

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH
2205 RAILROAD AVE LLC FOR THE WINE COUNTRY HOTEL AT THE
BANKHEAD PROJECT

(Development Agreement 19-001)

THE CITY COUNCIL OF THE CITY OF LIVERMORE DOES ORDAIN AS
FOLLOWS:

Section 1. Development Agreement 19-001 is consistent with the General Plan and Livermore Development Code Chapter 9.04.

Section 2. Pursuant to Government Code section 65864, et seq., the City Council adopts that certain document under City Application Number Development Agreement 19-001 and entitled "*Development Agreement for the Wine Country Hotel at the Bankhead Project*" ("Development Agreement"). The Development Agreement is attached hereto as Exhibit A.

Section 3. The City Manager is hereby authorized to sign the Development Agreement, attached hereto as Exhibit A, on behalf of the City of Livermore.

Section 4. The Planning Commission held a duly noticed public hearing on July 16, 2019, to consider adoption of the Development Agreement and by its Resolution No. 19-19, attached hereto as Exhibit B, recommended that the City Council approve the Development Agreement.

Section 5. The City Council considered the findings made by the Planning Commission for adoption of the Development Agreement in Planning Commission Resolution No. 19-19 and, based on the City Council's own independent review and considerations, hereby adopts the same findings by reference.

Section 6. The City Council considered the environmental review and instructed staff to file a Notice of Determination with the Alameda County Clerk.

Section 7. The City Clerk is directed to record the Development Agreement within ten days after the effective date of the Development Agreement.

Section 8. The General Plan, Downtown Specific Plan, Development Code and other regulations related to the Wine Country Hotel at the Bankhead project that existed at the time this ordinance was adopted by the City Council shall be the regulations that are secured by the ordinance as set forth in the attached Development Agreement, Livermore Development Code Chapter 9.04, and Government Code section 95864 through 95869.5. In the event a petition protesting this ordinance is certified after

examination to contain the necessary number of signatures established in Elections Code section 9237 for municipal elections and the City Council thereafter submits this ordinance to the voters at an election which also contains an initiative to change the City of Livermore's General Plan, Downtown Specific Plan, Development Code or any other regulations that existed at the time this ordinance was adopted by the City Council, and the voters at that election approve both this ordinance and that initiative, then the General Plan, Downtown Specific Plan, Development Code and other regulations related to the Wine County Hotel at the Bankhead project that existed at the time this ordinance was first adopted by the City Council on July 29, 2019, shall be the regulations that are secured by this ordinance as set forth in the attached Development Agreement, Livermore Development Code Chapter 9.04, and Government Code section 95864 through 95869.5.

Section 9. The documents that constitute the record of proceedings upon which this decision is based can be found in the City Clerk's Office, 1052 S. Livermore Avenue, Livermore, California.

Section 10. If any part of this ordinance is declared unconstitutional or invalid by a court, such unconstitutionality or invalidity shall not affect any of the remaining parts.

Section 11. This ordinance, or a comprehensive summary thereof, shall be published once in a newspaper of general circulation of the city of Livermore within fifteen days after its adoption and shall take effect and be in force no earlier than thirty days from and after its adoption and upon execution by all parties of the Development Agreement.

Section 12. This ordinance shall not be brought back for second reading any sooner than allowed by State law.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Livermore held on July 22, 2019, by the following vote:

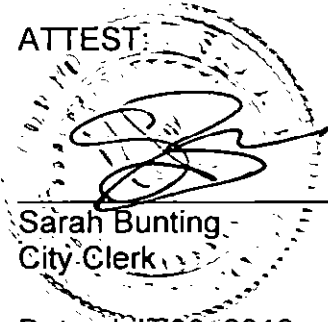
AYES: Council Members Coomber, Munro, Woerner, Vice Mayor Carling,
Mayor Marchand
NOES: None
ABSENT: None
ABSTAIN: None

The ordinance was adopted at the adjourned regular meeting of the City Council held on July 29, 2019, by the following vote:

AYES: Council Members Coomber, Munro, Woerner, Vice Mayor Carling,
Mayor Marchand
NOES: None
ABSENT: None
ABSTAIN: None


Mayor, City of Livermore

ATTEST:



Sarah Bunting
City Clerk

Date: July 30, 2019

APPROVED AS TO FORM:


Gabrielle Janssens
Assistant City Attorney

Exhibit A – Wine Country Hotel at the Bankhead Development Agreement (DA 19-001)
Exhibit B – Planning Commission Resolution No. 19-19

ORDINANCE NO. 2089

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

City Clerk
City of Livermore
1052 S. Livermore Avenue
Livermore, CA 94550

**DEVELOPMENT AGREEMENT
FOR THE WINE COUNTRY HOTEL AT THE BANKHEAD**

This Development Agreement ("Agreement") is entered into on _____, 20____, between the City of Livermore, a municipal corporation, ("City") and 2205 Railroad Avenue LLC, a Delaware limited liability company ("Developer").

RECITALS

This Development Agreement is based on the following facts:

- A. The City has the authority to enter into a development agreement under Government Code section 65864 *et seq.* ("Development Agreement Statutes") and Chapter 9.04 of the Livermore Development Code in order to vest certain rights in the Developer and to meet certain public purposes of the local government.
- B. The City is the owner of approximately 1.43 acres of property located at 2205 Railroad Avenue and 30 South Livermore Avenue in the City of Livermore, County of Alameda, described more specifically in Exhibit A, attached hereto ("Property"). On October 1, 2018, the City and the Developer entered into a Disposition and Development Agreement to articulate their respective obligations for the sale and development of the Property. The Disposition and Development Agreement, and any amendments thereto, is hereby referred to as the "DDA" for the purposes of this Agreement. The Developer has expended, and will continue to expend, significant funds to design the Project (defined below in recital D, Section 2, and in Exhibit B) in anticipation of the purchase of the Property as required by the DDA, and to then construct the Project. The Developer has a legal and equitable interest in the Property which is the subject of this Agreement.
- C. The Developer and the City desire to enter into this Agreement in order to facilitate the development of Property within the Downtown Core.
- D. On September 10, 2018, the Developer obtained entitlements from the City to develop a 4-story 133-room hotel on the Property. A referendum adopted by the City Council on November 26, 2018, repealed an amendment to the Downtown Specific Plan that allowed for a 4-story hotel. Following the referendum, the Developer began a redesign for a 3-story 125-135 room hotel (the "Hotel") to obtain development entitlements from the City to develop on the Property (the "Project"). The City and the Developer are negotiating an amendment to the DDA to articulate their respective obligations for the sale and development of the Property. Upon

transfer of the Property from the City to the Developer, the Developer shall then also be known as the "Property Owner" when that term is used in this Agreement.

E. The City Council finds that the hotel will provide substantial public benefits and help attain certain public objectives, including without limitation: (i) development of the Downtown Core, which will revitalize the downtown area; (ii) provide a long-term source of employment opportunities; (iii) provide the City with additional revenue in the form of transit occupancy tax and increased real property taxes; and (iv) provide quality hotel room accommodations to support visitors to the downtown area, promote tourism to the local wine region, provide quality hotel room accommodations for the business community, and provide meeting and event space to support the business community, special events, and other functions; and (v) provide public rooftop open space.

F. This Agreement will promote and encourage the development of the Property by providing the Developer and its creditors with a greater degree of certainty of the Developer's ability to expeditiously and economically complete the development effort for the Project, and the parties agree that the consideration to be received by the City pursuant to this Agreement and the rights secured to the Developer hereunder constitute sufficient consideration to support the covenants and agreements of the City and the Developer. By entering into this Agreement, the City desires to allow the Developer to design, apply for, and if approved to develop the Project pursuant to this Agreement, the DDA, the land-use ordinances, rules, regulations and policies applicable on the "Effective Date," as defined in Section 3, and to vest in Developer, to the fullest extent possible under the law, all possible development entitlements in order to complete the Project.

G. The hotel the Developer proposes in connection with the Property has been extensively reviewed and considered by the City and its officers, agencies and departments. That hotel use has been found to accommodate the City's recommendations and suggestions in order to protect the public's interest and to enhance the desirability, from the public's perspective, of the Project and hotel use.

H. The City conducted duly noticed public hearings on this Agreement pursuant to Government Code section 65867 and Livermore Development Code sections 9.04.040 and 9.04.050 and found that the provisions of this Agreement and its purposes are consistent with the objectives, policies, general land uses and programs specified in the City's General Plan and Downtown Specific Plan.

I. This Agreement was adopted by ordinance of the City Council, after notice and public hearings before the Planning Commission and City Council and after City Council adoption/approval of the 2009 Subsequent Environmental Impact Report for the Downtown Specific Plan Amendments and Regional Performing Arts Theater (the "Previous EIR") [LSA (March 2019) *California Environmental Quality Act (CEQA) Revised Addendum for the Downtown Specific Plan Amendment Project; Livermore, California*, State Clearing House No. 2008092085, in accordance with the California Environmental Quality Act, Public Resources Code section 21000 *et seq.*

NOW, THEREFORE, the City and Developer hereby agree that the aforementioned recitals are true and correct and further agree as follows:

1. The Property. The Property which is the subject of this Agreement is described in recital B above and Exhibit A attached hereto.

2. The Project. The Developer has proposed to develop and use the Property for a three-story, approximately 70,000 square foot, 125-135 room upscale branded hotel, in conformance with the Downtown Specific Plan. The hotel shall have 1,400 to 2,000 square feet of economically viable conference space and a fully or partially public open space rooftop deck. The Project is an alternative to the entitlements the Developer obtained from the City on September 10, 2018, to develop a 4-story 133-room hotel on the Property. A more comprehensive description for the Project, along with a tentative site plan, is attached as Exhibit B.

