



***Elections Code Section 9212 Report
Regarding the Petition entitled “Citizen’s
Initiative Changing Development
Regulations in Downtown Livermore,
and Amending Regulations to Allow
Housing at the Civic Center”***

Prepared August 2019

9212 Report for Central Park Plan Initiative in Livermore

August 23, 2019

Background

City Council Action to Request a 9212 Report

At the July 29, 2019, meeting, the Livermore City Council adopted Resolution 2019-138 directing preparation of an information report pursuant to Elections Code Section on 9212 (Report) to evaluate the effects of the Central Park Plan Initiative (Initiative). This Report, below, meets the requirements of the Election Code and includes background, an overview of both the Initiative and the City of Livermore's approved Downtown Plan (Approved Plan), identifies uncertainties within the Initiative and assumptions made in the analysis, and provides comparative analysis of the Initiative and the Approved Plan for the following topics: implementation schedule and resources, open space, consistency with Key Learnings, parking and traffic, affordable housing obligations and workforce housing feasibility, development partners, and delivery access and solid waste collection.

Project Site

The Project Site consists of 8.2 non-contiguous acres in Livermore's Downtown Core, which is located in the northern portion of the block bound by Railroad Avenue to the north, L Street to the west, South Livermore Avenue to the east, and First Street to the south, extending across South Livermore Avenue to include the western portion of the adjacent block which houses the Bankhead Theater.

Approved Plan

The Initiative would modify the Approved Plan for the Project Site, which was developed over a year-long process in 2017 and early 2018, involving extensive community input, research, and expert consultation, and resulted in a methodically composed mix of uses at specific locations and market-supported scales.

The Approved Plan is a refined version of the east side hotel site alternative presented to City Council on January 29, 2018, and is responsive to the identified community priorities to provide sufficient parking for all planned uses; celebrate the community's history with the new Stockmen's Park and maintain community character with a scale and design that complements the existing small downtown feel; provides extensive open space, including Stockmen's and Veterans Parks; and minimizes traffic impacts. To achieve this, the Approved Plan includes the following features, illustrated in Figure A:

Approved Plan*

- A 135-room hotel located on the east side of South Livermore Avenue

- 2,000 square feet of conference space in the hotel
- 20,000 square feet of retail space
- A 20,000 square foot science museum
- A 15,000 square foot black box theater
- 130 multifamily workforce housing units
- 3.32 acres of public open space and 0.46 acres of private open space

*The Approved Plan provides for a narrow range of allowable sizes/quantities of some elements. Where this is the case, this report assumes the maximum size for each land use. This report makes similar assumptions regarding the Initiative.

Initiative (Central Park Plan)

The Initiative, titled the “Central Park Plan”, presents an alternative development plan to replace the Approved Plan, and amend components of the City’s General Plan, Downtown Specific Plan, and Development Code. The uses proposed under the Initiative are similar to those included in the Approved Plan; the primary distinction is in the size and placement of each use and the corresponding relationship and synergy between the uses.

The Initiative divides the Project Site into nine sub-districts, each described in the text and assigned permitted land uses and development standards. The sub-districts modify provisions in the Downtown Specific Plan including permitted uses, development intensity, building height, setbacks, etc.

The Initiative also includes “Figure 5-1C: Land Use Plan Area: Downtown Core Conceptual Plan for Subarea 4”, depicted in Figure B of this report and referred to as the “Initiative Site Plan.” The Initiative Site Plan offers a concept for how the site *could* be configured if the Initiative were approved. However, it is important to understand that the Site Plan is just one example of how the Initiative could be implemented, and in fact, given the variability permitted under the Initiative zoning, there is considerable uncertainty in how the Project Site might be developed, as described below. Based on the variety of options, it is difficult to tell with any certainty exactly what would occur in a number of locations or how large specific uses would be.

Uncertainty in Initiative and Assumptions

The Initiative leaves many parameters of the Project Site’s development unspecified, which makes a comparative analysis difficult. Since the Initiative Site Plan is a “conceptual, illustrative vision of a potential building out scenario” the Report analysis relies on what would be legally binding elements of the Initiative (e.g. sub-district plan and regulations) for the foundation of its assumptions.

However, for some topics the Report relies on the Initiative Site Plan, where there is no other source to determine the potential buildout or implications of the Initiative. Specifically, the siting of buildings and the configuration and specific design attributes of parks and open spaces are based on the Site Plan. Further, the analysis assumes the maximum development potential for each Initiative land use (the same assumption is made for the Approved Plan).

