



CITY COUNCIL

AGENDA

MONDAY, JULY 17, 2023

SPECIAL HYBRID MEETING – 5:00 PM

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

IN PERSON INFORMATION:

CIVIC CENTER MEETING HALL
WILLIAM H. MENDENHALL COMMUNITY ROOM
1016 S. LIVERMORE AVENUE

TELECONFERENCE INFORMATION:

ZOOM WEBINAR:

ATTENTION: Zoom update requirements found at the bottom of the agenda

<https://us02web.zoom.us/j/83905387602>

Zoom dial in phone number:

1 669 900 6833

Meeting ID: 839 0538 7602

CITY OF LIVERMORE YOUTUBE CHANNEL:

<https://www.youtube.com/c/CityofLivermoreCalifornia>

CITY COUNCIL

John P Marchand, Mayor
Brittini Kiick, Vice Mayor
Ben Barrientos, Council Member
Evan Branning, Council Member
Robert W Carling, Council Member

PLANNING COMMISSION

Daniel Leary, Chair
Jacob M Anderson, Vice Chair
Steven Dunbar, Commissioner
Yolanda Fintschenko, Commissioner
Tracy Kronzak, Commissioner

1. CALL TO ORDER

2. ROLL CALL

City Council

Council Member Ben Barrientos
Council Member Evan Branning
Council Member Robert W. Carling
Vice Mayor Brittini Kiick
Mayor John Marchand

Planning Commission

Commissioner Steven Dunbar
Commissioner Yolanda Fintschenko
Commissioner Tracy Kronzak
Vice Chair Jacob M Anderson
Chair Daniel Leary

3. SPECIAL MEETING ITEM

AN OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE CITY COUNCIL REGARDING THE SPECIAL MEETING ITEM WILL BE PROVIDED BY THE MAYOR.

- 3.1 Review local land use authority and Citywide Strategic Plan; discuss the respective roles and responsibilities of the City Council and Planning Commission.

4. ADJOURNMENT

To a Regular City Council meeting on Monday, July 24, 2023 at 7:00 pm, Civic Center Meeting Hall, City Council Chambers, 1016 S. Livermore Avenue and virtually using Zoom.

5. SUPPLEMENTAL MATERIALS

- 5.1 Supplemental materials received prior to the meeting.

Staff Report

Attachments:

[1. Supplemental Materials](#)

6. HOW TO PARTICIPATE IN YOUR CITY COUNCIL MEETING

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

Comments are limited to one comment per person per item regardless of format or time submitted (this includes email and e-comment submissions prior to the meeting as well as live comments during the meeting).

Special Meetings, Workshops - The public will have the opportunity to address the City Council 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.

Platforms to Participate in Meetings:

Submission of Comments Prior to the Meeting:

Email Comments may be submitted by the public to the City Clerk's Office (cityclerk@LivermoreCA.gov). Items received no later than 12:00 pm on the day of the meeting will be provided to the City Council 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 4:00 pm the day of the meeting. These items will NOT be read into the record and are viewable by the City Council 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 City Clerk prior to the start of the item. To submit a comment using Zoom, you may use the 'raise hand' feature. Please note that the City Council 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 City Council may place it on a future agenda or direct staff to work with you and/or report to the City Council on the issue.

Zoom Webinar: <https://us02web.zoom.us/j/83905387602>

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If you would like to deliver written materials to the City Council as part of your public comments, and are commenting in person, please provide 10 copies to the City Clerk with your speaker card. If you are commenting using Zoom, the speaker must identify that intent in his or her comment and immediately email the materials to the City Clerk at cityclerk@LivermoreCA.gov.

The **City Council Agenda and Agenda Reports** are prepared by City staff and are available for public review on Tuesday evening, six days prior to the City Council meeting in the Civic Center Library, 1188 South Livermore Avenue, Livermore, and at the City Clerk's Office, 1052 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 City Council after the posting of this agenda will be available for public review in the City Clerk's Office, 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.



CITY COUNCIL STAFF REPORT

ITEM NO. 5.1

DATE: July 17, 2023
TO: Honorable Mayor and City Council
FROM: Marianna Marysheva, City Manager
SUBJECT: Supplemental materials received prior to the meeting.

RECOMMENDED ACTION

SUMMARY

These materials were posted online and made available to the public at the same time that they were distributed to the City Council and the Planning Commission.

