercial corridors, the heights required under the law;
- the development of the identified parcel(s) will result in no net loss of total potential residential density or the potential residential density of housing affordable to lower income households in the jurisdiction and the affirmative furthering of fair housing.[208]

If the local government has not exempted the parcel(s) from application of the law, then it lacks discretion to deny an otherwise qualifying project.

Livermore should consider identifying what parcels could qualify for AB 2011 developments and determine if any of these parcels should be exempted from the law.

If ground floor retail is important to maintain on the parcels along commercial corridors, then Livermore should adopt a standard requiring one-half of the ground floor of the housing development to be dedicated to retail use.[209]

A local government may adopt an ordinance to implement this law (including exempting parcels), and this adoption will not be a project under CEQA.[210]

[206] Gov. Code §§ 65912.114(j), (k), (m), (n), 65912.124(j), (k), (m), (n).

[207] Gov. Code §§ 65912.114(*l*), 65912.124(*l*).

[208] Gov. Code §§ 65912.114(i), 65912.124(i).

[209] *See* Gov. Code § 65912.123(j)(3).

[210] Gov. Code §§ 65912.114(o), 65912.124(o).

SB 6: Housing in Retail and Office Zones

I. Summary of the Law

Adopted in 2022, codified as Government Code section 65852.24, and called the Middle Class Housing Act of 2022, this bill became operative July 1, 2023 and will remain in effect until January 1, 2033.

SB 6 allows residential development on property zoned for retail and office space without needing a rezoning, and allows project applicants to invoke the Housing Accountability Act (HAA) to limit local discretion to deny or condition approval. It subjects eligible projects to certain labor requirements and does not automatically exempt the projects from CEQA.

II. Jurisdictions Subject to SB 6

This law applies in all California jurisdictions that have sites meeting the eligibility criteria. Its application is not tied to RHNA or other population or housing-specific standards.

III. Types of Projects Eligible for SB 6

There are **no affordability requirements** for SB6 projects.

A housing development project will be deemed an allowable use on a parcel that is zoned for office, retail, or parking as principally permitted uses if it meets certain criteria. A housing development project is defined for the purposes of the law as "[r]esidential units only" or "[m]ixed-use developments consisting of residential and nonresidential retail commercial or office uses, and at least 50 percent of the square footage of the new construction associated with the project is designated for residential use. None of the square footage of any such development shall be designated for hotel, motel, bed and breakfast inn, or other transient lodging use, except for a residential hotel."[211] To be eligible, the project must:

- have a density that meets or exceeds applicable density deemed appropriate to accommodate lower-income households pursuant to housing element law;
- comply with local zoning, parking, design, and other ordinances, local code requirements, and procedures applicable to the processing and permitting of a housing development in a zone that allows for the housing with the appropriate density;
- comply with public notice, comment, hearing or other procedures applicable to the applicable zoning;
- be on a site 20 acres or less;
- comply with all other objective local requirements for the parcel except those that prohibit or restrict the density of residential use;
- be on a legal parcel within a city whose boundaries include some portion of an urbanized area or urban cluster or a legal parcel in an unincorporated area where the project parcels are wholly within the boundaries of an urbanized area or cluster;

[211] Gov. Code § 65852.24(k)(1).

- not be on a site or adjoined to a site where more than one-third of the square footage on the site is dedicated to industrial use;
- be consistent with any applicable and approved sustainable community strategy or alternative plan; and
- the developer must provide notice and certain relocation benefits to commercial tenants.[212]

The project can invoke the Housing Accountability Act and utilize the Density Bonus Law.[213]

The project and the developer must also comply with certain labor standards. The developer must certify that prevailing wage will be paid except for projects that are entirely a public work.[214] The developer must also certify to the local agency that a skilled and trained workforce will be used except where, after a specified bidding process, fewer than two prequalified contractors that are committed to using a skilled and trained workforce bid on the contract.[215]

The local government must require that a rental unit created pursuant to this law is subject to a term longer than 30 days.[216]

IV. Process Requirements

This law does not create any new approval processes. If the project meets all requirements (except non-compliance with zoning prohibiting residential use), then it may invoke SB 35 (if it otherwise qualifies) and the Housing Accountability Act.[217] Unless it qualifies for SB 35, it will be subject to CEQA.[218]

V. Discretion Retained

A local agency may exempt a parcel from this law if it makes written findings, supported by substantial evidence, either that the local agency concurrently reallocated any lost residential density to other lots, so that there was no net loss in residential density, or that the lost residential density from each exempted parcel can be accommodated on a site allowing residential densities at or above the density deemed appropriate to accommodate lower-income households pursuant to housing element law.[219] **Livermore should consider identifying what parcels could qualify**

[212] Gov. Code §§ 65852.24(b), (c).

[213] Gov. Code § 65852.24(e)(1).

[214] Gov. Code § 65852.24(b)(8).

[215] Gov. Code § 65852.24(b)(8), (9).

[216] Gov. Code § 65852.24(d).

[217] Gov. Code § 65852.24(f).

[218] Gov. Code § 65852.24(f)(1).

[219] Gov. Code § 65852.24(e)(1).

for SB 6 developments and determine if any of these parcels should be exempted from the law.

As noted above, unless the project is otherwise exempt, it will be subject to CEQA. It is also subject to the Coastal Act, state and local affordable housing laws and tenant protection laws, and local demolition ordinances.[220]

A local government may adopt an ordinance to implement this law, whose adoption shall not be a project under CEQA.[221]

[220] Gov. Code § 65852.24(e).

[221] Gov. Code §§ 65852.24(h).

AB 2234: Additional Streamlining for Permit Application Process

I. Summary of the Law

Adopted in 2022, codified as Government Code sections 65913.3 and 65913.3.5, this bill became effective on January 1, 2023, but allows various time periods for compliance based on the size of the jurisdiction.

The law borrows familiar aspects of the Permit Streamlining Act process and applies those standards to defined "postentitlement housing development permits" such as building permits, demolition permits and permits for minor or standard excavation, grading or off-site improvements. It requires the permit application process to be moved online and jurisdictions to create detailed lists of permit requirements. It prevents jurisdictions from adding requirements for applications in progress.

II. Types of Projects Subject to AB 2234

The law establishes application and review standards for "postentitlement phase permits" for certain housing projects, which are defined as "all nondiscretionary permits and reviews filed after the entitlement process has been completed that are required or issued by the local agency to begin construction of a development that is intended to be at least two-thirds residential, excluding discretionary and ministerial planning permits, entitlements, and other permits and reviews that are covered under" the Permit Streamlining Act.[222] These permits include but are not limited to the following:

(i) Building permits, and all inter-departmental review required for the issuance of a building permit.

(ii) Permits for minor or standard off-site improvements.

(iii) Permits for demolition.

(iv) Permits for minor or standard excavation and grading.[223]

This law explicitly applies to "subsequent permits" for SB 35 projects, and local agencies shall comply both with the standards for these permits in SB 35 and the requirements under AB 2234.[224]

[222] Gov. Code § 65913.3(j)(3)(A).

[223] *Id*.

[224] Gov. Code § 65913.3(h).

III. Process Requirements

Failure to meet the timelines described below is a violation of the Housing Accountability Act, which would expose the city to liability for attorney's fees and penalties.[225]

A. Permit Requirements and Examples

By January 1, 2024, all local agencies must create and post online at least one list to specify the information required for a postentitlement phase permit. The lists may be revised but revised lists cannot apply to any permit already pending.[226] Local agencies must also post online examples of complete, approved applications and sets of postentitlement phase permits for at least five types of housing development projects in the jurisdiction.[227]

By January 1, 2024, Livermore must provide an option for applicants to apply for, complete, and retrieve postentitlement phase permits on its internet website.[228] Before it has completed its online application system, a city must accept applications by email, post status updates on the city's website, and respond to queries by the applicant by email.[229] Livermore may extend the deadline for the online permitting system by up to two years if the city council makes a written finding that adopting such a system by the deadline would require substantial increases in permitting fees and it has begun the procurement process for the permitting system.[230]

B. Processing Postentitlement Phase Permits

1. Completeness Determination

Cities processing these postentitlement phase permits are subject to strict response timelines. First, the city must **determine if the application is complete within 15 business days after receiving the application**.[231] If incomplete, the city must provide the applicant with a list of the incomplete items and describe how to complete the application—only items on the official requirement lists can be referenced.[232] An applicant can resubmit its application and the city must determine if the **resubmitted application is complete within 15 business days**.[233] If the

[225] Gov. Code § 65913.3(f).

[226] Gov. Code § 65913.3(a)(1).

[227] Gov. Code § 65913.3(a)(2).