3. Effective Date. The effective date of this Agreement is the later of (a) thirty (30) days after the date the Ordinance approving this Agreement is adopted by the City Council, or (b) if a referendum petition is timely and duly circulated, filed and qualified, the date the election results on the ballot measure by City voters approving this Agreement are certified by the City Council in the manner provided by the Elections Code. This Agreement shall be executed by the City within ten (10) days after the effective date and recorded as provided in Government Code Section 65868.5

4. Term. The term of this Agreement is thirty (30) years, beginning on the effective date. The Agreement may be extended as provided for in the Development Agreement Statutes and the Livermore Development Code, subject to the written consent of the City and the Developer as Property Owner following transfer of the Property as set forth in the DDA.

5. Property Owner Obligations. The Property Owner shall comply with the requirements set forth in the following Exhibit attached to this Agreement:

- C Schedule of Performance

6. Vested Development Rights. Subject to this Agreement and during the life of this Agreement, the Property Owner has the right to develop and use the Property in accordance with:

a. The City's General Plan, Downtown Specific Plan, and the Livermore Development Code in effect on the effective date. For reference, the Downtown Area Land Use Designation from the General Plan, and the Downtown Core Land Use Map and Downtown Core Development Standards from the Downtown Specific Plan are attached hereto as Exhibit D;

b. All other City policies, ordinances, resolutions, rules, regulations and standards applicable to development or use of the Property on the effective date, except that Property Owner shall:

- (1) Pay the processing and development impact fees in effect at the time those fees are paid;
- (2) Comply with Building Code requirements in effect on a city-wide basis at the time of construction;
- (3) Comply with construction and technical design standards or specifications for public improvements which are applicable city-wide;
- (4) Comply with changes in City laws, regulations, plans or policies applicable city-wide, the terms of which are found by the City Council, based on substantial

evidence, to be necessary to protect members of the public from a condition dangerous to their health or safety;

- (5) Comply with a change in City law, regulations, plans or policies which is:
 - (i) Specifically mandated by state or federal law, or by any regional governmental agency that has legal authority over the City under state law or a joint powers agreement; or
 - (ii) A result of or in response to state or federal law, or regional agency action, made necessary in order for the City to avoid losing or not receiving substantial funding or other substantial public benefits or facilities that would be available to the City only if it makes such a change; or
 - (iii) Specifically mandated by, or necessary for compliance with or implementation of, the terms of any permit, entitlement or other authorization necessary for the development of the Property issued or granted to the City, County and/or Property Owner by any federal, state or regional agency;
- 6) Following any subsequent environmental review, comply with required mitigation measures; and

c. All subsequent Project approvals which are consistent with this Agreement.

d. Developer acknowledges that execution of this Agreement by the City does not constitute approval of any required permits, applications, or allocations, and in no way limits the discretion of the City in the permit, allocation, and approval process.

7. Periodic Review. Review of the Agreement shall be made annually, consistent with Government Code section 65865.1 and Livermore Development Code Chapter 9.04.

8. Amendments. The Agreement may be amended by the parties consistent with the procedures set forth in the Development Agreement Statutes and the Livermore Development Code, as they are amended from time-to-time.

9. Remedies for Default. If a party is in default under this Agreement, it may pursue one or more of the following courses of action, after 30 days' written notice to the other party (or such longer period as may be required to cure the default so long as such party commences the cure within such 30 day period and diligently pursues the cure to completion): (a) waive the default; (b) in the City's case, pursue administrative remedies including denial or otherwise withholding issuance of building permits, certificates of occupancy or other approvals; (c) pursue judicial remedies; or (d) terminate this Agreement. Any purported default by a party hereunder shall be subject to, and tolled by, any event of force majeure (or any other event or circumstance beyond the reasonable control of the party obligated to perform) which prevents such party from performing the act necessary to avoid or cure such purported default. Any such tolling shall end at the termination of the event of force majeure or other event or circumstance.

10. No Damages Relief Against the City. The parties acknowledge that the City would not have entered into this Agreement had it been exposed to damage claims from Developer for any breach thereof. As such, the parties agree that in no event shall Developer be entitled to recover damages against City for breach of this Agreement. To the extent permitted by law, specific enforcement of this Agreement is the proper and desirable remedy.

11. Recordation; Binding Effect. This Agreement shall be recorded in the office of the County Recorder and shall be binding upon and inure to the benefit of successors in interest to the parties. Where there is more than one Property Owner, the obligations are joint and several.

12. Legal Action; Attorney's Fees. If the City chooses to defend any third party claim or suit challenging any action taken by the City with regard to this Agreement or any procedure or aspect of the City's approval of the development of the Project, including the environmental review process, the Developer in its capacity as either Developer or Property Owner agrees to reimburse the City for its reasonable attorney's fees, expert witness fees, and related costs as the City may incur in connection with its retention of outside counsel, and for any award of court costs or fees against the City. The City has the right to choose and retain such legal counsel as the City deems appropriate. After expenses reach \$100,000, and each \$100,000 thereafter, the parties will confer to review the status of the litigation and their options for proceeding or settling, and they will negotiate in good faith about how the expenses will be allocated. The Developer in its capacity as the Developer or Property Owner shall have no obligation to reimburse the City for costs incurred after the date on which the Developer or Property Owner give the City written notice of their decision to settle a case, even if the City does not agree to the settlement.

If legal action is brought by one of the parties to enforce a provision of this Agreement, the prevailing party is entitled to reasonable attorney's fees, expert witness fees, and court costs.

13. Notices. The address of each party for the purpose of all notices permitted or required by this Agreement follows:

To City: City of Livermore
 1052 South Livermore Avenue
 Livermore, CA 94550
 Attention: Community Development Director

With a copy to: City Attorney
 City of Livermore
 1052 South Livermore Avenue
 Livermore, CA 94550

To Developer: 2205 Railroad Avenue LLC
 631 Folsom Street, Unit 11F
 San Francisco, CA 94107
 Attn: Rikesh Patel

With a copy to: Murphy Austin Adams Schoenfeld LLP
 555 Capitol Mall, Suite 850
 Sacramento, CA 95814
 Attn: John Monley, Esq.

The written address of either party set forth above may be changed by written notice given not less than five (5) days prior to the date such change is to be in effect. All notices under this Agreement shall be in writing, shall be properly addressed and shall be sent by personal delivery, United States mail (registered, certified, or Express Mail, return receipt requested and postage prepaid), or by overnight courier delivery service. All such notices shall be considered delivered: (i) if personally delivered, on the date of delivery; (ii) if sent by United States mail in the manner prescribed above, on the date shown on the return receipt for acceptance or rejection; or (iii) if sent by overnight courier delivery service, on the date of delivery or attempted delivery as shown by the written delivery record of such service.

14. Severability. If any term, provision, condition, or covenant of this Agreement, or the application thereof to any party or circumstances, shall to any extent be held invalid or unenforceable, the remainder of the instrument, or the application of such term, provision, condition or covenants or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

15. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which constitute one and the same instrument.

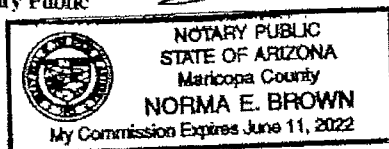
IN WITNESS WHEREOF, the parties have signed this Development Agreement on the dates indicated below.

DEVELOPER
2205 RAILROAD AVENUE LLC
 a Delaware limited liability company

STATE OF ARIZONA
 COUNTY OF MARICOPA

Subscribed and sworn before me this 14 day
 of July, 2019, by Norm E. Brown

Notary Public



By: PresidioCo Bay Area LLC
 A Delaware limited liability company, its
 manager

By: [Signature]
 Rikesh Patel, President
 (Notary Acknowledgment Required)

Date: 7/17/19

Title: President

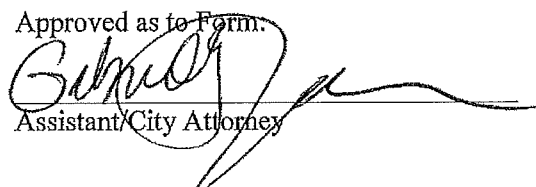
CITY OF LIVERMORE

Date: _____ By: _____
Marc Roberts, City Manager

Attest:

City Clerk

Approved as to Form.