Below are examples of some uncertainties when trying to analyze the Initiative:

- The Initiative Site Plan depicts a parking structure and retail building on the east side of South Livermore Avenue next to the Bankhead Theater, but the Initiative text – 2.4.4 East Side Garage - also allows the Center for Science Culture and Education and/or a Black Box Theater on this same location, with approval of a Conditional Use Permit.
- The Initiative includes two special condition sub-districts, 2.4.5 – Hotel and Theater and 2.4.8 - Center for Science, Culture & Education, and the Initiative Site Plan depicts both the theater and science center within the designated sub-districts. However, the Initiative’s text specifies that the “City may permit construction of the Black Box Theater and the Center for Science, Culture & Education in several different locations”, not only in the designated sub-districts.
- The Initiative also includes a range of alternative use. In sub-district 2.4.8 for example, retail sales, restaurant, and office uses may be permitted if a Center for Science, Culture and Education or a Black Box Theater has not commenced by 2025.

This Report evaluates the following land use totals for the Initiative based primarily on measurements of the sub-districts and zoning or other regulatory text where feasible. The Site Plan was used where uncertainty existed.

- Up to a 160-room hotel located on the west side of South Livermore Avenue
- Up to 30,000 square feet of retail space
- Up to 30,000 square feet for a Center for Science, Culture & Education
- Up to 30,000 square feet for a black box theater
- 84 multifamily housing units
- 2.37 acres of public open space, 0.4 acres of potential public open space, and 0.75 acres of potential private open space

Initiative Impacts Compared to Approved Plan

The 9212 Report analysis covers the key topics below in a summary manner. However, due to the lack of clarity in parts of the Initiative described above, the required analysis was complex and a more detailed, longer report was not possible within the 30-day time frame. The Council may direct staff to provide additional supplemental materials to the public that analyze the Initiative in greater detail.

Implementation Schedule and Resources

The Initiative would require the City to re-start the development process for the Project Site. The previous work and analysis could not be re-used, and instead, the City would develop a new Plan based on the Initiative changes to the Downtown Specific Plan, General Plan and Development Code. Because the Initiative allows a variety of land use options on multiple parcels, as well as a range of project sites, based on standard City practice the City would likely go through a public outreach process to gather community feedback on preferred locations of cultural uses, retail, and the ultimate amount and design of open space desired. The following steps would be necessary to develop a new Preferred Plan:

- Prepare a Request for Proposals to hire a consultant, and designate General Fund money for consultant assistance to conduct public outreach and prepare technical plans.
- Establish a Citizens Steering Committee to provide feedback on plan alternatives from community stakeholders.
- Conduct a public outreach process to determine preferred land use outcomes based on the Initiative zoning.
- Prepare an RFP to seek development partners who share the vision to implement the Plan and execute exclusive agreements with said partners. It is possible that some or all of the City's current partners may not wish to participate in the new plan.
- Prepare new technical analysis - market demand, traffic, parking, infrastructure improvements, long-term maintenance cost, affordable housing viability, etc. - to determine the impacts and financial feasibility of the Plan.
- Create a new phasing program to ensure adequate financing and parking is available throughout Plan construction.
- Approve Land Use Entitlements and construction drawings for subsequent development projects including plan preparation, environmental analysis, land use/design approval, and building permit approval.
- Entitle, design, and build all necessary parking facilities to allow the start of construction of the west side hotel and Central Park.

In total, the steps above could take an additional four years or more after the Initiative is approved by the voters. Major new funding would also be required to prepare and develop plans, modify existing improvements, and implement the Initiative.

There are several impacts that are likely to result from this delay. One is that a several year delay could extend project development beyond the end of this current economic cycle, which could lead to even further delay. Another is an impact to existing downtown businesses. These business owners have already been impacted by the current construction schedule. It is likely that additional delay and an extended construction timeline would create further frustration and impact business operations. The trust of the development community is also likely to be impacted by a restart to the downtown project. Current development partners have expended considerable time and resources

in the current downtown plan. Both current and potential new partners may be reluctant to participate in a new plan, especially if there is any ongoing community conflict regarding implementation.

Open Space

The Initiative text includes a statement that more than 3 acres of park space would be provided, but it does not state how this acreage total is derived. This Report's analysis is therefore based on measurements of the Initiative sub-district map, which shows approximately 0.91 acres for Stockmen's Park and 1.46 acres for Central Park, yielding a combined total of 2.37 acres of park space. There is additional open space depicted in the Initiative Site Plan on the east side of the Project Site, which equals approximately 0.4 acres; this additional public open space is only a potential option based on the allowed uses in Initiative regulations.

Other open space areas depicted on the Site Plan are located on parcels that are primarily intended for other uses. For example, some open space areas appear on the Site Plan in subarea 2.4.8 (Center for Science, Culture & Education). The uses in this sub-district allow up to 30,000 square feet for a Science Center or other uses. However, the Site Plan footprint shows a building of only about 6,000 square feet. If this site develops with the anticipated cultural facilities, there would be no room for park space.