[228] Gov. Code § 65913.5(a), (b). Smaller jurisdictions have a longer time period to create an online permitting system.

[229] Gov. Code § 65913.5(b).

[230] Gov. Code § 65913.5(a)(2).

[231] Gov. Code § 65913.3(b)(1)(A).

[232] Gov. Code § 65913.3(b)(1)(B).

[233] Gov. Code § 65913.3(b)(2).

city fails to make a timely completeness determination, then the application is deemed to be complete for the purposes of the law.[234]

2. Permit Application Review

Once an application is complete, the city must quickly review and "either return in writing a full set of comments to the applicant with a comprehensive request for revisions or return the approved permit application on each postentitlement phase permit requested."[235] For **projects with 25 or fewer units of housing, the city has 30 business days to complete this step from when the application is complete; for projects with 26 or more units, the city has 60 business days**.[236] The statute recognizes that local agencies will sometimes need outside entities to review postentitlement phase permits and that the local agency does not have control over that review, therefore, these time limits are tolled until the required outside agency review is complete.[237] The city must notify the applicant within three business days of the tolling and resumption of the time limit.[238]

If a complete application is noncompliant, the city must provide the applicant with a list of the items that are noncompliant and a description of how to fix the noncompliant items within the 30 or 60 business days.[239] A local agency can also deny a postentitlement phase permit application based on a determination that the application is noncompliant.[240] If it denies the application, the applicant may attempt to remedy the application, but this is treated as a new application subject to a new running of the 30/60 business day review time periods.[241] In order for an applicant to fix the noncompliant items, the city would need to determine noncompliance before the expiration of these timelines and then shorten its own subsequent review. But if it just denies the application for being noncompliant, then this requires the applicant to submit a new application subject to a new 30/60 day review period.

3. Appeal

If a postentitlement phase permit is determined to be incomplete or denied or determined to be noncompliant, the city must provide a process for the applicant to appeal that decision in writing.[242] A city or county shall provide that the right of appeal is to the governing body or, at

[234] Gov. Code § 65913.3(b)(3).

[235] Gov. Code § 65913.3(c).

[236] *Id*.

[237] Gov. Code § 65913.3(c)(4).

[238] *Id*.

[239] Gov. Code § 65913.3(d)(1).

[240] Gov. Code § 65913.3(d)(3).

[241] Gov. Code § 65913.3(d)(4).

[242] Gov. Code § 65913.3(e)(1).

their option, the planning commission, or both.[243] **Livermore should consider where it wants to direct these appeals**.

For **permits related to housing development projects with 25 or fewer units, the city must provide a final written determination within 60 business days after receiving the appeal, and for projects with 26 units or more, the city has 90 business days**.[244] If the city has decided to direct appeals to both the planning commission and city council, it still only has 60 or 90 days.[245]

IV. Discretion Retained

A local agency can identify, by ordinance and with written findings, a test for determining whether a permit constitutes a "minor" or "standard" permit for purposes of postentitlement phase permits.[246] Presumably, a city could require more application materials for a standard permit than a minor permit.

The time limits do not apply if "the local agency makes written findings within the time limits … based on substantial evidence in the record that the proposed postentitlement phase permit might have a specific, adverse impact on public health or safety and that additional time is necessary to process the application."[247] However, the specific, adverse impact must be based on "objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete."[248]

A local agency and an applicant can mutually agree to extend any time limit described in the law, but a local agency cannot require such agreement as a condition of accepting the permit application unless the agreement is to permit concurrent processing of related approvals or an environmental review of the same housing development project.[249]

[243] *Id*.

[244] Gov. Code § 65913.3(e)(2).

[245] *Id*.

[246] Gov. Code § 65913.3(j)(3)(B).

[247] Gov. Code § 65913.3(c)(3)(A).

[248] Gov. Code § 65913.3(c)(3)(B).

[249] Gov. Code § 65913.3(i).

Streamlining ADU Laws

Accessory dwelling unit (ADU) laws are changing quickly to permit more streamlined and by-right development of ADUs. HCD has an ADU Handbook that comprehensively describes all ADU laws.[250] This guide highlights where local jurisdictions retain discretion and where they have lost it rather than exhaustively discussing the entire statutory scheme.

I. Overview

ADU law allows a local agency to adopt an ordinance that designates areas within the jurisdiction where accessory dwelling units will be permitted. In the absence of a local ordinance, the state has provided a default accessory dwelling unit approval process by which the local agency must approve or disapprove applications for accessory dwelling units without discretionary review within 60 days after receiving the application.[251] If the local agency adopts an ADU ordinance, it must impose objective standards that include, but are not limited to, the following:[252]

- Parking;
- Height, setback, and lot coverage;
- Landscape and architectural review;
- Maximum unit size; and
- Standards that prevent adverse impacts on properties listed in the California Register of Historic Places.

ADU law also provides for the creation of junior accessory dwelling units (JADUs) in single-family residential zones. A JADU is a unit that is no more than 500 square feet in size and contained entirely within a single-family residence.[253] If a local agency adopts a JADU ordinance, it may require the applicant to obtain a permit and must do all of the following:[254]

- Limit the number of JADUs to one per lot zoned for single-family residences, for lots with an existing or proposed single-family residence;
- Require owner-occupancy in the residence in which the JADU will be permitted, unless the owner is a government agency, land trust, or housing organization;
- Require the recordation of a deed restriction to run with the land, which must be filed with the permitting agency, and must include a prohibition on the sale of the JADU separate from the sale of the single-family residence, and a restriction on the size and attributes of the JADU;

[250] Available at https://www.hcd.ca.gov/sites/default/files/2022-07/ADUHandbookUpdate.pdf (last updated July 2022).

[251] Gov. Code § 65852.2(b).

[252] Gov. Code § 65852.2(a)(1)(B).

[253] Gov. Code § 65852.22(h).

[254] Gov. Code § 65852.22(a).

- Require the JADU to include a separate entrance from the proposed or existing single-family residence; and
- Require the JADU to include an efficiency kitchen including a cooking facility with appliances, food preparation counter, and storage cabinets of reasonable size in relation to size of JADU.

It may not require additional parking as a permit condition, but it can adopt a parking standard that applies uniformly to all single family residences in the zone regulated by the ordinance.[255]

II. Discretion Retained

Local agencies retain some discretion in that they can adopt their own ordinances that meet the state minimum standards. For example, for ADUs, the local government can adopt landscape and architectural standards as long as those standards do not conflict with the state minimum standards and do not prevent the development of an ADU that meets the Statewide Exemption ADU standards. Without a local ADU ordinance in place, a city must process and approve all applications that meet the state minimums ministerially.

[255] Gov. Code § 65852.22(b), (f).

Additional Housing Laws

The following highlights a few "special circumstance" housing laws.

I. AB 1851 (2020) & AB 2244 (2022): Housing at Religious Institutions

At its most basic level, AB 1851 reduces parking requirements to make it easier to develop housing projects in religious institution parking lots. It adds a section 65913.6 to the Government Code to lay out the requirements. A qualifying housing project must be located on a religious institution's parking lot, and must qualify for a density bonus (so it should have at least some affordable or senior housing).[256] The law generally prohibits local agencies from denying a housing development project in the parking lot of a religious institution on the basis that the project will reduce the number of available parking spaces, provided that the total reduction does not exceed 50 percent.[257] Additionally, it requires local governments to count remaining church parking spaces toward housing project parking.[258] Regardless of these rules, a city may still require a housing project to have at least one space per unit except if the parcel is within half a mile of a high quality transit corridor or major transit stop, or there is a car share vehicle located within one block of the parcel.[259]

AB 2244 expands the definition of "religious-use parking spaces" to include both existing and new places of worship. Beginning January 1, 2023, any proposed affordable housing development located on a religious property is eligible for up to a 50 percent reduction in the number of required religious-use parking spaces. AB 2244 continues to provide that a local agency cannot deny a development based upon the proposed reduction in parking. However, the bill now does not exempt religious institutions from the requirements on new developments to provide electric vehicle charging infrastructure, or parking spaces dedicated to persons with disabilities.

II. AB 3308 (2020): Housing on School District Property

Before 2020, this law allowed a school district to establish and maintain programs that addressed the housing needs of teachers and school district employees who face challenges in securing affordable housing and required a program established by the act to be restricted to teachers and school district employees.[260] AB 3308, amending Health and Safety Code sections 53571, 53572, and 53574, specifies that the state policy created by the act includes permitting school districts to restrict occupancy on land owned by school districts to teachers and school district employees, including permitting school districts and developers in receipt of tax credits designated for affordable rental housing to retain the right to prioritize and restrict occupancy on

[256] Gov. Code § 65913.6(a).

