

## **SECTION 8 Administration and Implementation**

### **8.1 ADMINISTRATION**

The City of Ontario shall administer the provisions of the Rich-Haven Specific Plan in accordance with the State of California Government Code, Subdivision Map Act, the City's TOP, and the Development Code.

#### **8.1.1 ADOPTION**

The Rich-Haven Specific Plan shall be adopted by ordinance in accordance with the City's TOP

#### **8.1.2 ENFORCEMENT**

The Rich-Haven Specific Plan serves as the implementation tool for the City's TOP and zoning for the Specific Plan area. The Specific Plan addresses permitted uses, development standards, and community design guidelines.

The City shall enforce the provisions of this Specific Plan in the same manner that the City enforces the provisions of the Development Code.

Permitted and conditional uses included, as part of the Specific Plan, shall be compatible with permitted and conditional uses established within the Development Code for residential, commercial, and industrial uses.

#### **8.1.3 INTERPRETATION**

The development standards and regulations contained in this Specific Plan shall replace and supplement the standards contained in the Development Code, except where specifically provided in the Specific Plan. Whenever the provisions contained in the Specific Plan conflict with the Development Code, the provisions of this Specific Plan shall prevail. Any ambiguity concerning the content or application of the Rich-Haven Specific Plan shall be resolved by the Planning Director or designee. Such interpretations shall take into account the stated goals and intent of the Specific Plan.

#### **8.1.4 SEVERABILITY**

If any portion of these regulations is declared to be invalid or ineffective in whole or in part, such decision shall not affect the validity of the remaining portions thereof. The legislative body hereby declares that they would have enacted these regulations and

each portion thereof irrespective of the fact that any one or more portions be declared invalid or ineffective.

### 8.1.5 RESIDENTIAL UNIT TRANSFER

Figure 3-1, *Specific Plan Land Use Plan*, and Table 3-1, *Specific Plan Land Use Summary*, sets forth the planning area identification, total residential acreage, density, and total dwelling units planned for each of the Planning Areas. Residential unit transfer allows for the redistribution of residential units and associated daily trip budget allocations from one Planning Area to another, within the Specific Plan. If the number of units developed within a Planning Area is below the maximum number of designated units, the remainder of those units may be transferred to another residential Planning Area within the Specific Plan. Such transfers may be approved administratively by the City of Ontario upon a determination by the Planning Director or designee that the transfer meets all of the following criteria:

- a. The total number of residential units within the Specific Plan boundary shall not exceed the allowed maximum of 4,918 dwelling units.
- b. A landowner may transfer unused residential units and associated allocated daily vehicle trips from a previously approved Residential Planning Area(s) to a proposed Planning Area(s) as unused residential units, eligible for residential unit transfer. When a development application is submitted to the City for a Planning Area(s), the developer must submit with the application a project residential unit reconciliation summary that identifies units previously declared eligible for residential unit transfer and the total number of projected future residential units remaining to be developed in the balance of the project.
- c. The number of excess residential units identified for transfer from one Planning Area to another Planning Area(s) may not exceed 15% of the total residential units in the receiving Planning Area, as identified in Table 3-1, *Specific Plan Land Use Summary*.
- d. Unit transfers within the Regional Commercial/Mixed-Use District shall be subject to an agreement between those landowners within the Regional Commercial/Mixed-Use District identifying approval of the developer or major landowner of the transferring planning area.

- e. There would be no significant adverse effect on projected demands on parks, schools, infrastructure, or community facilities.
- f. Grading would remain in substantial conformance with the approved Specific Plan.
- g. No new significant environmental issues would result.

#### **8.1.6 MIXED-USE IMPLEMENTATION MECHANISMS**

As envisioned in this Specific Plan, any mix of allowable uses found in the development standards of this document are permitted within the Regional Commercial/Mixed-Use District with no subsequent discretionary review other than Development Plan and/or Conditional Use Permit approvals or additional environmental review under CEQA.

***8.1.6.1 Note: 8.1.6.1 was intentionally omitted as part of The Rich Haven SPA (File # PSPA16-001.)***

### 8.1.7 SPECIFIC PLAN CONSISTENCY, MODIFICATIONS, AND AMENDMENTS

Development proposals within the Rich-Haven Specific Plan area shall be deemed consistent if proposals meet the standards within this Specific Plan. In addition, development within the Regional Commercial/Mixed-Use District shall be in conformance with the Mixed-Use Implementation Mechanisms identified in the above section and the above Table 8-3, *Regional Commercial/Mixed-Use District Specific Plan Consistency*. The checklist is intended to determine the adequacy of the proposed project with the Mixed-Use Implementation Mechanisms that govern the ultimate mix of uses to be developed within the Regional Commercial/Mixed-Use District.

#### 8.1.7.1 Substantial Conformance and Minor Modifications

Minor modifications to the Rich-Haven Specific Plan shall not require a Specific Plan Amendment, and shall be subject to a “substantial conformance” determination, an administrative mechanism by which minor modifications to the Specific Plan which do not result in significant impacts and are consistent with the intent of the Plan, shall be permitted without a formal amendment process. The City of Ontario Planning Director shall make determinations of substantial conformance.