Other open space areas shown on the Initiative Site Plan could be developed with a range of uses under the Initiative sub-district zoning. Remaining Site Plan open space is therefore considered potential private open space, since it may or may not be built. This totals 0.75 acres.

The City Approved Plan has 3.32 acres of public open space and .46 acres of private open space, for a total of 3.78 acres.

Consistency with Key Learnings

The Initiative contains a mix of land uses. Some of the locations and sizes of these uses are not consistent with the Key Learnings and expert recommendations developed through the Steering Committee and public outreach process. Examples include:

- The Initiative increases the capacity of the hotel to a maximum of 160 units from 135 units specified in the Approved Plan. The proposed hotel size of 160 rooms is larger than the recommended maximum of 135 rooms advised by hotel experts during the Steering Committee evaluation process. Key Learnings also identified that a hotel should front onto South Livermore Avenue because this is the primary gateway into the Downtown and it establishes a strong connection to the center of Downtown and existing retail and restaurant uses. Hotel experts noted that this location was important to attract a viable hotel and to long term hotel success. A larger hotel, located on Railroad Avenue would be less likely to secure

development capital and maintain healthy operations and would be likely to require public subsidy.

- The maximum permitted retail of 30,000 square feet in the Initiative exceeds the maximum of 20,000 square feet identified by experts through the Key Learnings. The additional retail space may not be supported by new demand generated from the hotel and residential, and additional retail would either be underfilled, underperforming, or adversely impact other Downtown retail.
- The design and size of Downtown open spaces should accommodate specific uses that activate the open space. The Key Learnings identify housing, the hotel, and retail as uses most likely to activate open space. Activated open space is safe and synergistic with adjacent uses. The Initiative moves housing across Veterans Way, away from open space and closer to the existing businesses on First Street. Further, there are fewer cultural and retail uses to frame Stockmen's Park under the Initiative Site Plan. The open space under the Initiative would likely require increased security measures and patrol, and would be less synergistic with residential, retail, and cultural uses.

Parking and Traffic

Both Plans provide sufficient parking at buildout to meet City standards, but when considering the buildout of all of the uses permitted in the Approved Plan and Initiative, the Initiative exceeds required parking by 29 spaces and the Approved Plan exceeds required parking by 99 spaces. However, a major difference is that the Initiative Site Plan concentrates the majority of Downtown parking east of South Livermore Avenue, where the Approved Plan spreads the parking more evenly between the east and west side of the Plan, which better serves Downtown overall, especially First and Second Street businesses west of South Livermore Avenue.

The Community Outreach process identified a strong interest in providing adequate parking during construction. The Approved Plan includes a strategy that maintains the preexisting supply of parking plus exceeds the new parking demand during every phase of construction.

Construction of the hotel shown in the Initiative Site plan would displace existing surface parking supporting Downtown businesses. If Central Park is constructed concurrently with the hotel, there will be a parking deficit of about 320 parking spaces until completion of both the Eastside and L Street garages. Avoiding the parking deficit would result in an additional delay in the completion of a Downtown hotel.

The Initiative is unclear where all necessary driveways would be located, so the Site Plan was used to evaluate any conflicts. Traffic impacts from driveways and access points identified in the Initiative Site Plan create a number of vehicle conflict points on L

Street, and South Livermore Avenue and some vehicle and pedestrian safety issues, with midblock driveways and streets that don't align, such as Veterans Way at Livermore Avenue and the service access driveway shown north of existing retail businesses on the east side of Livermore Avenue.

Affordable Housing Obligations and Workforce Housing Funding Feasibility

The City of Livermore, through the former Redevelopment Agency, acquired the bulk of the Project Site using approximately \$14.5 million from City inclusionary housing funds. A portion of this amount was then refinanced using a loan from the State Residential Development Loan Program, which included an agreement requiring low-income and moderate-income housing units be developed on the property.

In 2018, the City amended a 1963 agreement with the Stockmen's Rodeo Association that created an opportunity to modify the Project Site housing obligation. In 1963, the City entered into an agreement with the Stockmen's Rodeo Association assuming ownership for 33 acres of land, known as the Pacific Avenue Property, to be developed as a civic center and parks and recreation facility. The agreement limited use of the site to civic and park uses. Since that time, the City has used the property for public purposes, including siting its City Hall. The agreement included a requirement that the City construct a public park on the property. However, this obligation was never fulfilled. The 2018 amendment added a provision to allow affordable housing (prioritized for seniors and veterans) to be developed on the Pacific Avenue property. In exchange, the City agreed to develop a public park to be named "Stockmen's Park" on the Downtown Project Site.