[257] Gov. Code § 65913.6(b).

[258] Gov. Code § 65913.6(d).

[259] Gov. Code § 65913.6(f).

[260] Health & Safety Code § 53573.

land owned by school districts to teachers and school district employees.[261] It also specifies that a school district may allow local public employees or other members of the public to occupy housing created through the act, and provides that the school district retains the right to prioritize school district employees over local public employees or other members of the public to occupy housing.[262]

III. AB 2097 (2022): Limitation on Minimum Parking Standards

This law, through the addition of Government Code section 65863.2, prohibits local governments from imposing minimum parking requirements on residential, commercial or other development projects located within a half-mile of public transit.[263] A city may only impose parking minimums on such projects if the city can make certain written findings that not imposing parking requirements would have substantial negative impacts on 1) the city's ability to meet its regional housing needs for low- and very low-income households; 2) the city's ability to meet special housing needs for the elderly or persons with disabilities; 3) existing residential or commercial parking facilities located within a half-mile of the housing development project.[264] This exception does not apply to housing development projects, including but not limited to residential-only and mixed-use projects, if 1) a minimum of 20 percent of the units are dedicated to very low-, low- or moderate-income households, students, the elderly or persons with disabilities; 2) the development contains fewer than 20 housing units; or 3) the development is subject to other applicable parking reductions provided by law.[265] The local government can still require electric vehicle supply equipment or accessible parking spaces that otherwise would have been required in the development.[266]

[261] Health & Safety Code § 53574.

[262] Health & Safety Code § 53571.

[263] Gov. Code § 65863.2(a).

[264] Gov. Code § 65863.2(b).

[265] Gov. Code § 65863.2(c).

[266] Gov. Code § 65863.2(f).

SMW summary of new Housing Legislation signed into law by Gov. Newsom on 10/11/2023
Only included legislation that impacts language in the Development Code

Bill	Gov't Code Section	Bill Provisions and Highlights	City consideration
AB 812 (Boerner) – Affordable Housing	65914.8 (new)	Authorizes City, if it requires that a certain percentage of units of a residential development be affordable housing, to reserve for artists up to 10% of those required affordable housing units, except as provided, if certain conditions are met, including that the units reserved are located within or within one-half mile from a state-designated cultural district or within a locally designated cultural district, as specified. https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB812	Don't believe this is applicable to Livermore, but including for City confirmation
AB 894 (Friedman) – Parking	65863.1 (new)	• Allows entities with underutilized parking to share their underutilized parking with the public, local agencies, or other entities, if those entities submit a shared parking agreement, as defined, to City, and information identifying the benefits of the proposed shared parking agreement. • Requires City to allow parking spaces identified in a shared parking agreement to count toward meeting automobile parking requirements for a new or existing development or use, including, but not limited to, shared parking in underutilized spaces and in parking lots and garages that will be constructed as part of the development or developments when specified conditions regarding the distance between the entities that will share the parking are met. https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB894	Amendment to parking section(s) of LDC. Does the City already have a shared parking program/policy? City has to allow shared parking agreements when a professional study is prepared; they may allowed shared parking agreements if not.
AB 976 (Ting) – ADUs	65852.2 (amend)	• Prohibits City from imposing owner occupancy requirements on ADUs regardless of when the units was approved, built, occupied, etc. • Allows City to require rental terms that are 30 days or longer. https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB976	Amendment to ADU ordinance for owner occupancy. City discretion: Can allow rentals for less than 30 days.
AB 1033 (Ting) – ADUs	65852.2 and 65852.26 (amend)	Grants authorization to City to allow ADUs to be sold separately from the primary residence as condominiums.	City discretion: Completely optional. City can allow separate conveyance of ADU

Bill	Gov't Code Section	Bill Provisions and Highlights	City consideration
		https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1033	and primary unit as condos but is not required to.
AB 1287 (Alvarez) – Density Bonus	65915 (amend)	Modifies State Density Bonus law to require City to grant an additional density bonus, calculated as specified, when: (1) an applicant proposes to construct a housing development that conforms to specified requirements, (2) the applicant agrees to include additional rental or for-sale units affordable to very low income households or moderate-income households, as specified, and (3) the housing development conforms to specified requirements and provides 24% of the total units to lower income households, conforms to specified requirements and provides 15% of the total units to very low income households, or conforms to specified requirements and provides 44% of the total units to moderate-income units. • Requires City to grant four incentives or concessions for a project that includes at least 16% of the units for very low income households or at least 45% for persons and families of moderate income in a development in which the units are for sale. • Increases the incentives or concessions for a project in which 100% of all units are for lower income households, as specified, from 4 to 5. • Clarifies that City is not prohibited from requiring an applicant to provide reasonable documentation to establish eligibility for a requested density bonus and parking ratios, as specified. https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB1287	Amendment to DB ordinance. No City discretion.
AB 1308 (Quirk-Silva) – Parking	65863.3 (new)	Prohibits City from increasing the minimum parking requirement that applies to a single-family residence as a condition of approval of a project to remodel, renovate, or add to a single-family residence, provided that the project does not cause the single-family residence to exceed any maximum size limit imposed by the applicable zoning regulations, including, but not limited to, height, lot coverage, and floor-to-area ratio. https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1308	Amendment to parking section(s) of LDC. No City discretion.

Bill	Gov't Code Section	Bill Provisions and Highlights	City consideration
AB 1332 (Carrillo) – ADUs	65852.27 (new)	City must develop a program for the preapproval of accessory dwelling unit plans by January 1, 2025 that complies with the following: (1) Must accept ADU plan submissions for preapproval and approve or deny the preapproval applications from anyone who wants to submit. Approval/denial shall be subject to same timelines as regular ADU application review. (2) City can charge a fee for the preapproval review and processing. (3) Preapproved plans shall be posted on City's website along with applicant's name and contact info they provided. City shall remove ADU plan from website if requested by applicant. (4) City may also allow ADU plans that City has developed or plans that have been preapproved by other agencies in the State into the Preapproved ADU Program City shall either approve or deny an application within 30 days if an ADU application utilizes either: (1) Preapproved ADU Program plan approved within the current triennial California Building Standards Code rulemaking cycle; or (2) Plan that is identical to a plan used in an application and approved by the City for a detached ADU approved by the local agency within the current triennial California Building Standards Code rulemaking cycle. https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB1332	Amendment to ADU ordinance to reference approval process for pre-approved plans. City discretion to create ADU plans themselves and/or find other jurisdictions whose plans City would like to pre-approve. City discretion to charge fee for pre-approved ADU plan processing.
AB 1490 (Lee) – Adaptive Reuse	65913.12 and 65960.1 (new)	Incentivizes affordable housing adaptive reuse projects by mandating expedited permit approval times, adherence to objective design standards, and streamlining. • An extremely affordable adaptive reuse project is an allowable use on an infill parcel that is not located on or adjoined to a site where more than ½ of the square footage on the site is dedicated to industrial use, as specified, under the Housing Accountability Act. • An "extremely affordable adaptive reuse project" for these purposes means a multifamily housing development project that involves retrofitting and repurposing of a residential or commercial building that currently allows temporary dwelling or occupancy, and that meets specified affordability requirements, including that 100% of the units be dedicated to lower income households, 50% of which shall be dedicated to very low income households, as specified.	Add to new streamlining section of LDC Housing Chapter. No City discretion.

Bill	Gov't Code Section	Bill Provisions and Highlights	City consideration
		• City shall not impose or require the curing of any preexisting deficit of or conflict with any of the following standards on a project submitted for review pursuant to this section: (1) Any maximum density requirements. (2) Any maximum floor area ratio requirements. (3) Any requirement to add additional parking. (4) Any requirement to add additional open space. • Contains specific timeframes for response to applicant re conformance with objective design standards https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1490	
SB 4 (Wiener) - Streamlining Affordable Housing on Faith and Higher Education Lands Act of 2023	65913.16 (new)	On any land owned by an independent institution of higher education or religious institution on or before January 1, 2024, requires that a housing development project be a use by right upon the request of an applicant who submits an application for streamlined approval, if the development satisfies specified criteria including: • Development is not adjoined to any site where more than one-third of the square footage on the site is dedicated to industrial use. • 100% of the units, exclusive of manager units, in a housing development project eligible for approval as a use by right under these provisions be affordable to lower income households, except that 20% of the units may be for moderate-income households, and 5% of the units may be for staff of the independent institution of higher education or the religious institution that owns the land, provided that the units affordable to lower income households are offered at affordable rent, as set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee, or affordable housing cost, as specified. • Authorizes the development to include ancillary uses on the ground floor of the development, as specified. • Housing development project that is eligible for approval as a use by right under the bill is also eligible for a density bonus, incentives, or concessions, or waivers or reductions of development and parking standards, except as specified. • Provides off-street parking of up to one space per unit, unless a state law or local ordinance provides for a lower standard of parking, in which case the law or ordinance applies.	Consider whether City wants a new section within the Housing Chapter devoted to SB 4 (even if it is simply "Development in accordance with Gov't Code 65913.16") SB 4 sunsets in 2036. City discretion to make provisions permanent or sunset in 2036 as well.