3.1	Review local land use authority and Citywide Strategic Plan; discuss the respective roles and responsibilities of the City Council and Planning Commission. Material: PowerPoint Presentation
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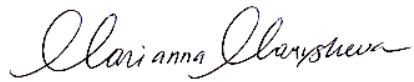
DISCUSSION

ATTACHMENTS

1. Supplemental Materials

Prepared by: Debbie Elam
Acting Assistant City Clerk

Approved by:



Marianna Marysheva
City Manager

Fiscal Review by:



Tina Olson
Administrative Services Director



City Council & Planning Commission Workshop Land Use Authority & Regulation

July 17, 2023

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Overview

1. Municipal Authority
2. Land Use Authority
3. Land Use Regulation in Livermore
4. Respective Roles and Responsibilities
5. California Environmental Quality Act (CEQA)
6. Five-Year Strategic Plan

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Municipal Authority

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Municipal Authority

Types of Power

Police Power – Governmental Power

- Legislative
- Quasi-judicial
- Administrative

Proprietary – Private

- Power to act in the same efficient manner as a private person

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Municipal Authority

Police Power

Protecting the Public Health, Safety, & Welfare

- A ...city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. (Cal. Const. art. XI, § 7.)

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Municipal Authority

Police Power

- Sovereign power to govern is derived by the California Constitution
- California Legislature provides additional powers
- Local authority to act when not in conflict with general laws

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Municipal Authority

Limits on Police Power

Constitutional Limitations

- First Amendment (Expression)
- Fifth Amendment (Takings)
- Fourteenth Amendment (Due Process)

Competing Authority

- Supremacy Clause
- Pre-emption, conflict with State General Law

Precedent (Equal Protection)

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Land Use Authority

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Land Use Authority

In California, the basis for all land use regulations is the police power. (Cal. Const. art XI, section 7.)

Police power is the legal basis for the City's land use regulation to protect public health, safety, and welfare of its residents.

(Berman v. Parker (1954) 348 U.S. 26, 32-33; Associated Home Builders, Inc. v City of Livermore (1976) 18 Cal.3d 582, 600-601)

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Land Use Authority

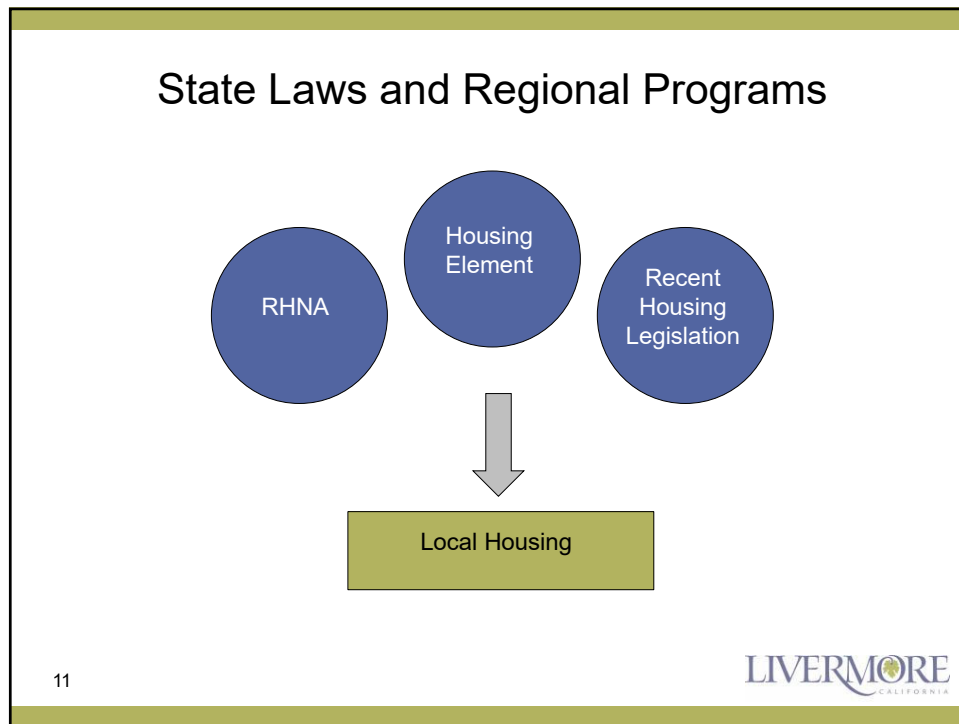
State Law

- Planning and Zoning Law (Gov't Code 65000 et seq.) is the framework for local land use regulation.
- Subdivision Map Act (Gov't Code 66410 et seq.)
- Permit Streamlining Act (Gov't Code 65920)
- Housing

