



## **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.
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#### *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 architectural styles, combined with one building form and one frontage type. It is important to note that most of 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

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