Bill	Gov't Code Section	Bill Provisions and Highlights	City consideration
		• Prohibits a local government from imposing any parking requirement on a development subject to these provisions if the development is located within one-half mile walking distance of public transit, either a high-quality transit corridor or a major transit stop, as those terms are defined, or it is within one block of a car share vehicle. • Requires a local government that determines a proposed development is in conflict with any objective planning standards, as specified, to provide the developer with written documentation explaining those conflicts under a specified timeframe. Provides that the development shall be deemed to satisfy the required objective planning standards if the local government fails to provide the requisite documentation explaining any conflicts. • Authorizes City to conduct a design review, as described, only if the design review focuses on compliance with the requisite criteria of a streamlined, ministerial review process. The bill would prohibit City from using a design review, as specified, from inhibiting, chilling, or precluding a streamlined, ministerial approval. • Requires density bonus allowances, as specified, which are different for parcels zoned for residential uses than for parcels not zoned for residential uses. • Requires City to issue a subsequent permit for developments approved under the provisions of this act. • Because approval is ministerial, no CEQA review. • Provisions repealed as of January 1, 2036. https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB4	
SB 423 (Wiener) – Streamlining Extends and amends provisions of SB 35	65913.4 (amend)	Clarifies and amends the provisions of SB 35, as follows: • Extends the operation of the streamlined, ministerial approval process to January 1, 2036. • Adds "equine or equestrian district" carve-outs: Does not apply to applications for developments proposed on qualified sites, defined as a site that is located within an equine or equestrian district and meets certain other requirements, that are submitted on or after January 1, 2024, but before July 1, 2025. • Applies SB 35 in the Coastal Zone: Requires a public agency with coastal development permitting authority to approve a coastal development permit if it determines that the development is consistent with	Update new SB 35 section of LDC (11.02.010) with changes to SB 35 brought by SB 423. SB 423 sunsets in 2036. City discretion to make provisions permanent or sunset in 2036 as well.

Bill	Gov't Code Section	Bill Provisions and Highlights	City consideration
		all objective standards of the local government's certified local coastal program, as specified. Applies in a coastal zone on or after January 1, 2025. • Deletes the prohibition for a development to be located within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection, and would instead prohibit a development from being located with the state responsibility area, as defined, unless the site has adopted specified standards. • Removes an exception for sites excluded from specified hazard zones by City, as specified. • Provides an alternative definition for "affordable rent" for a development that dedicates 100% of units, exclusive of a manager's unit or units, to lower income households. • Deletes the objective planning standards requiring development proponents to pay at least the general prevailing rate of per diem wages and utilize a skilled and trained workforce and would instead require a development proponent to certify to the local government that certain wage and labor standards will be met, including a requirement that all construction workers be paid at least the general prevailing rate of wages, as specified. The bill would require the Labor Commissioner to enforce the obligation to pay prevailing wages. • Clarifies that City staff is responsible for determining whether development is consistent with objective planning standards, not City Council/legislative bode. Requires project approval if City's CDD or equivalent position determines the development is consistent with the objective planning standards. • Requires all City departments that are required to issue an approval of the development prior to the granting of an entitlement to also comply with the above-described streamlined approval requirements within specified time periods. • Prohibits City from requiring, prior to approving a development that meets the requirements of the above-described streamlining provisions, compliance with any standards necessary to receive a postentitlement permit or studies, information, or other materials that do not pertain directly to determining whether the development is consistent with the objective planning standards applicable to the development. • Establishes that the total number of units in a development includes: 1. All projects developed on a site, regardless of when those developments occur, and	

Bill	Gov't Code Section	Bill Provisions and Highlights	City consideration
		2. All projects developed on sites adjacent to a site developed pursuant to these provisions if, after January 1, 2023, the adjacent site had been subdivided from the site developed pursuant to these provisions. • Removes the authorization for the planning commission to conduct public oversight of the development and would only authorize design review to be conducted by the planning commission or any equivalent board or commission responsible for design review. • For development proposed in a disadvantaged community (i.e., census tract that is designated either as a moderate resource area, low resource area, or an area of high segregation and poverty on the most recent "CTCAC/HCD Opportunity Map"), within 45 days after receiving a notice of intent, and before the development proponent submits an application for the proposed development that is subject to the streamlined, ministerial approval process, the City shall provide for a public meeting to be held by the city council to provide an opportunity for the public and the local government to comment on the development. https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB423	
SB 684 (Caballero) – Streamlining	65852.28, 65913.4.5, and 66499.41 (new)	Requires City to ministerially consider, without discretionary review or a hearing, a parcel map or a tentative and final map for a housing development project that meets specified requirements: 1. The proposed subdivision will result in 10 or fewer parcels and the housing development project to, among other things, consist of 10 or fewer residential units. 2. Meet certain minimum parcel size and density requirements, and 3. Be located on a lot zoned for multifamily residential development that is no larger than 5 acres and is substantially surrounded by qualified urban uses. • Exempts the housing development project from certain requirements relating to minimum parcel size and dimensions and the formation of a homeowners' association, except as specified. • Requires City to ministerially consider, without discretionary review or a hearing, an application for a housing development project on a lot that is subdivided pursuant to the above provisions.	Consider whether City wants a new section within the Housing Chapter devoted to SB 684. (Seems like yes)

Bill	Gov't Code Section	Bill Provisions and Highlights	City consideration
		• Authorizes City to impose on the housing development objective zoning standards, objective subdivision standards, or objective design standards that are related to a housing development or to the design or improvement of a parcel, as specified • Prohibits City from imposing on the housing development certain standards, including that: 1. Physically preclude the development of a project built to specified densities, 2. Impose a requirement that applies to a project solely or partially on the basis that the subdivision or housing development receives approval pursuant to the bill's provision, or 3. Impose certain requirements related to parking, setbacks, or floor area ratios, as specified. 4. Impose streamlining requirements with regard to consideration of an application for a parcel map or a tentative and final map pursuant to the first set of provisions described above or an application for a housing development project pursuant to the 2nd set of provisions described above. • Requires City to approve or deny a completed application submitted to City pursuant to these provisions within 60 days from the date the local agency receives it. If the local agency does not approve or deny the application within 60 days, the application would be deemed approved. If the local agency denies the application, the bill would require the local agency, within 60 days of receipt of the application, to return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the applicant can remedy the application. • City is not required to permit an ADU or JADU on a parcel created through the exercise of the authority provided by this bill. • City is not required to permit an urban lot split on a parcel created through the exercise of the authority provided by this bill. Bill allows an exemption for a site located within a single-family residential horsekeeping zone designated in a master plan, adopted before January 1, 1994, that regulates land zoned single-family horsekeeping, commercial, commercial-recreational, and existing industrial within the plan area if the City has an adopted Housing Element that is compliant with applicable law. • Because approval is ministerial, no CEQA review. • An ordinance adopted by City to implement certain provisions of the bill would not be considered a project under CEQA.	

Bill	Gov't Code Section	Bill Provisions and Highlights	City consideration
		https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB684	

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AMERICAN MERCANTILE

Context

The **American Mercantile** architectural style is a broad term that describes commercial buildings from the late 19th and early 20th centuries, particularly in small towns and urban centers across the United States.

Buildings in the **American Mercantile** style were designed primarily for retail and business purposes, with housing and offices incorporated into upper floors. The buildings often reflected a mix of architectural influences, emphasizing practicality and local materials, but are very effective in creating a mix of uses that bring vitality to city centers and commercial districts.





Building Scale:

Two or more stories

Building Types Allowed:

- ☐ Podium
- ☐ Wrap
- ☐ Commercial Block
- ☐ Ground Floor Flex

CONTEMPORARY

Context

Contemporary is an architectural style that can be very broadly interpreted and applied. Contemporary buildings have a sleek and simple aesthetic that focuses on materials and textures and with minimal ornamentation. This style combines rectilinear massing forms, either symmetrically or asymmetrically, with changes in material and color. Ample use of glass and cantilevered elements maximizes space and natural light, and patterns are established on the exterior elevations with repeating building elements.