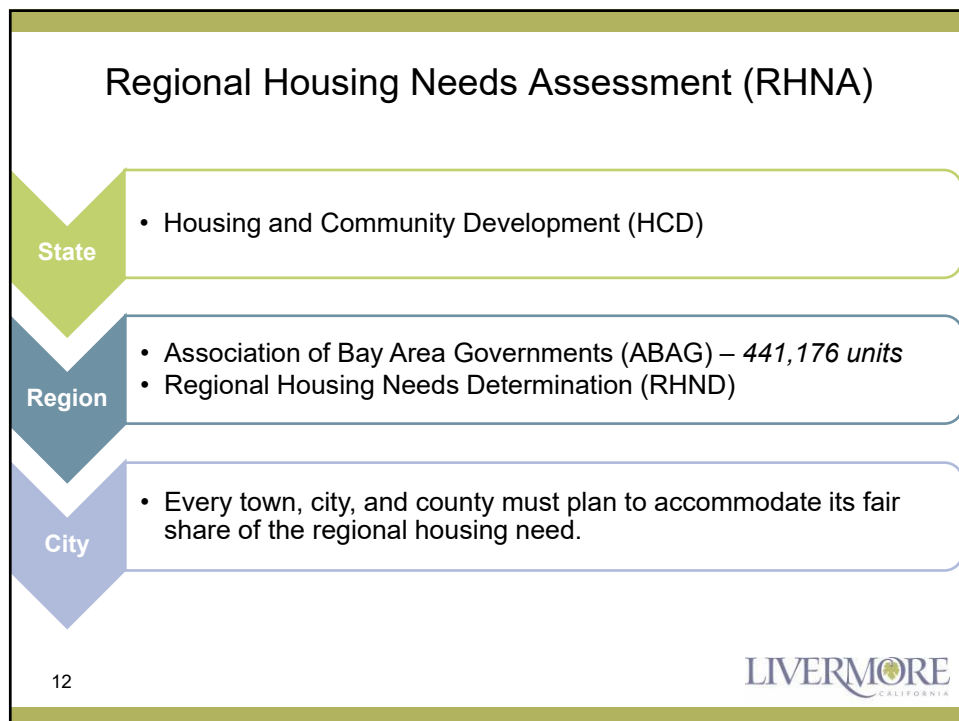
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Regional Housing Needs Assessment (RHNA)



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Livermore: 6th Cycle RHNA – 4,570 units (5th Cycle RHNA – 2,729 units)

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Strategies for Meeting the 6th Cycle RHNA

- Plan 4570 housing units (at a variety of affordability levels)
- Starting with sites from the 5th cycle Housing Element
- Focus on vacant and underutilized sites
- Isabel Neighborhood Specific Plan
- Projected Accessory Dwelling Units (ADUs)

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Housing Element

The Housing Element Responds to RHNA and Includes:

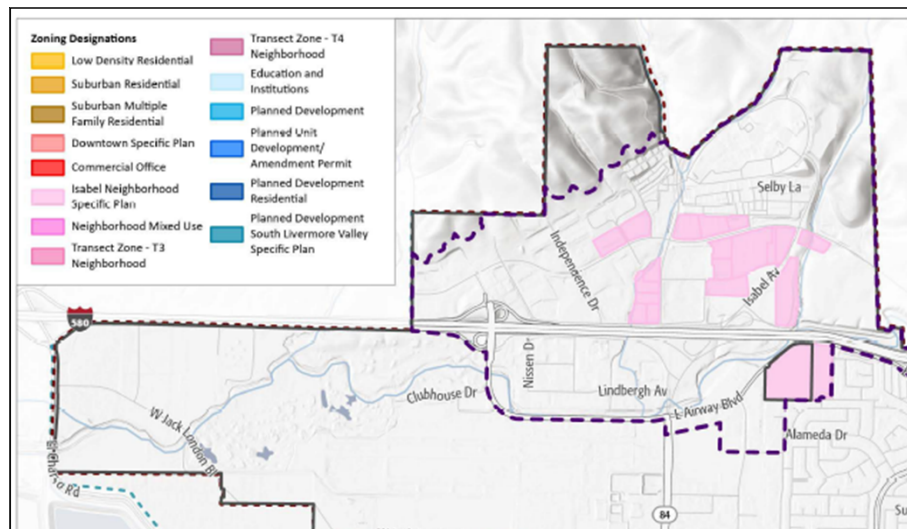
- Sites (land) where Housing can be built
- Policies to guide the development of housing
- Programs that help facilitate the development of housing and provide services