Assistant/City Attorney

Exhibits:

- A Property Description**
- B Project Description**
- C Schedule of Performance**
- D General Plan Downtown Area Land Use Designation; Downtown Land Use Map; Downtown Core Development Standards**

EXHIBIT "A"
PROPERTY DESCRIPTION
DOWNTOWN HOTEL PROPERTY

A RESUBDIVISION OF PARCELS A AND C OF PARCEL MAP 9999, RECORDED OCTOBER 3, 2018, IN BOOK 340 OF MAPS, AT PAGES 86 THROUGH 89, INCLUSIVE, AND AS INSTRUMENT NUMBER 2018-192226, ALAMEDA COUNTY RECORDS, SITUATED IN THE CITY OF LIVERMORE, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY RIGHT OF WAY LINE OF LIVERMORE AVENUE, SAID POINT BEING A COMMON CORNER BETWEEN PARCEL A AND PARCEL B, AS SHOWN ON SAID PARCEL MAP (340 M 86);

THENCE ALONG SAID EASTERLY RIGHT OF WAY THE FOLLOWING TWO (2) COURSES:
1 – ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, THE CENTER OF WHICH BEARS NORTH 52° 45' 32" EAST, HAVING A RADIUS OF 390.00 FEET, THROUGH A CENTRAL ANGLE OF 16° 44' 28" FOR AN ARC LENGTH OF 113.954 FEET, AND
2 – NORTH 20° 30' 00" WEST, 174.653 FEET TO THE INTERSECTION WITH THE SOUTHERLY RIGHT OF WAY LINE OF RAILROAD AVENUE;

THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE THE FOLLOWING TWO (2) COURSES:

1 – NORTH 27° 27' 14" EAST, 11.220 FEET, AND
2 – NORTH 69° 30' 00" EAST, 122.426 FEET TO THE MOST NORTHERLY CORNER OF SAID PARCEL A (340 M 86);

THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL A THE FOLLOWING THREE COURSES:

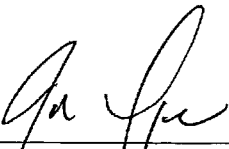
1 – SOUTH 47° 50' 40" EAST, 238.299 FEET,
2 – NORTH 42° 09' 30" EAST, 0.167 FEET, AND
3 – SOUTH 47° 50' 40" EAST, 13.858 FEET TO A COMMON CORNER BETWEEN SAID PARCEL A AND SAID PARCEL B, ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, FROM WHICH THE CENTER BEARS SOUTH 61° 46' 42" EAST;

THENCE ALONG THE COMMON LINE BETWEEN SAID PARCEL A AND SAID PARCEL B THE FOLLOWING TWO (2) COURSES:

1 – ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 37.00 FEET, THROUGH A CENTRAL ANGLE OF 42° 10' 51" FOR AN ARC LENGTH OF 27.242 FEET, AND
2 – SOUTH 57° 19' 24" WEST, 222.865 FEET TO THE **POINT OF BEGINNING**.

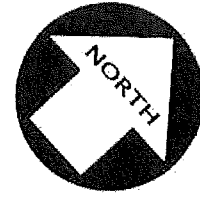
CONTAINING 53,126 SQUARE FEET OF LAND MORE OR LESS

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC.

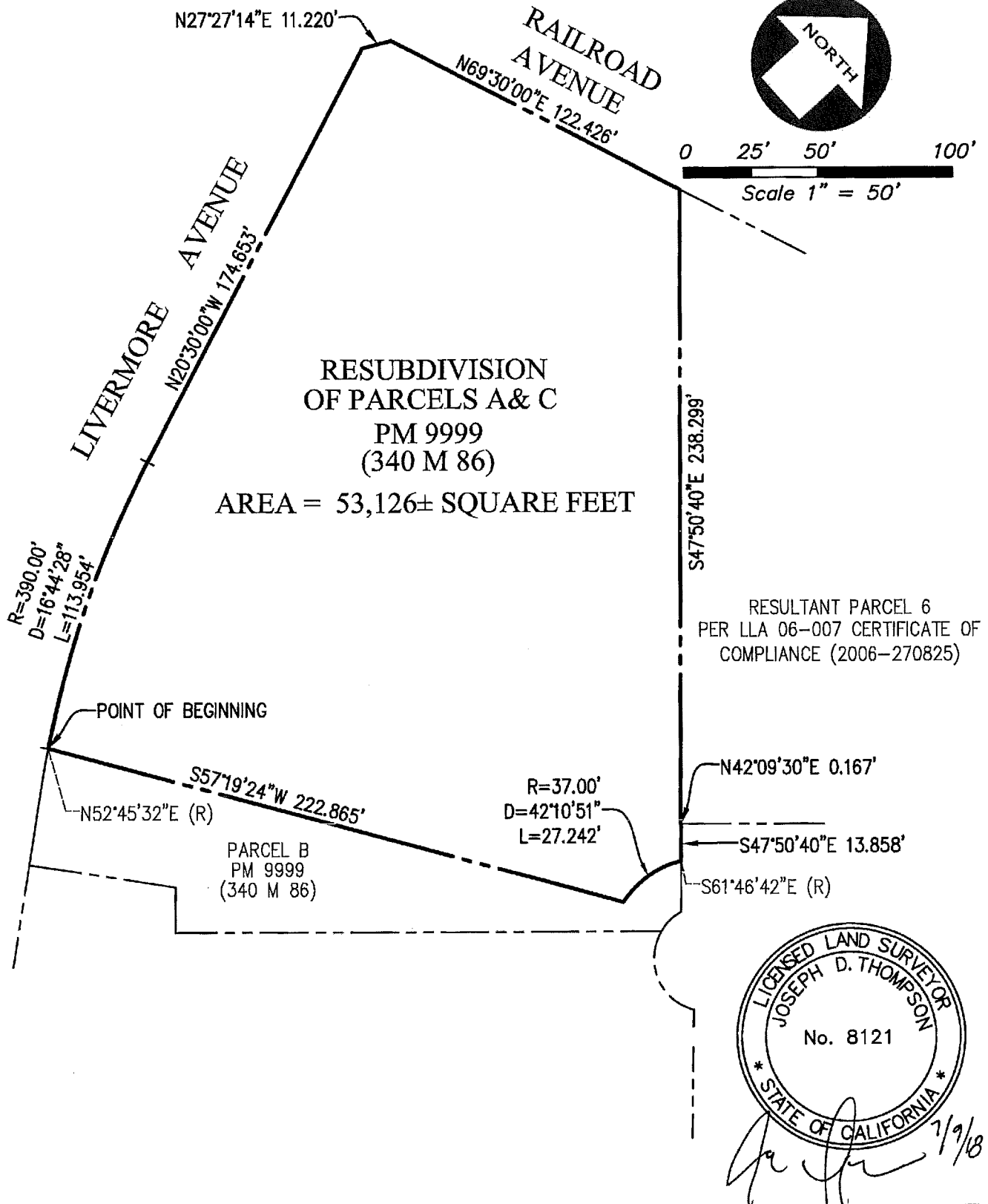

JOSEPH D. THOMPSON, P.L.S. 8121



7/9/19
DATE



0 25' 50' 100'
Scale 1" = 50'



KIER+WRIGHT

2850 Collier Canyon Road
Livermore, California 94551

Phone (925) 245-8788
www.kierwright.com

EXHIBIT "B"
DOWNTOWN
HOTEL PROPERTY

LIVERMORE,

CALIFORNIA

DATE	JULY 2019
SCALE	1" = 50'
BY	RJH
JOB NO.	A18527
SHEET	1 OF 1

EXHIBIT A

Name: HOTEL

End North: 13911.8874' East: 15081.4774'

Segment #1 : Curve

Length: 113.954' Radius: 390.000'

Delta: 16°44'28" Tangent: 57.386'

Chord: 113.550' Course: N28°52'14"W

Course In: N52°45'32"E Course Out: S69°30'00"W

RP North: 14147.9039' East: 15391.9548'

End North: 14011.3230' East: 15026.6526'

Segment #2 : Line

Course: N20°30'00"W Length: 174.653'

North: 14174.9128' East: 14965.4889'

Segment #3 : Line

Course: N27°27'14"E Length: 11.220'

North: 14184.8692' East: 14970.6617'

Segment #4 : Line

Course: N69°30'00"E Length: 122.426'

North: 14227.7451' East: 15085.3385'

Segment #5 : Line

Course: S47°50'40"E Length: 238.299'

North: 14067.8111' East: 15261.9963'

Segment #6 : Line

Course: N42°09'30"E Length: 0.167'

North: 14067.9371' East: 15262.1104'

Segment #7 : Line

Course: S47°50'40"E Length: 13.858'

North: 14058.6350' East: 15272.3852'

Segment #8 : Curve

Length: 27.242' Radius: 37.000'

Delta: 42°10'51" Tangent: 14.271'

Chord: 26.630' Course: S7°07'52"W

Course In: S61°46'42"E Course Out: S76°02'27"W

RP North: 14041.1383' East: 15304.9868'

End North: 14032.2128' East: 15269.0795'

Segment #9 : Line

Course: S57°19'24"W Length: 222.865'

North: 13911.8912' East: 15081.4914'

Perimeter: 924.683'

Area: 53125.79 Sq. Ft.

Error Closure:

0.0145 Course: N74°43'03"E

EXHIBIT A

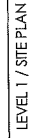
Error North: 0.00383 East: 0.01403

Precision 1: 63771.03

EXHIBIT “B”

**PROJECT DESCRIPTION
DOWNTOWN HOTEL**

The project consists of a three-story, 125-135 room upscale branded hotel. The hotel will have 1,400 to 2,000 square feet of conference space, a bar/lounge, a fitness center, an outdoor pool and courtyard, and a fully or partially public open space rooftop deck. The project will also dedicate a public right of way for a public street around the east and south sides of the hotel, ADA accessible parking, loading and drop-off areas, new landscaping, and related public improvements.