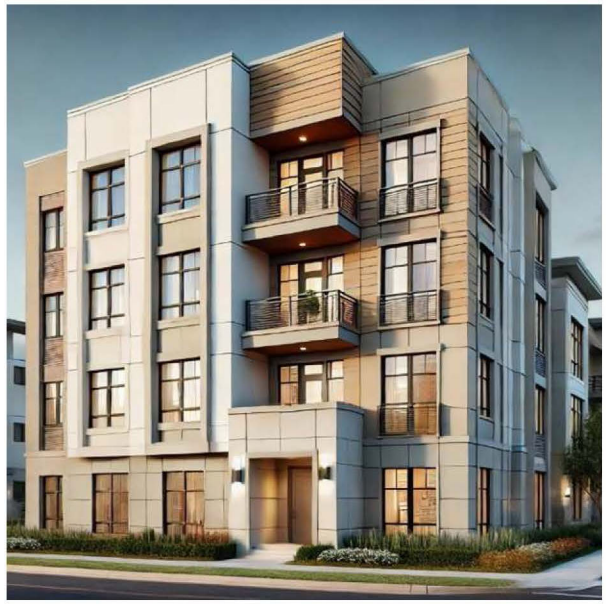
Building Scale:

Four or more stories

Building Types Allowed:

- ☐ Podium
- ☐ Wrap
- ☐ Commercial Block
- ☐ Ground Floor Flex
- ☐ Garden





CRAFTSMAN

Context

Craftsman was the dominant style for smaller houses built throughout the country for a short period of time from the turn of the century until the early 1920s. Downtown Livermore contains many examples of classic Craftsman architecture in the single-family home form, but this style adapts to multi-story buildings as well.

Building Scale:

1 to 3 stories

Building Types Allowed:

- ☐ Courtyard
- ☐ Motor Court
- ☐ Townhouse
- ☐ Triplex through Sixplex
- ☐ Duplex
- ☐ Bungalow Court





FARMHOUSE

Context

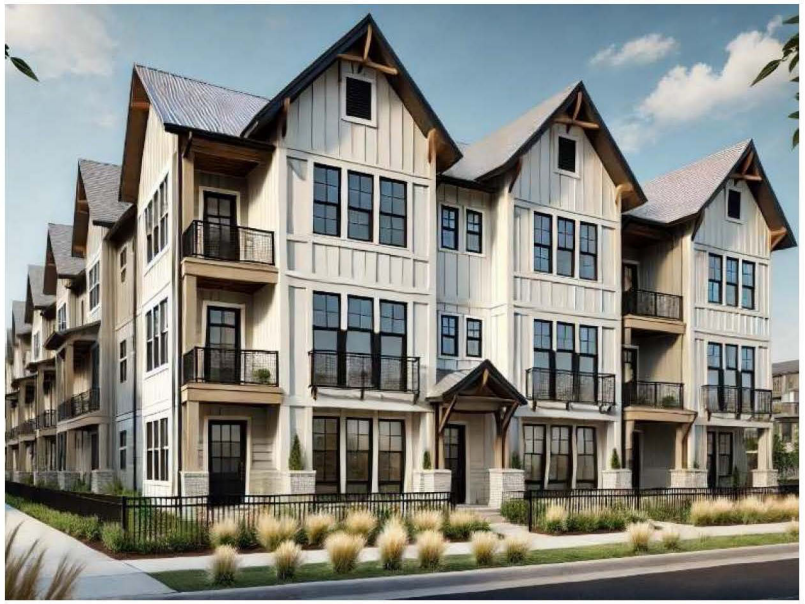
The **Farmhouse** style incorporates elements inspired by traditional rural homes with modern adaptations. This style includes a balance of rustic and modern materials in a building that is designed to feel comfortable and less formal, with pitched roofs and large, functional porches.

Building Scale:

1 to 3 stories

Building Types Allowed:

- ☐ Courtyard
- ☐ Motor Court
- ☐ Townhouse
- ☐ Triplex through Sixplex
- ☐ Duplex
- ☐ Bungalow Court





FEDERAL

Context

Federal architecture emerged in the United States in the late 18th century and was widely used in residential, civic, and institutional buildings. This style has an emphasis on symmetry, balanced proportions, and classical details. Though widely used on the East Coast in grand single-family homes, the style has evolved and is effectively used in multifamily residential buildings as well.



Building Scale:

Two or more stories

Building Types Allowed:

- ☐ Podium
- ☐ Wrap
- ☐ Commercial Block
- ☐ Ground Floor Flex
- ☐ Garden
- ☐ Courtyard
- ☐ Motor Court
- ☐ Townhouse
- ☐ Triplex through Sixplex
- ☐ Duplex
- ☐ Bungalow Court



PRAIRIE

Context

The **Prairie** style originated in Chicago, was common in early 20th-century suburbs throughout the country, and most examples were built between 1905 and 1915. When adapted for a multi-unit building, the style may incorporate wide, horizontal façades, tiered levels to maintain a low-profile appearance, shared outdoor spaces with natural landscaping, and materials like brick, stone, or wood to reflect its organic roots.



Building Scale:

1 to 3 stories

Building Types Allowed:

- ☐ Courtyard
- ☐ Motor Court
- ☐ Townhouse
- ☐ Triplex through Sixplex
- ☐ Duplex
- ☐ Bungalow Court



SPANISH MEDITERRANEAN

Context

Spanish Mediterranean is an architectural style inspired by the Spanish missions in California. It blends traditional Spanish design elements with modern construction techniques and has adapted well for multifamily and mixed-use development in the Bay Area.

Building Scale:

Three or more stories

Building Types Allowed:

- ☐ Podium
- ☐ Wrap
- ☐ Commercial Block
- ☐ Ground Floor Flex
- ☐ Garden
- ☐ Courtyard
- ☐ Motor Court

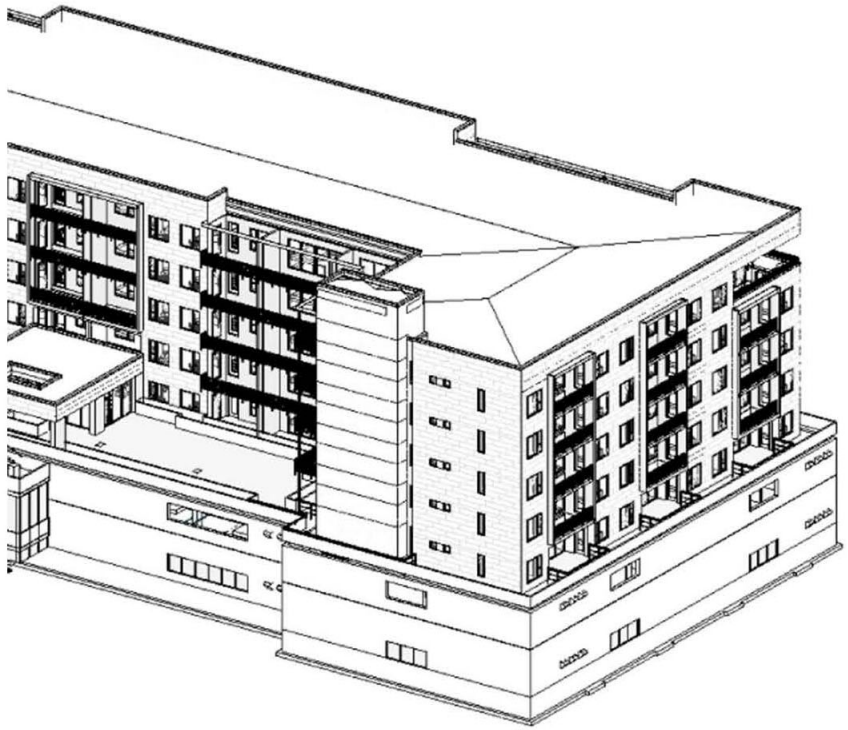




PODIUM

Context

A **Podium** building is a mid-rise residential or mixed-use building where the lower level, often made of concrete, functions as a "podium" to support multiple stories, usually wood-framed construction, of residential units above. The podium floor at the ground level typically features retail space, parking garages, lobbies, common spaces, or other building amenities, while the upper floors are dedicated to residential units.



Building Frontages (Select One)

- ☐ Shopfront
- ☐ Terrace Shopfront
- ☐ Gallery

WRAP

Context

A **Wrap** (also called a "wrap around podium") building is a mid-rise residential or mixed-use building where a central, multi-story concrete parking garage is surrounded by multiple floors of residential units, which are almost always wood-framed construction. The ground floor units can be residential or commercial uses.