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Housing Element – Sites Map



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Recent Housing Legislation

ADUs



SB 9



SB 6/AB2011



SB 35/SB 330

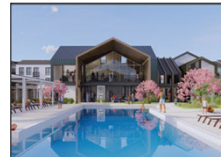


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Isabel Neighborhood Specific Plan



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Other Market-Rate Projects

First Street - Auburn Grove



Lassen Road – Townhomes



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Land Use Regulation in Livermore

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Land Use Authority

Local Land Use Regulation Hierarchy

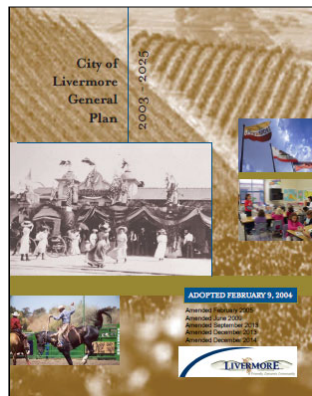
- General Plan
- Neighborhood Plan
- Livermore Development Code (Zoning)
- Development Agreements
- Specific Plan
- Climate Action Plan, Active Transportation Plan
- Design Standards & Guidelines

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Land Use Regulation



- The General Plan land use policies outline how the City will grow and conserve its resources
- Consistency Doctrine: Zoning and subdivision approvals must be consistent with the General Plan

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General Plan Elements

Required:

- Land Use
- Circulation
- Housing
- Open Space and Conservation
- Noise
- Public Safety
- Environmental Justice (for cities that have disadvantaged communities)

Custom for Livermore:

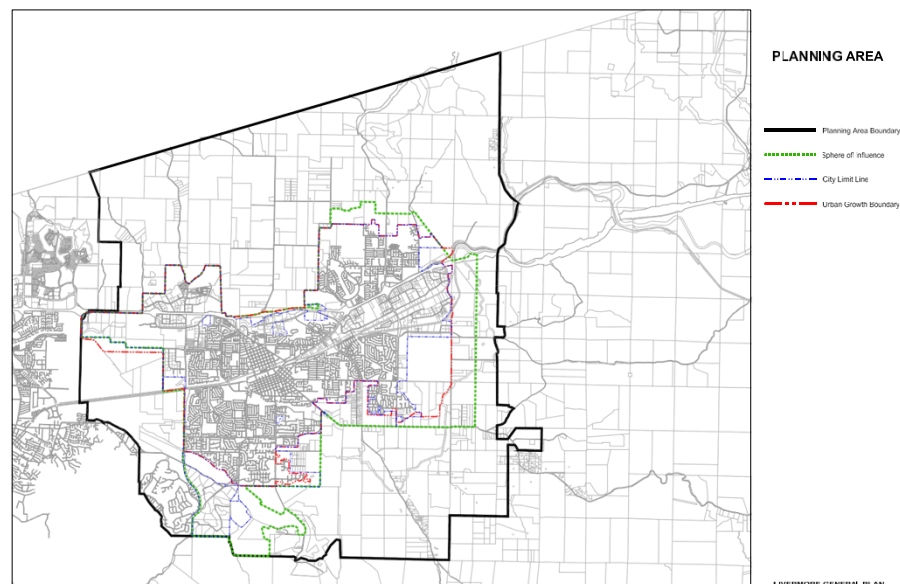
- Community Character
- Infrastructure and Public Services
- Economic Development
- Climate Change

Last full update: 2004
(last amended in 2021)

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Land Use Regulation

Goal LU-1 Protect the unique qualities of Livermore, which include a historic Downtown, a variety of residential neighborhoods, vineyards, ranches, natural habitats and open space.



Objective LU-1.1 Locate new development so as to create a consolidated pattern of urbanization, maximizing the use of existing public services and facilities.

Policy P1. Residential development shall be limited to those areas within the UGB.