04/08/19

HRGA

2277 Fort Oaks Boulevard, Studio 220
Sacramento, California 95825
916.993.4900 | www.hiparchitects.com

AREA SUMMARY			AREA (SQ FT)	DOOR COUNT	WALL COUNT	NOTES
LEVEL 1	CEILING/INTERIOR		24,200 SF	-	6	
	CHURCH ROOMS		23,200 SF	25	-	LOFT STYLE
LEVEL 2	CHURCH ROOMS		23,200 SF	55	-	
	CHURCH ROOMS		23,200 SF	55	-	
TOTAL	POD/COUNTY/ROAD		71,440 SF	135	6	327 SF RM
						7,000 SF EXTERIOR

7,000 SF (EXTERIOR)

OCC. CLASSIFICATION & USE: R-1 HOTEL

BUILDING CONSTRUCTION TYPE: TYPE IIA, SPRINKLERED

ADDRESS: 2205 RAILROAD AVE
LIVERMORE, CA 94550

APPLICANT: RIFRESH PATEL/PRESIDIO COMPANIES
(415) 764-7296
RIFRESH.PRESIDIO.CO.COM

ATTN: 58-407-29-2 99-289-13-11

A744 55-407-29-2 99-289-13-11

SITE AREA: 1.22+/- ACRES

NON USE: R-1 HOTEL

BUILDING CONSTRUCTION TYPE: TYPE IIA, SPRINKLERED

PERFORMANCE SCHEDULE

Approval of Design Review Entitlements	March 2020
Building Permit Issuance	May 2021
Hotel Opening	November 2022

EXHIBIT "D"

- General Plan Downtown Area Land Use Designation
- Downtown Specific Plan Downtown Core Land Use Map and Development Standards

of and benefit to the surrounding neighborhood, and medium density residential development consistent with the Urban High-3 Residential land use designation (14 to 18 du/acre). Neighborhood serving commercial uses are typically locally-based stores or small scale shops selling various types of merchandise. Larger planned or strip commercial centers with regional or national retailers would not be considered appropriate for this designation. (Reso. 2010-034)

Mixed-Use

Mixed-use development allows or encourages different but compatible uses to be located in close proximity to each other. A common example of mixed-use is a two- or three-story building with retail or office space on the ground floor and apartments on the upper floors. Mixed-use development provides housing close to jobs and services, thereby reducing the need to drive and encouraging people to walk or bike to their destination. Mixed-use development is also often located around transit services, increasing transit usage and reducing automobile dependency.

Land Use Designations

Downtown Area (DA)

The Downtown Area (DA) designation is a general designation that applies to the area traditionally known as Downtown Livermore. The DA seeks to provide a unique, locally-oriented, pedestrian-friendly shopping environment. Higher-intensity residential development of a density that will support the predominantly commercial environment is integral to the economic viability of this district. This area encompasses approximately 270 acres and supports a variety of mixed uses, including commercial, office, entertainment, cultural arts, lodging, and residential. Anticipated maximum development potential in the DA analyzed in the Final Environmental Impact Report (FEIR) prepared and certified in 2003 and the Subsequent FEIR certified in 2009 for the General Plan and Downtown Specific Plan, by land use, is as follows: Commercial – 1,000,000 square feet; Office – 356,000 square feet; Entertainment – 2,500 performance art seats and up to 15 movie theater screens; Lodging – 300 rooms; and Residential – 3,600 units (Reso. 2009-055). Land uses, development, and redevelopment in the Downtown Area shall be implemented through a specific plan. More specific designations, development standards, design requirements, and land use specifications applicable to the Downtown are provided in the Downtown Specific Plan.

The initial maximum residential development potential within the Downtown Area shall be 2,000 new units as of February 2004. After approval of 1,400 new residential units, the City Council shall review the progress of the implementation of the specific plan. The City Council shall consider increasing the maximum number of new dwellings to 3,259 from the February 2004 base number, for a build-out total of 3,600 residential units, unless there is a compelling reason not to implement the build-out scenario analyzed in the FEIR prepared and certified for the 2003 General Plan and Downtown Specific Plan.

Neighborhood Mixed-Use (NM)

The Neighborhood Mixed-Use designations are intended to help improve the pedestrian orientation of Livermore's neighborhoods by providing neighborhood commercial services within walking distance of existing residents and integrating housing with commercial development on a single site. Neighborhood serving commercial uses are typically locally-based stores or small scale shops selling various types of merchandise, as well as small-scale food service uses such as a local market, deli, or coffee shop. Mixed residential and commercial land uses are required at these sites. Projects developed primarily for residential uses must provide a minimum of 20-percent floor area for commercial uses. Section H (*New Mixed-Use Neighborhoods*) discusses particular requirements for two specific mixed-use planning areas, being the East Side Transitional Areas and the Greenville BART Transit Oriented Development (TOD) Area. (Reso. 2010-034)

Parcels designated Neighborhood Mixed-Use are TDC receiving areas. As with all of the residential receiving areas described above, developers can achieve a baseline density for residential development on land with these classifications without complying with the City's TDC Ordinance. To exceed the baseline density, developers must comply with the TDC Ordinance, but in no event can developments exceed the maximum density allowed by these designations. The letters preceding each classification correspond to Figure 3-4 (*TDC Receiving Sites*) indicating the location of these TDC areas.

Type K – Neighborhood Mixed-Use Low Density (NML)

A maximum of .30 FAR is allowed for the commercial portion development on these sites. The residential baseline density is 2 du/ac – 3 du/ac (maximum density when developers

Chapter 5 – Development Standards - Core

EXHIBIT A

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Livermore Downtown Specific Plan

Amended December 2012

Development Standards: Downtown Core Plan Area

1. Purpose

The purpose of the Downtown Core is to revitalize the City's historic core area as the center of the City of Livermore. The primary intent of this Plan Area is to promote the continued development and revitalization of the City's pedestrian-oriented Downtown district that serves as the center of the Livermore Community, its most unique shopping district, and as a neighborhood hub for the residences within and surrounding it. Its shopping areas will provide high quality specialty sales and services that are in keeping with the distinctive character of Downtown; discount stores are not intended for this district. Development Standards for the Downtown Core are targeted towards re-establishing Downtown's identity as a compelling place for shoppers, investors, residents and visitors, requiring development that is in line with Downtown's traditions and preserves its historic heritage. They require a mix of stores intended to draw people downtown during the day, evenings, and on weekends, an improved streetscape to provide downtown visitors with a pleasant pedestrian experience, and a series of public spaces to provide places for citizens to come together downtown.

2. Permitted Uses

All uses permitted in the Downtown Core shall contribute to the vibrancy of the Plan Area. Restaurants, services and retail uses shall help promote the Core as a "specialty" retail and activity center, providing high-end, unique yet quality goods and services. As a "specialty" retail and activity center, the Core is not appropriate for discount retail uses.

In order to ensure that Downtown is the most densely developed part of the City, and in order to sustain a high level of pedestrian and retail activity, mixed-use buildings are required for all parcels fronting First Street, and encouraged throughout the Downtown Core. All uses permitted in the Downtown Core shall be required to comply with the City's Right to Downtown Operations Ordinance (Chapter 10 – Implementation and Livermore Municipal Code Chapter 8.19). In addition, all noise generating uses shall be required to comply with the noise level standards, and all new residential uses shall be required to utilize construction methods necessary to comply with the interior noise thresholds, established for the Downtown in Section 7 of this Chapter.

New single-story buildings shall not be allowed.

2.1 Subarea 1

2.1.1 Permitted Ground Floor Uses

Mixed Use Buildings are required on First Street: All buildings fronting First Street in Downtown Core are required to be "mixed-use" (except as provided for in sections 2.1.D, 2.2 and 2.3 below), defined for this Plan Area as the vertical combining of ground-floor retail sales and service uses or eating and drinking establishments, with permitted upper floor uses such as residential or office in the same building.

A. Retail Sales and Services including the following:

1. Specialty Food Retail, including the following and similar specialty foods: Groceries/Specialty Market/Market Hall (separate retail food uses (e.g. meat, fish, bakery, deli, produce, etc.) that combine to create a market)/Drug Stores; Chocolate/candy; General gourmet; Ice cream; Pastry/desserts; Yogurt/dairy; Doughnuts/bakery; Wine Shops and wine tasting; and similar specialty foods.
2. Specialty Goods Retail, including the following and similar specialty goods uses: Cooking supplies/culinary; General house wares; Decorator/arts and design centers (including tile, floor and wall coverings); Specialty hardware; Antique stores selling high-quality used goods (this category excludes thrift and second-hand stores); Party supplies; Lamps/lighting; Household accessories; Books/magazines/stationery; Music/instruments.
3. Quality Goods Retail, including the following, and similar uses: Small crafts; Specialty furniture; Clothing (including consignment stores that sell both gently used and new clothing and accessories)/shoe stores; Stereo/video or computers; Cameras/photography; Sporting goods; Bicycle shops; Outdoor/sports clothing and supplies; Toys/games; Cards/gifts; Jewelry; Watches/clocks; Beauty/cosmetics; Plants/flowers. Thrift stores, donation centers, and similar retail uses are not permitted.
4. Business Services, excluding sales and storage of heavy equipment - businesses that generate a significant amount of foot traffic, such as Computer and Office Supply, Photocopy Shops, Photo Finishers, and Print Shops.
5. State Licensed Banks and Financial Institutions, excluding check cashing stores.
6. Permitted and fully-conforming retail uses that occupy a ground-floor retail storefront may have an outdoor display area within the public right-of-way (sidewalk area only) and upon outdoor private property between a storefront and the public right-of-way consistent with the Master Design Program and Outdoor Display Permit application procedures specific to outdoor merchant display uses contained within Chapters 6 and 10 of the Downtown Specific Plan.

B. Eating and Drinking Establishments including the following uses:

1. Restaurants, including those serving alcoholic beverages or providing entertainment, provided this activity is clearly ancillary to food service.