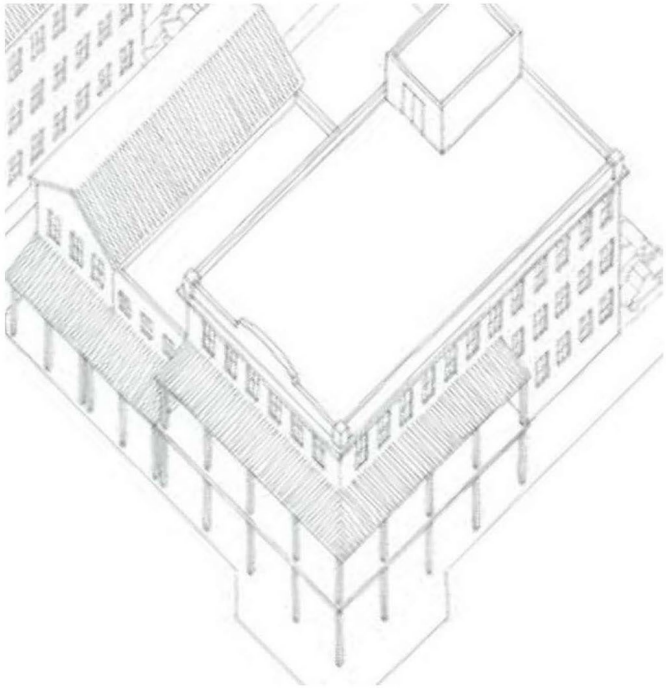
Building Frontages (Select One)

- ☐ Porch
- ☐ Stoop
- ☐ Forecourt
- ☐ Shopfront
- ☐ Terrace Shopfront
- ☐ Gallery

COMMERCIAL BLOCK

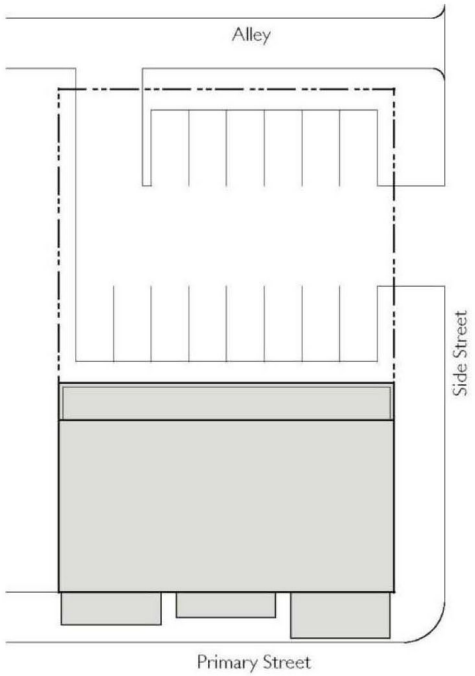
Context

A **Commercial Block** building is a vertical mixed-use building with ground floor commercial or retail uses and upper floor commercial or residential uses. Larger versions of these building types are located in town centers and smaller versions in neighborhood main streets. For the purposes of the Mixed-Use and Multifamily Objective Design Standards, a Commercial Block building would need to include residential uses.



Building Frontages (Select One)

- ☐ Shopfront
- ☐ Terrace Shopfront
- ☐ Gallery



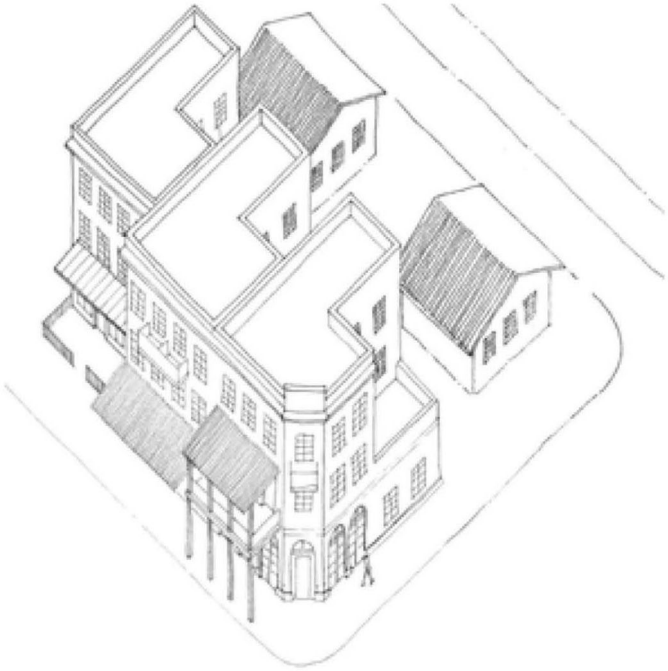
GROUND FLOOR FLEX

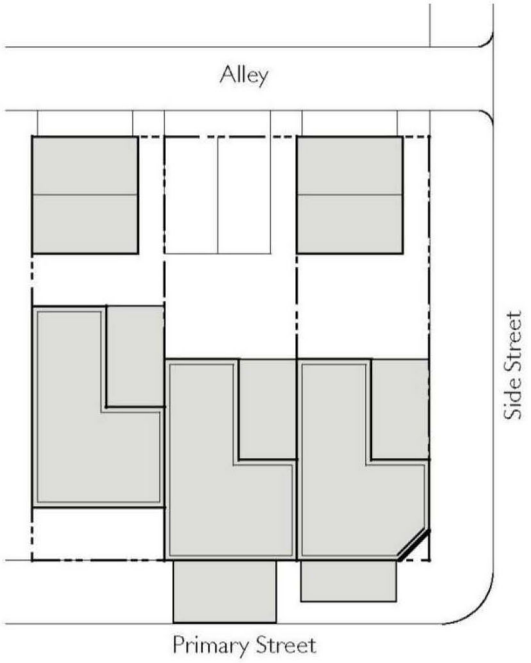
Context

A **Ground Floor Flex** building consists of several units – each residential unit is stacked above a flexible ground-floor space that can be used for residential or commercial uses. Each ground floor flex space has its own individual entry. This building type is typically located in the transitional areas between mixed-use commercial centers and residential areas. Units are appropriate for incubating neighborhood-serving retail or service uses and allowing neighborhood main streets to expand as the market demands.

Building Frontages (Select One)

- ☐ Shopfront
- ☐ Terrace Shopfront
- ☐ Gallery





GARDEN

Context

A **Garden** building type consists of a cluster or series of several buildings on the same project site that are low-to-mid-rise and contain multiple attached and stacked units. A Garden site features shared outdoor landscaped spaces that include courtyards, play areas, pathways, planted areas, lawns, and shared facilities like pools, fitness centers, and spas. Buildings are often no more than five stories high.



Building Frontages (Select One)

- ☐ Porch
- ☐ Stoop
- ☐ Forecourt



COURTYARD

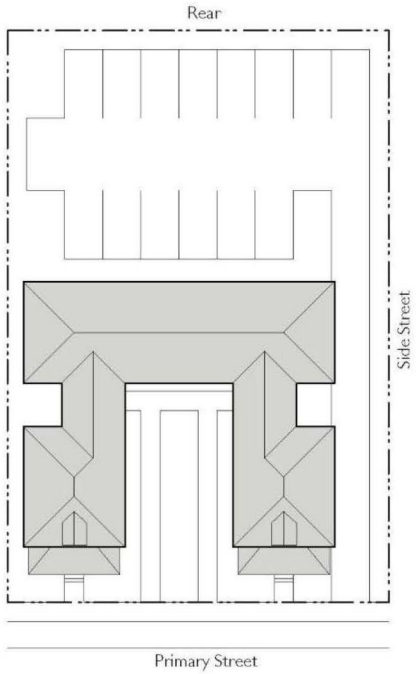
Context

A **Courtyard** building contains multiple attached and stacked units, oriented around and accessed from a central courtyard. Each unit may have its own individual entry or several units may share a common entry, which is accessed from the central courtyard. These buildings are often no more than three stories high and parking is typically at the back or perimeter of the site in surface spaces.



Building Frontages (Select One)

- ☐ Porch
- ☐ Stoop



MOTOR COURT

Context

A **Motor Court** building contains multiple attached units that can be stacked or arranged side-by-side and oriented around a central courtyard. However, in the case of a Motor Court, the shared courtyard space is a shared vehicular space (known as motor-court). The motor court most commonly accesses individual garages or ground-floor parking spaces for each unit. Individual unit front door entries are on the outside of the motor court building and are accessed by walkways both from the motor court and from pathways that connect the perimeter of the building to the street and on-site common spaces.