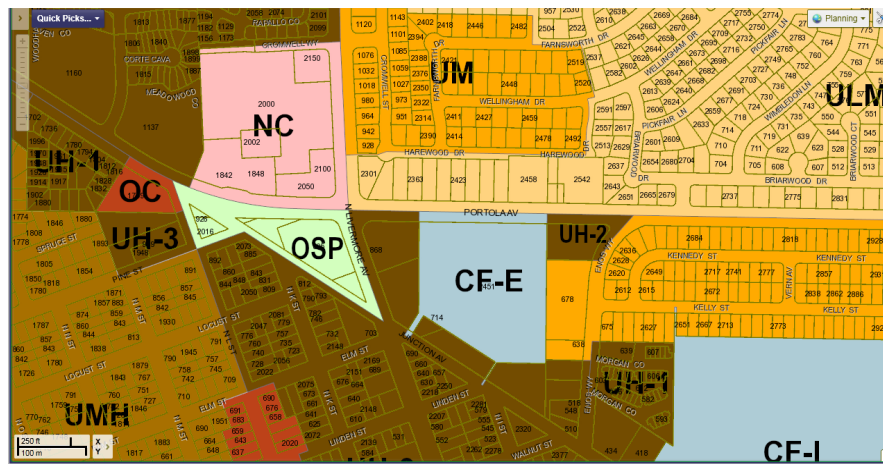
Action A1. Maintain a file in the Community Development Department of vacant residential acreage which provides an inventory of land suitable for single-family and multi-family residential development, in accordance with Housing Element goals, programs, and objectives.

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Land Use Regulation Land Use Map



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Land Use Regulation

Important General Plan Land Use Policies:

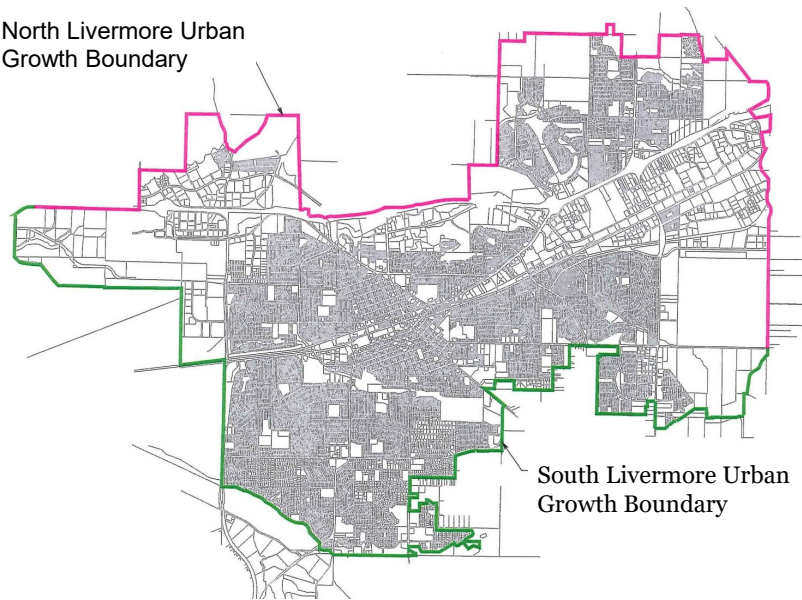
- South Livermore Urban Growth Boundary Initiative
- North Livermore Urban Growth Boundary Initiative
- Scenic Corridor Policies

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North Livermore Urban
Growth Boundary



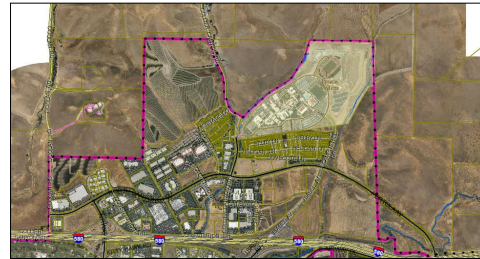
South Livermore Urban
Growth Boundary

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Land Use Regulation



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General Plan Update

Completed tasks:

- Visioning
- Research and Analysis
- Housing Element Update

Current tasks:

- Land Use Alternatives
- Policy Development
- Draft General Plan

Upcoming tasks:

- General Plan EIR



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General Plan Update

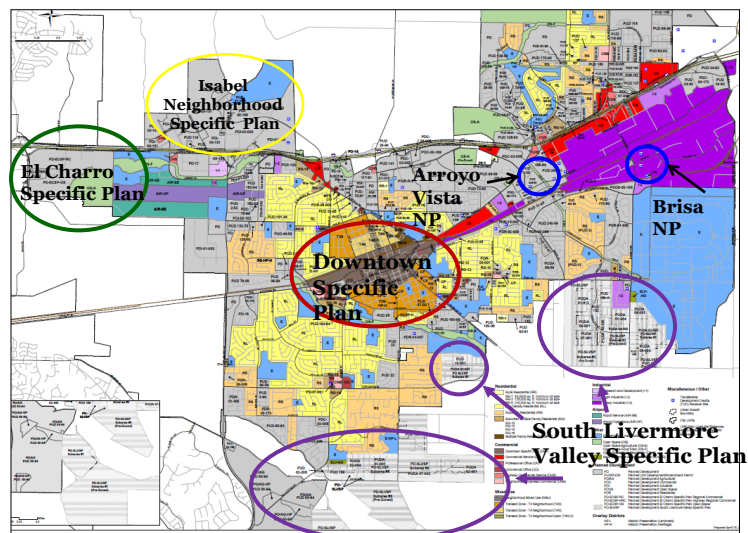


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Land Use Regulation



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Land Use Regulation



Downtown Specific Plan



South Livermore Valley Specific Plan



El Charro Specific Plan



Isabel Neighborhood Specific Plan

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Development Code

The primary **purpose** of the Livermore Development Code is to **implement the General Plan** and includes more detailed development regulations.

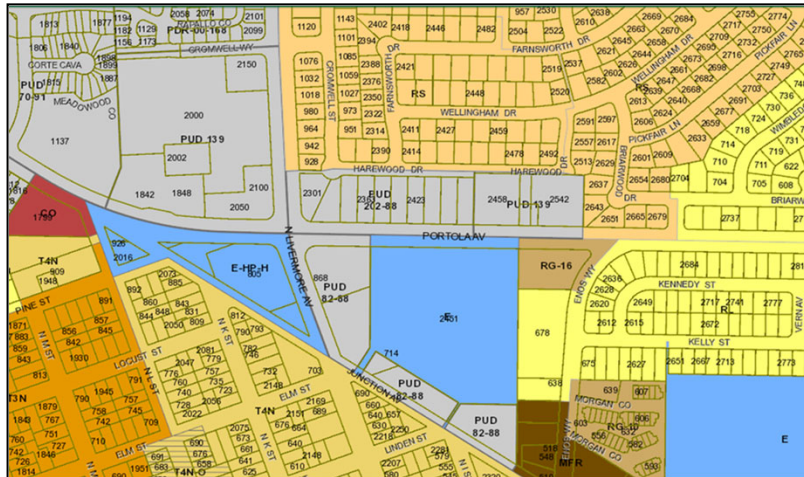
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Land Use Regulation

Zoning Map



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Land Use Regulation

Development Code Land Use Table

G. R-L Use Table					
Land Use Type ¹	Specific Use Regulations	Permit Required	Land Use Type ¹	Specific Use Regulations	Permit Required
Agricultural			Retail		
Animal Keeping Facility:	LMC Title 6		Subdivision or Sales Office,		
Limited animal husbandry		CUP	Equipment And Material Yard	6.03.140	TUP
Equestrian Facility		CUP	Services: General		
Community Gardens		P	Child Day Care Facility:	6.02.020	
Recreation, Education & Public Assembly			Small family day care home		P
Commercial Recreation Facility:			Large family day care home		ZUP
Private swim club and recreation center	6.03.110	CUP	Day care center		CUP
Public and Quasi-Public	6.02.090	CUP	Lodging:		
Residential			Bed & Breakfast	6.02.010	CUP
Dwelling: Secondary Unit	6.03.120	ZUP	Transportation, Communications, Infrastructure		
Dwelling: Single-Family		P	Telecommunication Facility	6.02.100	CUP
Dwelling:					
Duplex, Multi-Family ²		P			
Health Facility:	6.02.050				
Residential care, I - 6 clients		P			

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Land Use Regulation

Development Code Standards

- Floor Area Ratio and Lot Coverage
- Setbacks from Property Line
- Building Height
- Lot Size Minimums and Maximums
- Number of Parking Spaces
- Open Space

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Land Use Regulation

Review Authority:

- Established within the Development Code
 - Staff
 - Planning Commission
 - City Council
- Council always has final decision-making authority either directly or by appeal

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Land Use Regulation

Design Review

- Planning Commission and staff review site layout, building architecture and landscaping
- Determine consistency with Adopted Design Standards and Guidelines
 - Promote aesthetic and functional quality of the community
 - Implement General Plan and Development Code policies to maintain high design standards