The Pacific Avenue housing development would augment the Approved Plan's capacity to meet the City's affordable housing obligations, allowing some residential units to be moved from the Project Site to Pacific Avenue, freeing up room for other uses in the Downtown. The Approved Plan includes the development of 130 affordable workforce housing units on the Project Site and moves 140 affordable units for seniors and veterans to the Pacific Avenue site, for a total of 270 units. The Initiative provides 84 affordable units on the downtown site and assumes similar development of affordable housing at Pacific Avenue.

Compared to the Approved Plan, additional public subsidies will likely be required to build the 84 units allowed in the Initiative. Based on the Site Plan, the size of the Initiative units are estimated to be an average of 537 feet, and therefore will accommodate only studios or one-bedroom units. This mix of units is much less competitive for tax credit financing under the current tax credit environment. The 130 units in the Approved Plan will have an equal amount (25% each) of studios, one, two and three-bedroom units to make the project optimally competitive for tax credit financing and other funding sources. The unit size will average 777 square feet.

The Project Site was acquired with approximately \$14.5 million in funding restricted to affordable housing. To meet the obligations of these funds, the City must demonstrate

that the residual land value of housing development (the value of the completed housing product, less the development costs) is greater than or equal to the \$14.5 million used to acquire the site.

The reduced number and size of affordable units proposed by the Initiative may not be adequate to replay the \$14.5 million in Affordable Housing funds used to acquire the Project Site, which would result in a need to repay the fund with General Fund dollars. Further analysis would be necessary to quantify this obligation.

Development Partners

The City is currently moving forward with private and non-profit partners to construct the Approved Plan. These partners have expressed a desire to implement the Approved Plan as evidenced by their request to execute Development Agreements and other agreements so they can develop consistent with the Approved Plan. In fact, the City Council has recently approved a Development Agreement with the Hotel Developer, Presidio, and will be considering Development Agreements with the retail developer-Red Bear, workforce housing builder Eden Housing, and the non-profit entities that will build the Black Box Theater and Science and Society Center.

Furthermore, the Livermore Stockmen's Rodeo Association and City have a 2018 Agreement in place that allows the City to develop a 140-unit affordable senior housing project on Pacific Avenue. In exchange, the City has approved and is ready to start construction of "Stockmen's Park" in the heart of the Project Site that will include memorials honoring local veterans and Livermore's ranching history. The Agreement gives the Stockmen's Association input on the integration of cultural facilities and commercial uses adjacent to the Stockmen's Park.

The Initiative modifies the types and locations of cultural facilities incorporated into the Approved Plan and has a significant impact on the plan that was proposed and understood at the time of the Stockmen's agreement. The Initiative relocates the Black Box Theater, which was to be the focal point of the park with its outdoor stage, and the Initiative's zoning no longer permits a Science and Society Center to be located adjacent to the Stockmen's monument at the northwest corner of the park.

The Initiative is inconsistent with these Agreements. For example, the Initiative removes land from the Stockmen's Park area (which allows very specific uses and Stockmen's input) and moves it into the Central Park based on the Initiative sub-district map. In addition, the Initiative depicts the hotel on the west side of South Livermore Avenue, while the approved Hotel Development Agreement secures it on the east side.

Solid Waste Collection and Delivery Access

There is no coordinated solid waste collection identified in the Initiative west of South Livermore Avenue. The smaller L Street garage in the Initiative removes the commercial trash facility adjacent to the L Street Parking Structure that was included in the Approved Plan. As a result, all businesses in the area will need to provide their own

trash enclosures and individual garbage truck access, so existing garbage service to each property must be maintained. Also, the Initiative does not show adequate access for garbage trucks to service the enclosures at the rear of the existing First Street businesses near the L Street garage.

In the Approved Plan, a common trash facility was provided next to L Street garage based on the results of community outreach and direct feedback from existing businesses.

Delivery access is similarly problematic in the Initiative Site Plan. The driveway south of the “Artisan Market” shown in the Site Plan is inadequate for truck turning movements and for the uses on the west side of Livermore Avenue, no delivery truck or drop off areas are identified. Existing First Street businesses in this area would experience significant challenges receiving deliveries from large trucks that require larger turning movements than can be accommodated by the Site Plan.

Figures

Figure A - Approved City Plan
Figure B – Initiative Site Plan



Figure A - Approved City Plan




 SubArea 4 - Central Park Plan Area



FIGURE 5-1C: LAND USE PLAN AREA: DOWNTOWN CORE CONCEPTUAL PLAN FOR SUBAREA 4

Livermore Downtown Specific Plan

Added by the Central Park Plan

Figure B - Initiative Site Plan