2. Establishments serving wine and/or beer and providing ancillary food service are permitted. Ancillary entertainment is also permitted with this type of use.
3. Drive-up or drive-in restaurants are not permitted.
4. Outdoor dining uses may be permitted within the public right-of-way (sidewalk and/or flexible zone areas) consistent with the Master Design Program and Outdoor Dining Permit application procedures specific to outdoor dining uses contained within Chapter 6 and 10 of the Downtown Specific Plan; however, the number of parking spaces converted to outdoor dining use shall be limited to 25 percent of all parking spaces on First Street between M Street and Maple Street. In addition, the City reserves the right to limit the number of parking spaces that may be converted to outdoor dining use based on the cumulative effect of the loss of parking spaces on a block by block basis.
- C. Publicly Owned Parking Facilities.
- D. Performing Arts, Civic & Cultural Facilities, including libraries, public recreation facilities, museums, art galleries, movie theaters and auditoriums (these uses are exempt from the mixed-use requirement for newly constructed buildings on First Street).
- E. Accessory Uses and Structures: Including signage, parking facilities, trash and utility enclosures, and enclosed storage.
- F. Public and quasi-public uses and public utilities are permitted within the block bounded by First Street, Second Street, McLeod Street and South Livermore Avenue.
- G. Additional Uses Permitted: Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

2.1.2 Subarea 1 - Permitted Upper Floor Uses

Upper floor uses are encouraged to provide more residential and small office uses.

- A. Multi-Family and Attached Single Family Residential.
- B. Retail Sales and Service uses (as defined in Section 2.1.A above) are permitted on upper-floors if internally connected to and operated in conjunction with the ground-floor use.
- C. Eating and Drinking Establishments, including those serving alcoholic beverages or providing entertainment, provided this activity is clearly ancillary to food service.
- D. Business, Professional, and Government Offices.
- E. Medical and Dental Offices.
- F. Health and Exercise Clubs.
- G. Lodging or other establishments engaged in the provision of temporary or travel accommodation on a less than monthly basis, including bed and breakfasts, hostels, hotel, motel and inns, single unit rentals, and temporary housing facilities.

- H. Other business services that do not generate significant foot traffic, such as travel agencies, & small appliance repair.
- I. Publicly Owned Parking Facilities.
- J. Personal Services, including the following uses: Photographer, Hair and Nail Salons, Shoe Repair, Day Spa, and Full Service Salon (Tattoo, Piercing, Psychic, Tarot Card Reading, Palm Reading, and Massage Parlors are prohibited).
- K. Instructional facilities, tutoring, learning centers and schools for music, art, cosmetology, dance, and martial arts.
- L. Additional Uses Permitted: Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

2.1.3 Subarea 1 – Conditionally Permitted Uses

Findings for Conditional Uses along First Street must document the potential for the use to contribute to pedestrian activity and to provide interesting displays or views into the business. Conditional Uses must also be appropriate to the area and compatible with nearby uses.

The following uses are permitted on the ground level, upon granting of a Conditional Use Permit:

- A. Bars and Nightclubs, including establishments providing entertainment or permitting dancing, and establishments serving alcoholic beverages (other than beer and wine) not clearly ancillary to food service.
- B. Public Halls, Clubs, Lodges, Community Recreational Centers, and Meeting Facilities.
- C. Additional Uses Permitted with a Conditional Use Permit: Other similar and compatible uses deemed by the Planning Commission to meet the purpose and intent of the Downtown Specific Plan.
- D. The following uses are permitted on upper stories, upon granting of a Conditional Use Permit:
Stand-alone Retail Sales and Service Uses (as defined in 2.1.A above), that are not associated with and connected to a ground floor use.
- E. Bars and Nightclubs, including establishments providing entertainment or permitting dancing, and establishments serving alcoholic beverages not clearly ancillary to food service.
- F. Public Halls, Clubs, Lodges, Community Recreational Centers, and Meeting Facilities.
- G. Additional Uses Permitted with a Conditional Use Permit: Other similar and compatible uses deemed by the Planning Commission to meet the purpose and intent of the Downtown Specific Plan.

2.2 Subarea 2

2.2.1 Permitted Ground Floor and Upper Floor Uses

The following uses are permitted on all floors:

- A. Multi-Family and Attached Single Family Residential.

- B. Live-Work – residential living spaces may include an integrated work space, provided the work space has a ground-floor storefront expression and upper-floor workspaces are internally connected to and operated in conjunction with the ground-floor, principally used by one or more of the residents. Work activity is limited to business (primarily office), the making of arts and crafts, including painting, graphic production, photography, print, ceramics, and sculpture, and other activities compatible with residential use. Activities that require hazardous assembly, including fabrication, manufacturing, repair or processing operations such as welding and woodworking (with more than three fixed pieces of equipment) shall not be permitted. The maximum number of employees not including the owner/occupant is limited to two. Permitted work activities shall be classified as a business and shall be subject to all applicable City, County, and State Regulations.
- C. Business, Professional, and Government Offices, provided that ground floor offices have a storefront expression; i.e. with large street-fronting windows permitting visibility into the establishment.
- D. Medical and Dental Offices, provided that ground floor offices have a storefront expression; i.e. with large street-fronting windows permitting visibility into the establishment.
- E. Health and Exercise Clubs.
- F. Lodging or other establishments engaged in the provision of temporary or travel accommodation on a less than monthly basis, including bed and breakfasts, hostels, hotel, motel and inns, single unit rentals, and temporary housing facilities.
- G. Other business services that do not generate significant foot traffic, such as travel agencies, & small appliance repair.
- H. Publicly Owned Parking Facilities.
- I. Public Utilities, Performing Arts, Civic and Cultural Facilities.
- J. Groceries, Specialty Market, Market Halls (separate retail food uses (e.g. meat, fish, bakery, deli, produce, etc.) that combine to create a market) and Drug Stores are permitted on the ground-floor, and are permitted on upper-floors if internally connected to and operated in conjunction with the ground-floor use.
- K. Neighborhood Serving Uses – small shops that serve the convenience needs of nearby residential, limited to full service deli, dry cleaner, laundromat, tailoring, watch repair and postal annex are permitted on the ground-floor only (Liquor stores, Cigarette stores, and similar uses are prohibited).
- L. Personal Services, including the following uses: Photographer, Hair and Nail Salons, Shoe Repair, Day Spa and Full Service Salon (Tattoo, Piercing, Psychic, Tarot Card Reading, Palm Reading, and Massage Parlors are prohibited).
- M. Instructional facilities, tutoring, learning centers and schools for music, art, cosmetology, dance, and martial arts.
- N. Additional Uses Permitted: Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

2.2.2 Subarea 2 – Conditionally Permitted Ground Floor and Upper Floor Uses

Findings for Conditional Uses must document the potential for the use to contribute to pedestrian activity and to provide interesting displays or views into the business. Conditional Uses must also be appropriate to the area and compatible with nearby uses.

The following uses are permitted upon granting of a Conditional Use Permit:

- A. Public and quasi-public buildings, including uses of an educational, religious, or public service nature (i.e. schools, adult training facilities, churches, public and non-profit organizations).
- B. Day and Child Care Centers, Day Care Homes, and Residential Care Homes.
- C. Additional Uses Permitted with a Conditional Use Permit: Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

2.2.3 Subarea 2 – Special Condition Sub-district (North I Street)

(Area encompassing five vacant parcels at the northwest end of North I Street and including the existing parking structure to the east.)

Following uses are permitted on the ground and upper floor levels:

- A. Publicly accessible parking facilities including structured parking.
- B. Public and quasi-public buildings including uses of a public service nature such as transportation related facilities including bus and train stations.
- C. Open space, pedestrian paths, multi-use trails, plazas, and public recreation facilities.
- D. Accessory uses and structures.
- E. Additional uses permitted. Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

2.2.4 Subarea 2 – Special Condition Sub-district (South L Street)

(Two parcels east of South L Street including 50, 62, 74 and 90 South L Street)

Following uses are permitted on ground and upper levels:

- A. Performing arts, civic, cultural, and public recreation facilities.
- B. Publicly accessible parking facilities including structured parking
 - a. May be wrapped with commercial or residential uses along existing street frontages to a depth of 40-feet.

- C. Accessory uses and structures.
- D. Additional uses permitted. Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

Following uses are permitted on ground and upper levels upon granting of a Conditional Use Permit:

- E. Public halls, community recreation centers, and meeting facilities
- F. Additional uses permitted. Other similar and compatible uses deemed by the Planning Commission to meet the purpose and intent of the Downtown Specific Plan.