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Land Use Regulation

Design Standards

- Respect Livermore Context
- Contribute to Neighborhood Identity
- Encourage High Quality Building Forms
- Strengthen Pedestrian Realm
- Create a Variety of Public Spaces
- Minimize Large Parking Fields

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Respective Roles and Responsibilities

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Roles and Responsibilities

City Council:

- Legislative: Establishing policy and making law
- Quasi Judicial: Applying law and policy

Planning Commission:

- Legislative: Recommending policy and law to the Council
- Quasi Judicial: Applying law and policy (final authority or making recommendations for Council consideration)

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Roles and Responsibilities:

Livermore Case Studies

Sunset Office Park – General Plan Amendment, Rezoning, Site Plan Design Review

Legislative: Establishing policy and making law



- General Plan Amendment to Change Land Use
- Zoning Map Amendment to Change Land Use
- Site Plan Design Review to determine consistency with design standards and guidelines

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Sunset Senior Housing & Memory Care



The Well at Sunset

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Roles and Responsibilities:

Livermore Case Studies

Lassen Road Townhomes – General Plan Amendment, Rezoning, Development Agreement, Subdivision, Site Plan Design Review

Legislative: Establishing policy and making law

- 185 townhomes
- 23 acres of open space
- 12 acres of homes

Community benefits

- Arroyo Las Positas Trail
- Springtown Sewer Trunkline Replacement



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Roles and Responsibilities:

Livermore Case Studies

Triad East by DeNova Homes – Subdivision and Site Plan Design Review

- 172 Units (34 affordable)
- 24 accessible units
- Quarter acre park

Quasi Judicial: Applying law and policy

- General Plan Permitted Use
- Specific Plan Permitted Use
- Design Review to determine consistency with Subdivision Map Act, INSP Design Standards & Guidelines



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Rules of Procedure/Communication

City Council/Planning Commission Rules of Procedure

- Advisory Boards directed to follow
- Rosenberg's Rules of Order (modified)

Communication as a Body

- Minutes
- Individual communications re: projects discouraged

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Exercise of Authority

Adopt Regulations (Legislative act & community input)

Apply Regulations – objective implementation once a project application deemed complete

- Approval – Identify fact-based reasons supported by evidence
- Denial – Identify facts not sufficiently shown

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Nexus

Test – If imposing exactions (conditions and fees) on project, City must:

1. Demonstrate a connection between the regulatory purpose and the condition imposed; *and*
2. Conditions must be roughly proportional to the projected impact of the project.

Key Cases

Nollan v California Coastal Commission (1987): permit conditions that fail to substantially advance the agency's authorized purposes require compensation. Origin of the "Nexus" requirement.

Dolan v. City of Tigard (1994): conditions of a permit must be "roughly proportional" to the impacts of the proposed project.

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Findings

"Legal footprints" left by decision-makers illustrating the decision-making process. Findings are required to support decision to approve or deny a project and must include information justifying imposition of fees or other exactions.

Purposes:

- Provides framework for principled decision making, enhances integrity of the administrative process;
- Helps make for orderly analysis;
- Shows decision making is careful, well-reasoned, and equitable;
- Enables parties to determine whether and on what basis they should seek judicial review and remedy; *and*
- Apprises court of the basis for the agency's action.



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Administrative Record

Purpose: Written record supporting City's decisions. The record should demonstrate that the City's decision was reasonable.

What is included?: All documents and materials that were part of the official decision-making process, including written documents, testimony, emails, technical studies, documents incorporated by reference, and any other evidence available that could have influenced the final decision whether or not it was directly considered.



Excluded: Attorney-client privileged documents; draft environmental documents.

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California Environmental Quality Act (CEQA)

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Objectives of CEQA

- Disclose – Disclose the reasons for agency approval of projects with significant environmental effects and avoid or reduce those environmental effects if feasible to do so
- Foster – Foster interagency coordination in review of projects
- Enhance – Enhance public participation in the planning process

CEQA Guidelines Sec. 15002

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CEQA's Environmental Mandate

"Each public agency shall ***mitigate*** or ***avoid*** the ***significant effects on the environment*** of projects that it carries out or approves whenever it is feasible to do so."

Public Resources Code Section 21002.1(b)

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Overview of CEQA Process

Step One: Is it a Project?

Step Two: Is the Project Exempt?

Step Three: Will the Project Result in Significant Environmental Impacts?