Building Frontages (Select One)

- ☐ Porch
- ☐ Stoop



TOWNHOUSE

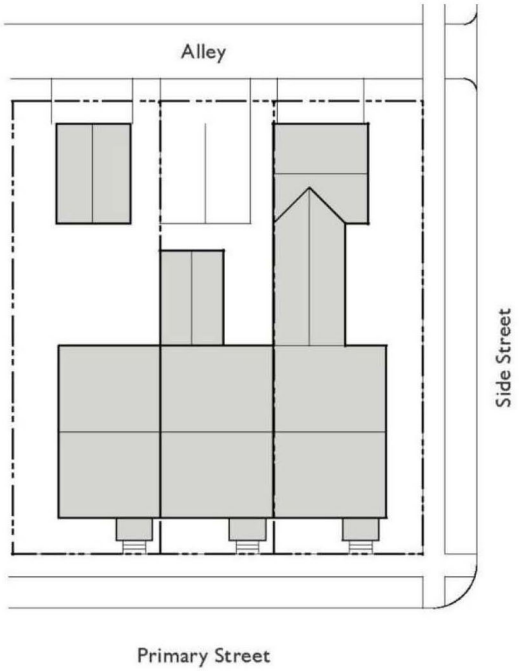
Context

A **Townhouse** building contains three or more attached units placed side-by-side whereby each unit has its own entry at a porch or stoop and private garages for each unit accessed by a shared driveway on the opposite side of the building.



Building Frontages (Select One)

- ☐ Porch
- ☐ Stoop



TRIPLEX THROUGH SIXPLEX

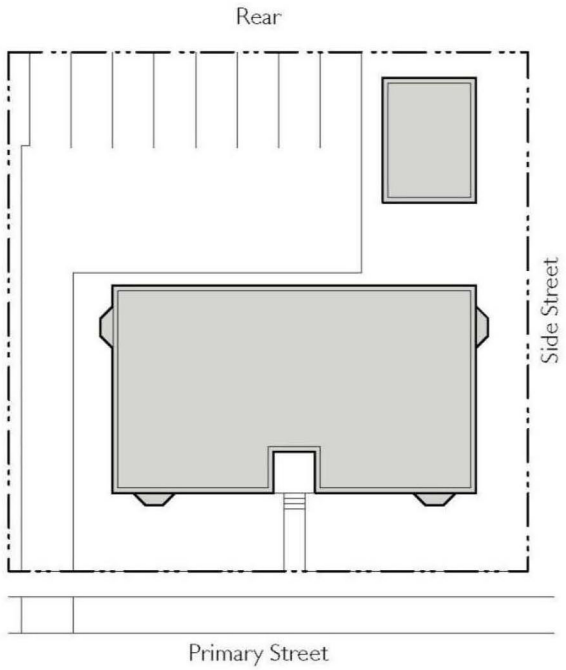
Context

A **Triplex through Sixplex** building contains 3, 4, 5, or 6 side-by-side or stacked units in a building, either with one shared entry or individual entries. This building type typically has the look of a large single-family home.

Building Frontages (Select One)

- ☐ Porch
- ☐ Stoop
- ☐ Forecourt





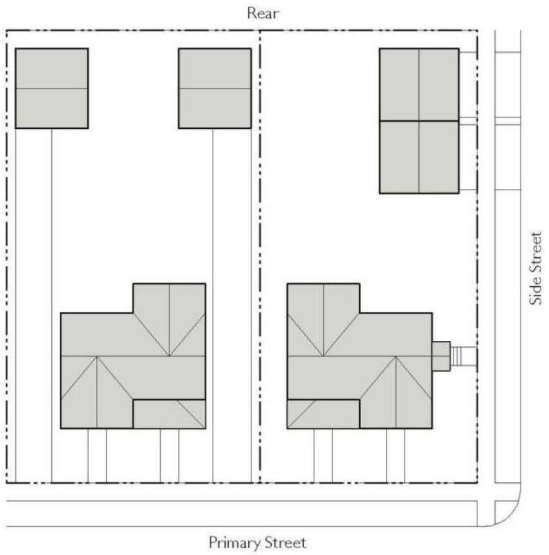
DUPLEX

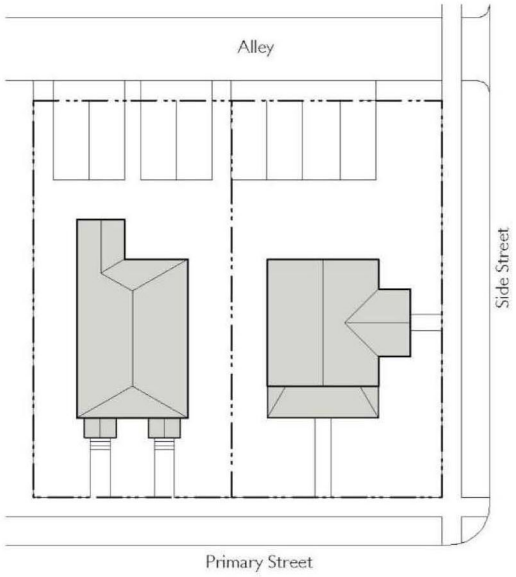
Context

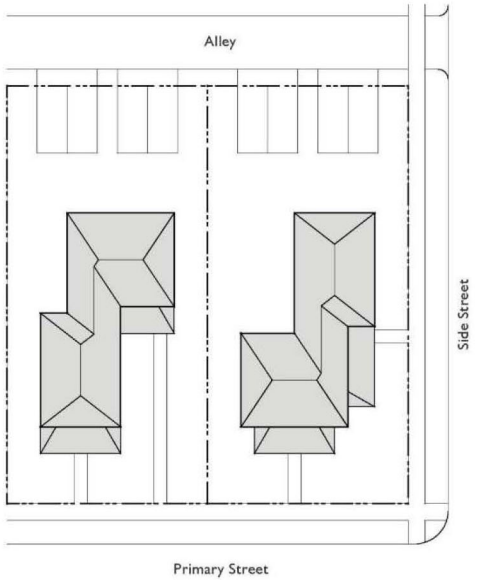
A **Duplex** building contains two units. Unit orientation can be side-by-side (sharing party wall), front-to-back (same), or stacked, where one unit is above another. This building type typically has the look of a single-family home.

Building Frontages (Select One)

- ☐ Porch
- ☐ Stoop







BUNGALOW COURT

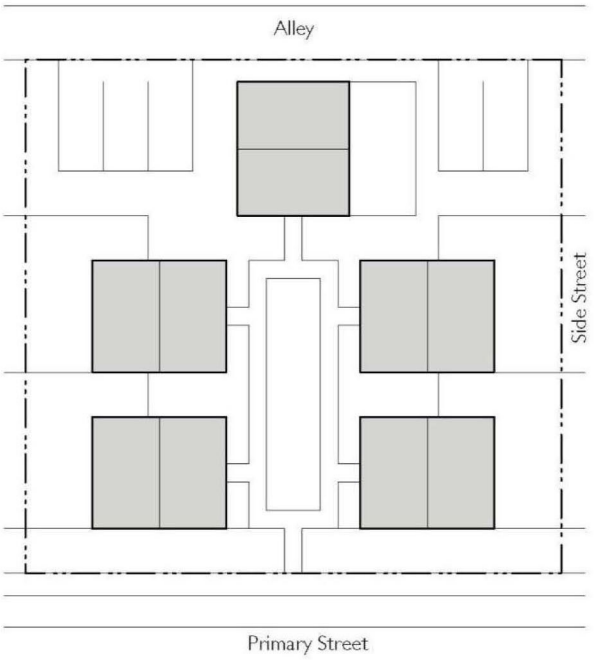
Context

A **Bunglaow Court** is a series of small detached or attached units on a single lot, arranged to define a shared vehicle-free courtyard space that is perpendicular to the street. All units face and are accessed from this shared central space.