2.3 Subarea 3

2.3.1 Permitted Ground Floor Uses

A. Retail Sales and Services including the following:

1. Specialty Food Retail, including the following and similar specialty foods: Groceries/Specialty Market/Market Hall (separate retail food uses (e.g. meat, fish, bakery, deli, produce, etc.) that combine to create a market)/Drug Stores; Chocolate/candy; General gourmet; Ice cream; Pastry/desserts; Yogurt/dairy; Doughnuts/bakery; Wine Shops and wine tasting; and similar specialty foods.
2. Specialty Goods Retail, including the following and similar specialty goods uses: Cooking supplies/culinary; General house wares; Decorator/arts and design centers (including tile, floor and wall coverings); Specialty Hardware; Antique stores selling high-quality used goods (this category excludes thrift and second-hand stores); Party supplies; Lamps/lighting; Household accessories; Books/magazines/stationery; Music/instruments.
3. Quality Goods Retail, including the following, and similar uses: Small crafts; Specialty furniture; Clothing (including consignment stores that sell both gently used and new clothing and accessories)/shoe stores; Stereo/video or computers; Cameras/photography; Sporting goods; Bicycle Shops; Outdoor/sports clothing and supplies; Toys/games; Cards/gifts; Jewelry; Watches/clocks; Beauty/cosmetics; Plants/flowers. Thrift stores, donation centers, and other similar uses are not permitted.
4. Business Services, excluding sales and storage of heavy equipment - businesses that generate a significant amount of foot traffic, such as Computer and Office Supply, Photocopy Shops, Photo Finishers, and Print Shops.
5. Permitted and fully-conforming retail uses that occupy a ground-floor retail storefront may have outdoor displays within the public right-of-way (sidewalk area only) and upon outdoor private property between a storefront and the public right-of-way consistent with the Master Design Program and Outdoor Display

- Permit application procedures specific to outdoor merchant display uses contained within Chapters 6 and 10 of the Downtown Specific Plan.
- B. Eating and Drinking Establishments including the following uses:
1. Restaurants, including those serving alcoholic beverages or providing entertainment, provided this activity is clearly ancillary to food service.
 2. Drive-up or drive-in restaurants are not permitted.
 3. Outdoor dining uses may be permitted within the public right-of-way (sidewalk area only) consistent with the Master Design Program and Outdoor Dining Permit application procedures specific to outdoor dining uses contained within Chapter 6 and 10 of the Downtown Specific Plan.
- C. Publicly Owned Parking Facilities.
- D. Cultural Facilities including performing arts theaters, museums and art galleries.
- E. Multi-Family and Attached Single Family Residential.
- F. Live-Work – residential living spaces may include an integrated work space, provided the work space has a ground-floor storefront expression, principally used by one or more of the residents. Work activity is limited to business (primarily office), the making of arts and crafts, including painting, graphic production, photography, print, ceramics, and sculpture, and other activities compatible with residential use. Activities that require hazardous assembly, including fabrication, manufacturing, repair or processing operations such as welding and woodworking (with more than three fixed pieces of equipment) shall not be permitted. The maximum number of employees not including the owner/occupant is limited to two. Permitted work activities shall be classified as a business and shall be subject to all applicable City, County, and State Regulations.
- G. Business, Professional, and Government Offices, provided that ground floor offices have a storefront expression; i.e. with large street-fronting windows permitting visibility into the establishment.
- H. Medical and Dental Offices, provided that ground floor offices have a storefront expression; i.e. with large street-fronting windows permitting visibility into the establishment.
- I. Health and Exercise Clubs.
- J. Lodging or other establishments engaged in the provision of temporary or travel accommodation on a less than monthly basis, including bed and breakfasts, hostels, hotel, motel and inns, single unit rentals, and temporary housing facilities.
- K. State licensed Banks and Financial Institutions are permitted on Second Street only.
- L. Other business services that do not generate significant foot traffic, such as travel agencies, & small appliance repair.
- M. Neighborhood Serving Uses – small shops that serve the convenience needs of nearby residential, limited to full service deli, dry cleaner, laundromat, tailoring, watch repair and postal annex (Liquor stores, Cigarette stores, and similar uses are prohibited).

- N. Personal Services, including the following uses: Photographer, Hair and Nail Salons, Shoe Repair, Day Spa, and Full Service Salon (Tattoo, Piercing, Psychic, Tarot Card Reading, Palm Reading, and Massage Parlors are prohibited).
- O. Instructional facilities, tutoring, learning centers and schools for music, art, cosmetology, dance, and martial arts.
- P. Accessory Uses and Structures: Including signage, parking facilities, trash and utility enclosures, and enclosed storage.
- Q. Additional Uses Permitted: Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

2.3.2 Subarea 3 - Permitted Upper Floor Uses

- A. Multi-Family and Attached Single Family Residential.
- B. Live-Work – residential living spaces may include an integrated work space, provided the work space has a ground-floor storefront expression and upper-floor workspaces are internally connected to and operated in conjunction with the ground-floor, principally used by one or more of the residents. Work activity is limited to business (primarily office), the making of arts and crafts, including painting, graphic production, photography, print, ceramics, and sculpture, and other activities compatible with residential use. Activities that require hazardous assembly, including fabrication, manufacturing, repair or processing operations such as welding and woodworking (with more than three fixed pieces of equipment) shall not be permitted. The maximum number of employees not including the owner/occupant is limited to two. Permitted work activities shall be classified as a business and shall be subject to all applicable City, County, and State Regulations.
- C. Retail Sales and Service uses (as defined in Section 2.6.A above) are permitted on upper-floors if internally connected to and operated in conjunction with the ground-floor use.
- D. Eating and Drinking Establishments, including those serving alcoholic beverages or providing entertainment, provided this activity is clearly ancillary to food service.
- E. Business, Professional, and Government Offices.
- F. Medical and Dental Offices.
- G. Health and Exercise Clubs.
- H. Lodging or other establishments engaged in the provision of temporary or travel accommodation on a less than monthly basis, including bed and breakfasts, hostels, hotel, motel and inns, single unit rentals, and temporary housing facilities.
- I. Other business services that do not generate significant foot traffic, such as travel agencies, & small appliance repair.
- J. Publicly Owned Parking Facilities.

- K. Personal Services, including the following uses: Photographer, Hair and Nail Salons, Shoe Repair, Day Spa, and Full Service Salon (Tattoo, Piercing, Psychic, Tarot Card Reading, Palm Reading, and Massage Parlors are prohibited).
- L. Instructional facilities, tutoring, learning centers and schools for music, art, cosmetology, dance, and martial arts.
- M. Additional Uses Permitted: Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

2.3.3 Subarea 3 – Conditionally Permitted Uses

Findings for Conditional Uses must document the potential for the use to contribute to pedestrian activity and to provide interesting displays or views into the business. Conditional Uses must also be appropriate to the area and compatible with nearby uses.

The following uses are permitted on the ground level, upon granting of a Conditional Use Permit:

- A. Bars and Nightclubs, including establishments providing entertainment or permitting dancing, and establishments serving alcoholic beverages not clearly ancillary to food service.
- B. Public Halls, Clubs, Lodges, Community Recreational Centers, and Meeting Facilities.
- C. Public and quasi-public buildings, including uses of an educational, religious, or public service nature (i.e. schools, adult training facilities, churches, public and non-profit organizations).
- D. Day and Child Care Centers, Day Care Homes, and Residential Care Homes.
- E. Additional Uses Permitted with a Conditional Use Permit: Other similar and compatible uses deemed by the Planning Commission to meet the purpose and intent of the Downtown Specific Plan.

The following uses are permitted on upper stories, upon granting of a Conditional Use Permit:

- F. Bars and Nightclubs, including establishments providing entertainment or permitting dancing, and establishments serving alcoholic beverages not clearly ancillary to food service.
- G. Stand-alone Retail Sales and Service Uses (as defined in 2.6.A above), that are not associated with and connected to a ground floor use.
- H. Public Halls, Clubs, Lodges, Community Recreational Centers, and Meeting Facilities.
- I. Day and Child Care Centers, Day Care Homes, and Residential Care Homes.
- J. Additional Uses Permitted With a Conditional Use Permit: Other similar and compatible uses deemed by the Planning Commission to meet the purpose and intent of the Downtown Specific Plan.

2.3.4 Subarea 3 – Special Condition Sub-district – A (Southeast corner of Railroad and South Livermore Avenue and generally bounded by the Bankhead Theater and plaza to the east and commercial development along First Street to the south):

The following uses are permitted on ground and upper levels:

- A. Public owned parking facilities.
- B. Cultural facilities including performing arts theaters
- C. Open space, pedestrian paths, plazas, and public recreation facilities.
- D. Boutique hotel, which may include accessory uses such as a spa, restaurant, bar, meeting facilities, and limited retail and personal service uses to serve the needs of guests.
- E. Conference and meeting facilities
- F. Accessory uses and structures
- G. Additional uses permitted. Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

The following uses are permitted on ground and upper levels, upon granting of a Conditional Use Permit:

- H. Public halls and community recreation centers.
- I. Additional uses permitted. Other similar and compatible uses deemed by the Planning Commission to meet the purpose and intent of the Downtown Specific Plan.

2.3.5 Subarea 3 – Special Condition Sub-district – B (South side of Railroad Avenue including Performing Arts Theatre and Plaza)

The following uses are permitted on ground and upper levels:

- A. Cultural facilities including performing arts theaters.
- B. Open space, pedestrian paths, plazas, and public recreation facilities.
- C. Accessory uses and structures.
- D. Additional uses permitted. Other similar and compatible uses deemed by the Community Development Director to meet the purpose and intent of the Downtown Specific Plan.

The following uses are permitted on ground and upper levels, upon granting of a Conditional Use Permit:

- E. Public halls and community recreation centers;
- F. Conference and meeting facilities.

G. Additional uses permitted. Other similar and compatible uses deemed by the Planning Commission to meet the purpose and intent of the Downtown Specific Plan.

3. Development Intensity

In order to ensure that Downtown is the most urban, densely developed part of the City, development shall be allowed to the highest intensities.

3.1 Residential Density.

1. Minimum density of 30 dwelling units per acre and a maximum density of 55 units per acre. Density shall be calculated on a project-wide basis.
2. Mixed-use developments shall have no minimum density required for residential uses located above the first floor where non-residential uses are located on the ground floor.
3. Where unique site constraints prevent this density, and in locations where the Planning Commission finds that providing residential at a higher density would be incompatible with the scale and character of existing historic buildings or residential uses, residential development may occur at a minimum density of 15 dwelling units per acre, subject to the granting of a Conditional Use Permit.