Step Four:

- If No Significant Impacts - Negative Declaration or Mitigated Negative Declaration
- If Significant Impacts - Environmental Impact Report

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Post EIR Documents

- Subsequent EIR or Supplemental EIR
Lead agency may not require a subsequent or supplemental EIR unless:
 1. Substantial changes in project
 2. Substantial changes in circumstances
 3. New information
- Addendum to EIR

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Categories of Environmental Review

- Aesthetics
- Agriculture & Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources / Historical Impacts
- Geology / Soils
- Greenhouse Gas Emissions
- Hazards & Hazardous Materials
- Hydrology / Water Quality
- Land Use / Planning
- Mineral Resources
- Noise
- Population / Housing
- Public Services
- Recreation
- Transportation / Traffic
- Utilities / Service Systems
- Mandatory Findings of Significance

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A SAFE COMMUNITY THAT THRIVES
GOAL 9

Facilitate new residential development consistent with the City's General Plan

DEVELOPMENT, PERMITTING, AND HOUSING AND HUMAN SERVICES		
OBJECTIVE	TIMELINE	DEPARTMENT
1: Ensure that new residential development is consistent with the City's Development Code and General Plan requirements	Ongoing	Community Development
2: Facilitate the entitlement of high-quality residential development that supports the community's need for a range of diverse housing types	Ongoing	Community Development

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A SAFE COMMUNITY THAT THRIVES
GOAL 14

Update development standards, codes, and ordinances

NEIGHBORHOOD PRESERVATION, RISK MANAGEMENT AND REGULATION		
OBJECTIVE	TIMELINE	DEPARTMENT
1: Update development standards and ensure consistency between related codes and ordinances	Year 2	Community Development
2: Update the City's standards to respond to changes in state law	Ongoing	Community Development
3: Update the City's standards related to fences and walls	Year 2	Community Development
4: Update the City's Noise Ordinance	Year 2	Community Development
5: Complete updates to local code sections to improve the efficiency and effectiveness of local operations	Year 2	Community Development

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ECONOMY THAT PROSPERS
GOAL 4
Implement the Isabel Neighborhood Specific Plan

MAJOR DEVELOPMENT		
OBJECTIVE	TIMELINE	DEPARTMENT
1: Work with property owners and developers to facilitate development of high-quality commercial, office and residential uses consistent with the Specific Plan	Ongoing	Innovation & Economic Development, Community Development
2: Ensure developers comply with the Specific Plan requirements to build high-quality affordable housing	Ongoing	Community Development
3: Monitor implementation of the Specific Plan and prepare any necessary Specific Plan amendments for Council consideration	Ongoing	Community Development

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ECONOMY THAT PROSPERS
GOAL 5
Facilitate the development of commercial and industrial projects that provide high-quality local jobs and support a diverse local economy

MAJOR DEVELOPMENT		
OBJECTIVE	TIMELINE	DEPARTMENT
1: Work with property owners and developers to facilitate development of high-quality projects consistent with the City's economic development goals	Ongoing	Innovation & Economic Development, Community Development

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INCLUSIVE & INVITING SPACES & PLACES

GOAL 3

Continue to implement the Downtown Specific Plan

SENSE OF PLACE		
OBJECTIVE	TIMELINE	DEPARTMENT
1: Facilitate a vibrant Downtown environment that supports businesses, residents and visitors and includes a mix of dining, shopping, and entertainment for everyone to enjoy	Ongoing	Innovation & Economic Development, Community Development
2: Work with developers of Downtown projects (SPARC, Blacksmith Square Expansion, Hotel, etc.) to facilitate the construction of approved projects	Years 1 & 2	Community Development
3: Complete the L Street Garage to increase parking availability in the Downtown area	Year 2	Community Development
4: Work to design and implement improvements to the Flagpole Plaza at the southwest corner of First Street and Livermore Avenue	Years 1 & 2	Community Development

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INCLUSIVE & INVITING SPACES & PLACES

GOAL 4

Continue to complete the General Plan Update

SENSE OF PLACE		
OBJECTIVE	TIMELINE	DEPARTMENT
1: Update the Land Use map with consultant and General Plan Advisory Committee	Years 1 & 2	Community Development
2: Complete an Environmental Impact Report	Year 1	Community Development
3: Work with consultant and General Plan Advisory Committee to prepare the General Plan Update document	Year 2	Community Development
4: Present the General Plan Update document to City Council for adoption	Year 2	Community Development

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