Building Frontages (Select One)

- ☐ Porch
- ☐ Stoop

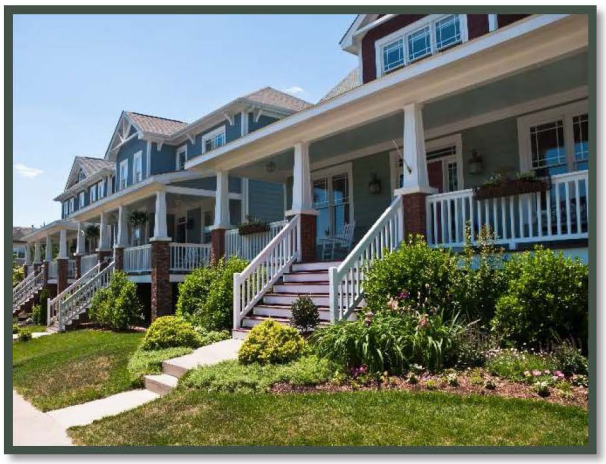




PORCH – PROJECTING

Context

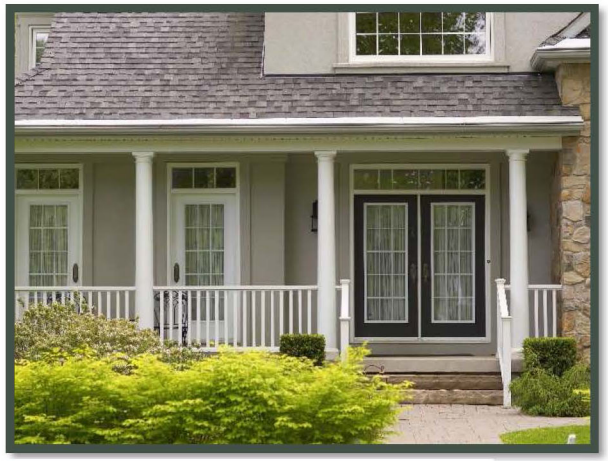
The main façade of the building typically has a small-to-medium setback from the property line. The resulting front yard is typically very small and may or may not be defined by a fence or hedge to spatially maintain the edge of the street. The projecting porch may be one or two stories, is open on three sides, and has a roof form that is separate from the main house.



PORCH – ENGAGED

Context

The main façade of the building has a small setback from the property line. The resulting front yard is typically very small and may be undefined or defined by a fence or hedge to spatially maintain the edge of the street. The engaged porch may be one or two stories, can be partially or fully enclosed on two sides, and must have a roof.



PORCH – INTEGRAL

Context

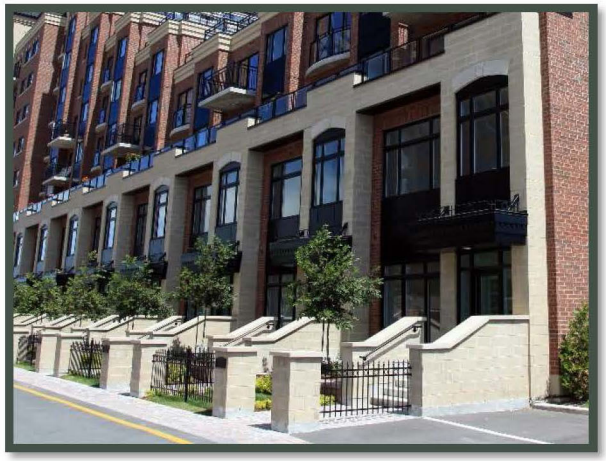
The main façade of the building has a small setback from the property line. The resulting front yard is typically very smal and may be undefined or defined by a fence or hedge to spatially maintain the edge of the street. An integral porch is part of the overall massing and roof form of a building. With an integral porch it is not possible to remove the porch without major changes to the overall roof form.



STOOP

Context

The main façade of the building is near the property line and the elevated stoop engages the sidewalk. The stoop shall be elevated above the sidewalk to ensure privacy within the building. Stairs from the stoop may lead directly to the sidewalk or may be side-loaded.



FORECOURT

Context

A portion of the main façade of the building is at or near the property line and a small portion is set back, creating a small court space. The space could be used as an entry court or shared garden space for apartment buildings, or as an additional shopping or restaurant seating area within commercial areas. The proportions and orientation of these spaces should be carefully considered for solar orientation and user comfort. There is no roof over a forecourt.



SHOPFRONT

Context

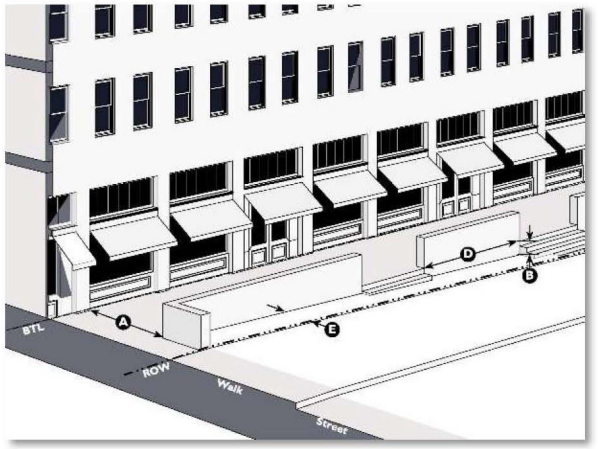
The main façade of the building is at or near the property line and a canopy or awning element overlaps the sidewalk along the majority of the frontage.



TERRACE SHOPFRONT

Context

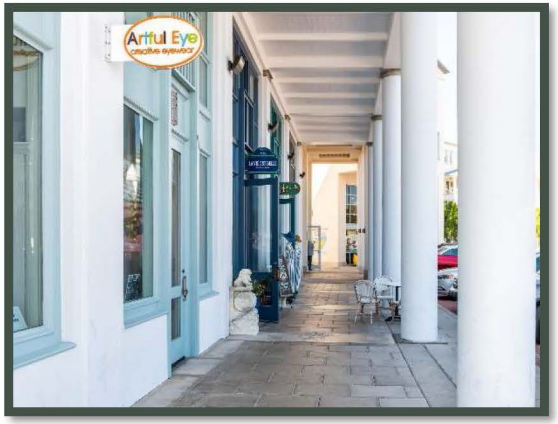
The terrace allows at-grade access to all shopfronts. The terrace is accessed at grade and as the sidewalk follows the slope, the terrace follows the plane of the shopfront finished floor level. Frequent steps from the sidewalk to the terrace are necessary to avoid a dead wall along the sidewalk and to maximize access to the spaces. The standards found here are to be used in addition to those set forth in the **Shopfront** section.



GALLERY

Context

The main façade of the building is at the frontage line and the gallery projects over the sidewalk. This frontage type is intended for buildings with ground-floor commercial or retail uses and may be one or two stories. The gallery must extend close enough to the curb so that a pedestrian cannot bypass it. Due to the gallery's projection over the public right of way, a public access easement over private property is required. Galleries must have a consistent depth along a frontage. The standards found here are to be used in addition to those set forth in the **Shopfront** section.



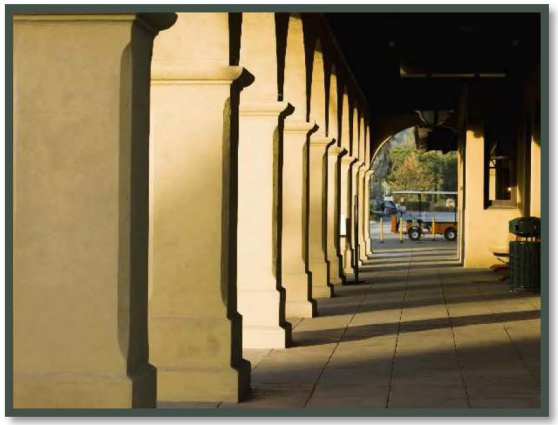


TABLE 1: BUILDING TYPE AND ARCHITECTURAL STYLE BY LOCATION

		ARCHITECTURAL STYLES						
		Craftsman	Farmhouse	Prairie	Federal	American Mercantile*	Spanish Mediterranean	Contemporary
Height (stories)		Up to 3	Up to 3	Up to 3	2+	2+	3+	4+
Allowed Locations								
	Isabel Neighborhood Specific Plan	✪	✪	✪	-	✪	-	✪
	El Charro Specific Plan	-	-	-	-	✪	✪	-
	Downtown Specific Plan	✪	✪	✪	✪	✪	✪	-
	South Livermore Valley Specific Plan	✪	-	-	-	-	-	-
	Future Specific Plans	✪	✪	✪	✪	✪	✪	✪
	All other areas not identified above	✪	✪	✪	✪	✪	✪	-
Allowed Building Forms								
*	Podium	-	-	-	✪	✪	✪	✪
	Wrap	-	-	-	✪	✪	✪	✪
*	Commercial Block	-	-	-	✪	✪	✪	✪
*	Ground Floor Flex	-	-	-	✪	✪	✪	✪
	Garden	✪	-	-	✪	-	✪	✪
	Courtyard	✪	✪	✪	✪	-	✪	-
	Motor Court	✪	✪	✪	✪	-	✪	-
	Townhouse	✪	✪	✪	✪	-	-	-
	Triplex through Sixplex	✪	✪	✪	✪	-	-	-
	Duplex (Any variation)	✪	✪	✪	✪	-	-	-
	Bungalow Court	✪	✪	✪	✪	-	-	-

* Ground Floor Activation Required.

FIGURE 1: EXISTING SPECIFIC PLANS