4. Height

Height requirements are intended to ensure that the heights of new buildings are compatible with the character of the Plan Area.

4.1 Height, as measured from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge of gable, hip, or gambrel roofs.

- A. Buildings must maintain a minimum height of two (2) floors and twenty (20) feet. Buildings may not exceed a total maximum height of three (3) floors and forty-five (45) feet; and at adjoining property lines, may not be more than twice the height of the closest building on the adjoining property. However, portions of the building façade may exceed twice the height of adjoining buildings if they are set back from the adjoining property line a minimum of twenty (20) feet. The applicant may reduce or eliminate this additional setback requirement through a Major Conditional Use Permit.
- B. Accessory buildings, including non-dwelling units such as freestanding garages for individual residential units, service structures and tool sheds, may be a maximum of fifteen (15) feet.
- C. Exceptions:

1. Podium or partially submerged parking levels may project beyond the sidewalk or average finished grade for an average of four (4) feet. On lots that slope, the tallest part of the podium level may not exceed five (5) feet. Podium and partially submerged parking levels shall not count as a floor.
2. Special Architectural Features, such as uninhabited towers (clock, bell, observation) or entry volumes may exceed the maximum height by no more than ten (10) feet, where proportionate and consistent with building design, if approved by the City. Towers or other volumes should not extend for more than twenty (20) feet in any horizontal direction.
3. Rooftop Structures, such as elevator and mechanical equipment enclosures or roof deck trellises and gazebos, may exceed the height limit by ten (10) feet, provided they are set back a minimum of ten (10) feet from building walls and are screened on all sides by a parapet or sloping roof that is architecturally integrated with the building design.
4. Projects proposing height exceptions taller than three (3) floors/fifty-five (55) feet are subject to Planning Commission and City Council review in addition to the normally required review process as established in Chapter 10 "Implementation", under Design and Site Plan Review.
5. The following projects/sites may exceed the maximum height established in 4.1.A above up to the maximum heights indicated subject to Planning Commission and City Council review in addition to the normally required review process as established in Chapter 10 "Implementation", under Design and Site Plan Review:
 - a) Local Performing Arts Theater proposed generally south of Railroad Avenue and east of South Livermore Avenue in the Livermore Valley Center (LVC) – may have a maximum height up to seventy-five (75) feet.
 - b) Two proposed LVC Retail/Office/Restaurant Developments (Retail East and Retail West) proposed along the north side of First Street east of South Livermore and west of Railroad Avenue/Maple Street may have a maximum height up to three (3) floors/fifty (50) feet.
 - c) SBC Building on the northwest corner of McLeod and Second Streets (2388 Second Street) – may have a maximum height up to seventy-five (75) feet.
 - d) Downtown Specific Plan Catalyst Project Site (former Lucky's site) located south of Railroad Avenue between L Street and South Livermore Avenue – may have a maximum height up to four (4) floors/fifty-five (55) feet, provided the fourth floor does not extend for more than 60% of the site frontage along L Street, Railroad Avenue and South Livermore Avenue.
 - e) LVC Cinema Complex proposed for the northwest corner of First Street and Railroad Avenue/Maple Street – architectural features of the proposed project may have a maximum height up to fifty (50) feet.

- f) Groth catalyst site located at the northwest corner of First Street and South L Street – may have a maximum height up to four (4) floors/fifty-five (55) feet, provided the fourth floor does not extend for more than 60 percent of the site frontage along L Street, M Street and Railroad Avenue, and adjacent to First Street the maximum height shall be limited to three (3) floors/fifty-five (45) feet. In addition, special Architectural Features, such as uninhabited towers (clock, bell, and observation) or entry volumes may exceed the maximum height by no more than ten (10) feet if approved by the City. Towers or other volumes shall not extend for more than twenty (20) feet in any horizontal direction.

5. Setbacks

In order to bring storefront activity and window displays up to the public right-of-way, the majority of all building frontages (except residential) are required to be built to the property line.

5.1 Street Frontage Setbacks (excluding alleys)

- A. For all uses except residential, a minimum of seventy (70) percent of the building frontage must be built to the property line. A maximum of thirty (30) percent of the building frontage may be recessed to provide for entryways, street-facing courtyards, and similar features.
- B. For residential uses, there is no minimum setback (i.e. uses may be built to the property line); maximum setback is twenty (20) feet.
- C. At corner parcels, setback/built-to requirements apply to both street frontages.
- D. Special Condition: Building Overhangs - Trellises, canopies and awnings may extend horizontally into the public right-of-way, up to six (6) feet. These overhangs must provide a minimum of eight feet (8') clear height above sidewalk grade.
- E. Exemptions: Performing Arts and Civic and Cultural facilities are exempt from the street frontage setback requirements.

5.2 Side Setbacks

- A. For all uses, minimum side setback is zero, and maximum setback is ten (10) feet (except for driveways and pedestrian pathways).
- B. Exemptions: Performing Arts, and Civic and Cultural Facilities are exempt from the side setback requirements.

5.3 Rear setback

- A. There are no rear setback requirements in the Downtown Core District

5.4 Setbacks for Parking Lots and Structures

- A. At grade parking lots shall be set back a minimum of five (5) feet from all property lines, and landscaped as described in Landscaping & Screening, below.
- B. Freestanding parking structures may be built to the property line.

5.5 Setbacks from Railroad Tracks

- A. For habitable buildings located within 100-feet from the centerline of railroad tracks, developments shall provide a study demonstrating that groundbourne vibration issues associated with rail operations have been adequately addressed (i.e. by building siting or by construction technique).

6. Site Development

All new development must relate to the existing City structure of streets and blocks. New streets shall conform to the direction and orientation of existing streets.

6.1 Block Pattern

- A. New streets shall conform to a pattern of generally rectilinear blocks, with new streets and access drives linking orthogonally to surrounding City streets.
- B. For sites having more than 200 feet of street frontage, all new development shall match the typical block increment of three hundred (300) feet in length by two hundred (200) feet in depth, and shall not exceed a block size of four hundred (400) feet in length by three hundred (300) feet in depth, where feasible. Where achievement of this block size is not feasible, blocks should be subdivided with alley streets or pedestrian pathways.

6.2 Driveway Access

- A. Driveway access must be from alleys, rear parking areas and streets other than First Street. Curb cuts are not allowed on First Street between M Street and Maple Avenue.
- B. The maximum number of curb cuts associated with a single building is one (1) two-way curb cut or two (2) one-way curb cuts. Otherwise, the maximum number of curb cuts is one (1) two-way curb cut or two (2) one-way curb cuts per one hundred fifty (150) feet of street frontage.

- C. The minimum width of driveways/ curb cuts is ten (10) feet; the maximum width of driveways/curb cuts is twelve (12) feet for one-way and twenty-four (24) feet for two-way driveways.
- D. Driveway setbacks must be a minimum of five (5) feet from adjoining properties, and a minimum of three (3) feet from adjacent buildings.
- E. Service access must be from alleys and rear parking areas wherever possible. Where only curbside service is possible, such service must be located along streets other than First Street.
- F. Adequate access for garbage, recycling, food waste collection vehicles, and emergency vehicles must be provided.

6.3 Open Space

Commercial and office developments are required to provide publicly accessible open space in the form of parks, greens, squares, plazas or widened sidewalks for public use. Residential uses are required to provide publicly accessible common outdoor space for the development, as well as private open space (e.g. balconies or patios accessible only to the dwelling/dwellings served) for all residential units.

- A. Commercial and Office Development: Developments of greater than 50,000 square feet shall provide a minimum of one hundred (100) square feet of usable publicly accessible open space for every 2,000 square feet of ground floor commercial space constructed, and a minimum of one hundred (100) square feet of usable open space for every 1,000 square feet of office space constructed. Open space may be constructed on-site, or off-site if located within the Downtown Core Plan Area, or through payment of an in-lieu fee.
 - 1. Special Condition: Ground-floor retail establishments located on First Street shall be exempt from this open space requirement.
- B. Residential and Mixed Use Developments: Outdoor space shall be provided at a minimum of one hundred fifty (150) square feet of publicly accessible open space and sixty (60) square feet of private open space per residential unit. Private open space shall be provided on-site. Publicly accessible open space shall be provided as described below:
 - 1. Residential Project Site 0.5 Acre or Less: Shall provide required open space on-site, off-site, through payment of an in-lieu fee, or any combination of the above.
 - 2. Residential Project Site Greater Than 0.5 Acre: Shall provide 10 percent of required public open space on-site for every 4,500 square feet of site area (or portion thereof) over 0.5 acre. Remaining required public open space shall be provided on-site, off site, through the payment of an in-lieu fee, or any combination of the above.
 - 3. Mixed-Use Project Site 1 Acre or Less: Shall provide required public open space on-site, off-site, through the payment of an in-lieu fee, or any combination of the above.

4. Mixed-Use Project Site Greater Than 1 Acre: Shall provide 10 percent of required public open space on-site for every 4,500 square feet of site area (or portion thereof) over 1 acre. Remaining required public open space shall be provided on-site, off-site, through the payment of an in-lieu fee, or any combination of the above.
5. Projects at densities higher than 40 du/acre may construct required publicly accessible open space through the payment of an in-lieu fee or off-site, if located within 500 feet of the project.
- C. For Mixed-Use Developments, commercial/office and residential open space requirements shall be calculated separately (based on the requirements of sections 6.3.A and 6.3.B above) and then added together to reach the total square footage of public open space required.
- D. Iron Horse Trail: All new developments located on parcels backing onto the Southern Union Pacific right-of-way shall be required to provide a 20-foot dedication south of the existing right-of-way, to be reserved for the Iron Horse Multi-Use Trail. Developments shall be required to provide improvements to the trail. This dedication may count as park dedication credits (if approved by LARPD), or towards the provision of public open space, but not both.
- E. For all open spaces, usable open space is defined as an area that is not encumbered with any substantial structure, and is not devoted to use as a street, parking area, sidewalk or waste disposal field. Open space provision shall not include required setback areas. (Please refer to the Design Standards and Guidelines for Site Improvements, Furnishings, Landscape and Lighting for design of open space).
 1. Minimum dimension for usable publicly accessible open space in any single direction is twelve (12) feet.
 2. For private open space within multi-family structures, open space may be provided through porches, balconies, decks, yard, terraces, and patios. Minimum dimension for private open space in any single direction is six (6) feet if provided as part of a porch or balcony; and eight (8) feet if provided as a deck, yard, terrace or patio.
3. Unless otherwise noted, any open space provided off-site shall be located within the same plan area as the project site (Downtown Core, Downtown Boulevard Gateway, etc.) or within 500 feet of the project site.
5. Any open space provided off-site must be a minimum of 1,000 square feet in size.
6. For projects opting to pay an in-lieu fee to meet all or a portion of their open space requirements, the fees shall be subject to the provisions of the Downtown Specific Plan Open Space Program.
- F. All public open spaces provided as part of the minimum requirement shall be publicly accessible during daylight hours, and shall be designed to connect with public rights-of-way and adjacent public open spaces in the vicinity.

- G. For any public open space provided on- or off-site, the site plan layout shall provide appropriate paths, landscaping, and other amenities (i.e. benches, tables, fountains, shade structures, etc.) for the recreation and enjoyment of on-site users and the public.
- H. For all developments, the developer shall prepare binding agreements ("CC&R's") addressing issues of common interest in terms of maintenance of public accessibility to open space, tree planter areas, planting strips, and walks.

6.4 Landscaping & Screening

- A. At Service and Parking Areas, where commercial development is sited adjacent to residential buildings, attractive screen fencing or walls must be provided along the property line(s). A five (5) foot planting area must be established adjacent to the screening fence or wall with trees at a maximum spacing of twenty (20) feet on center.
- B. Utility, Trash, Recycling, Food Waste and Service Equipment, including satellite receiving dishes, must be located away from streets and enclosed or screened by landscaping, fencing or other architectural means. Rooftop equipment must be screened on all sides and must be integrated architecturally in the building design. Trash facilities and recycling containers must always be within structural enclosures.

6.5 Utility Easement

- A. All public utility easements must be provided under or immediately adjacent to new public rights-of-way or within other public easement areas acceptable to the City Engineer.

7. Noise

7.1 Exterior Noise Levels

- A. For those permitted land uses in the Downtown generating noise, Exterior Noise Levels may not exceed a maximum exterior decibel rating of 75 dBA from 7:00a.m. to 12:00a.m.
- B. For those permitted land uses in the Downtown generating noise, Exterior Noise Levels may not exceed a maximum exterior decibel rating of 65 dBA from 12:00a.m. to 7:00 a.m.
- C. Exception: Emergency equipment and emergency generators used for public uses and public utilities may exceed this requirement during testing and emergency operation.

7.2 Interior Noise Levels

- A. All Residential – All residential building spaces must be improved or constructed in such a manner that noise levels do not exceed a maximum decibel rating of 45 dBA with windows closed, assuming 85 dBA on the first floor and an exterior noise level of 75 dBA. If noise analysis assumes closed windows 100% of the time, a fresh air ventilation system must be utilized.

8. Historic Structures

- 8.1 To allow use conversions of existing historic structures that will promote rehabilitation (including relocation) and redevelopment, certain development standards (as described in chapter 5) may be modified for projects involving National Historic Resources (rated 1-3) or Historic Resources (rated 4). Any modification to the development standards to allow or encourage such conversion is subject to a Conditional Use Permit and must demonstrate to the Historic Preservation Commission and the final reviewing body that the proposed modification to Standard(s):
 - A. Is consistent with the 2003 General Plan and Downtown Specific Plan goals, policies and objectives;
 - B. Will advance the City's historic preservation objectives; and
 - C. Will not detrimentally affect the historic character and integrity of the structure.

**IN THE PLANNING COMMISSION
OF THE CITY OF LIVERMORE
STATE OF CALIFORNIA**

A RESOLUTION RECOMMENDING APPROVING

**Development Agreement (DA) 19-001
Wine Country Hotel at the Bankhead**

Authorizing execution of a Development Agreement (DA19-001) with PresidioCo Bay Area LLC and/or 2205 Railroad Avenue LLC
to construct a three-story, approximately 135-room boutique hotel
on the southeast corner of South Livermore Avenue and Railroad Avenue.

Location: 2205 Railroad Avenue

The City received an application for Development Agreement (DA) 19-001.

A courtesy mailing was mailed to neighboring property owners and published in a newspaper of local circulation.

The Planning Commission held a meeting on July 16, 2019, considered the staff recommendation for approval, and heard public testimony.

NOW, THEREFORE, BE IT RESOLVED that, based on the whole record before it, the Planning Commission of the City of Livermore recommends the City Council find the environmental impacts of Development Agreement (DA) 19-001 were analyzed by and are consistent with the 2019 Addendum to the Downtown Specific Plan 2009 Supplemental Environmental Impact Report.

BE IT FURTHER RESOLVED that the Planning Commission finds the following based upon the information presented for Development Agreement (DA) 19-001:

1. The Development Agreement provides benefit to the City.

Finding: The development of the proposed hotel project implements the community's vision for the Downtown. Upon completion, the hotel will support the City's economic development goals for Downtown, wine country, and the broader business community by providing overnight stay opportunities for corporate executives and visitors to the Downtown and by expanding multi-day visitor experience opportunities to the Livermore Valley Wine Region. Additionally, the hotel will provide a long-term source of employment opportunities and provide the City with additional revenue in the form of transit occupancy tax and increased real property taxes. The hotel will finish the Livermore Valley Center, identified in the Downtown Specific Plan as the grand centerpiece for Livermore's performing arts.

2. The Development Agreement is consistent with the purpose, intent, goals, policies, programs, and land use designations of the General Plan, any applicable Specific Plan, and the Development Code.

Finding: The project site has a General Plan land use designation of Downtown Area. The Downtown Area designation is a general designation that applies to the area traditionally known as Downtown Livermore. The Downtown Area seeks to provide a unique, pedestrian-friendly shopping environment supported by higher-intensity residential development. The area supports a variety of mixed uses, including commercial, office, entertainment, lodging, and residential, which are implemented through the Downtown Specific Plan. [Livermore General Plan Land Use Element, p. 3-22]. The project is consistent with the land use designation and General Plan goals for the Downtown Area.

The project site is located in the Downtown Core, Subarea 3, Subdistrict A area of the Downtown Specific Plan. The purpose of the Downtown Core is to revitalize the City's historic core area as the center of the City of Livermore. [Downtown Specific Plan, Downtown Core p. 1] The intent of this Plan Area is to, "promote the continued development and revitalization of the City's pedestrian-oriented Downtown district that serves as the center of the Livermore Community, its most unique shopping district, and as a neighborhood hub for the residences within and surrounding it." [Id.] To support this objective, the Downtown Core permits a variety of specialty retail, restaurant, and residential uses and is intended to be the most densely developed part of the City. A boutique hotel with accessory uses such as a spa, restaurant, bar, meeting facilities, and limited retail and personal service uses to serve the needs of guests is a permitted use in Subarea 3, Subdistrict A of the Downtown Core. Therefore, the proposed use is consistent with the Downtown Specific Plan.

The Development Agreement secures Presidio's right to develop and use the property in accordance with the City's General Plan, Downtown Specific Plan, and Livermore Development Code.

3. The Development Agreement complies with the requirements of the Government Code Sections 65864 through 65869.5.

Finding: Development Agreement (DA) 19-001 complies with the requirements of Government Code Sections 65864 through 65869.5 (e.g. including but not limited to: DA 19-001 is prepared pursuant to procedures established by the City, which are in the Development Code; the City is entering into DA 19-001 with persons authorized to represent the individuals with a legal interest in the property to be developed; DA 19-001 establishes a duration, which is 30 years; DA 19-001 is being reviewed in a noticed public hearing; and DA 19-001 is not in a coastal plan area).

EXHIBIT B

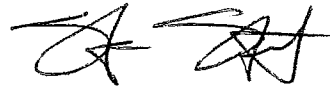
BE IT FURTHER RESOLVED by the Planning Commission of the City of Livermore that, based on the above findings, Development Agreement (DA) 19-001 is recommended to the City Council for approval.

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.

On the motion by Commissioner Anderson, seconded by Commissioner Bjorklund, the foregoing Resolution was adopted at the Planning Commission meeting of July 16, 2019, by the following vote:

AYES: ANDERSON, BJORKLUND, BONANNO, STEIN.
NOES: NONE.
ABSENT: NONE.
RECUSED: FAGUNDES.

Gina Bonanno, Chairperson

A handwritten signature in black ink, appearing to be 'Gina Bonanno', written in a cursive style.

by Steve Stewart, Planning Manager
Secretary to the Planning Commission