Minor modifications that meet the above “substantial conformance” determination may include, but are not limited to, modifications necessary to comply with Final Conditions of Approval or modifications affecting infrastructure, public services and facilities, landscape palette, and other issues except those affecting project financing and development regulations. The following minor modifications to the Rich-Haven Specific Plan shall not require a Specific Plan Amendment, and shall be subject to the substantial conformance determination procedure set forth above:

- ❖ Change in utility and/or public service provider or location;
- ❖ Change in roadway alignment, width, or improvements;
- ❖ A residential density transfer between any individual planning areas within the Specific Plan Area, including between Districts, as long as the number of dwelling units and associated daily vehicle trips transferred out of the Regional Commercial/Mixed-Use District are included in the Trip Budget Allocation, the maximum number of daily trips for the project is not exceeded, and residential transfer of units to the Residential District are in compliance with Section 8.1.5, *Residential Unit Transfer*.
- ❖ An adjustment of any planning area boundary within the Residential District not to exceed 15% of the acreage within that planning area boundary, as identified within Figure 3-1, *Specific Plan Land Use Plan*, and Table 3-1, *Specific Plan Land Use Summary*.
- ❖ Variation in the number and type of dwelling units within each planning area boundary may occur at the time of final design depending on the residential product identified for development with the Residential District.

- ❖ Minor changes to landscape materials, wall materials, wall alignment, entry design, and streetscape design which are consistent with the design criteria set forth in Section 7, *Landscape Plan*, of the Rich-Haven Specific Plan.
- ❖ Minor changes to the architectural or landscape design guidelines, which are intended to be conceptual in nature and flexible in implementation.
- ❖ Modification of any design element in this Specific Plan that improves circulation, reduces grading, improves drainage, or improves infrastructure.

The Minor Modifications described and listed above are not conclusive. Any Minor Modification that is deemed by the Planning Director to be in substantial conformance with the purpose and intent of the Specific Plan shall be permitted.

**8.1.7.2 Specific Plan Amendments**

Development proposals that do not meet the above Specific Plan consistency requirements, or that are not found to be in substantial conformance with the Specific Plan, shall require a Specific Plan Amendment. The applicant may request amendments to the Rich-Haven Specific Plan at any time pursuant to Section 65453(a) of the Government Code.

An amendment to the Specific Plan will require review and approval by the City of Ontario Development Advisory Board, Planning Commission, and City Council. Such amendments are governed by California Government Code, Section 65500, and require an application and fee to be submitted to the City of Ontario Planning Department, stating in detail the reasons for the proposed amendment.

In the event the proposed amendment requires supplemental environmental analysis pursuant to the California Environmental Quality Act (CEQA), the applicant(s) will be responsible for associated fees for the preparation of necessary CEQA documentation.

**8.1.8 APPEALS**

An appeal from any determination, decision, or requirement of City staff, Development Advisory Board, or the Planning Commission shall be made in conformance to the appeal procedures established by the Ontario Development Code.

**8.2 IMPLEMENTATION**

The Rich-Haven Specific Plan is implemented through City approval of parcel map(s), tract map(s), and site development plans. Any development proposals shall be subject to the review procedures established in this Specific Plan. Implementation of the Rich-Haven Specific Plan development regulations is intended to encourage the most appropriate use of the land, ensure the highest quality of development, and protect the public health, safety, and general welfare.

### **8.2.1 DEVELOPMENT PERMIT**

Development projects within the Rich-Haven Specific Plan area shall be subject to the Development Plan Review process established in Article 8 of the City of Ontario Development Code. Adoption of the Rich-Haven Specific Plan by the City of Ontario includes adoption of the design guidelines contained within the Specific Plan and which provide direction for the design of development projects within the Plan area. The design guidelines are intended to be flexible in nature while establishing basic evaluation criteria for review by the City of projects during the design review process.

The Development Permit process constitutes a design review of project architecture, site plans, and landscape plans. Development permits are approved with conditions of approval.

### **8.2.2 SUBDIVISION MAPS**

Tentative maps shall be prepared and filed with the Planning Department in accordance with Chapter II of the City of Ontario Development Code. Approval by the City Council of Final Tract Map(s) and/or Parcel Maps within the Rich-Haven Specific Plan area shall be required in order to create legal lots for residential and commercial development. Tentative Tract and/or Parcel Maps will be reviewed and approved pursuant to applicable provisions of the Development Code and shall be consistent with this Specific Plan.

A vesting tentative map may instead be filed in accordance with the provisions of the Development Code. A vesting tentative map shall be filed in the same form, shall have the same content, accompanying data and reports, and shall be processed in the same manner described for tentative maps.

### **8.2.3 SUBSEQUENT DEVELOPMENT ENTITLEMENTS**

#### ***8.2.3.1 Development Agreements (DA)***

Development Agreements for planning areas may be executed between the City and the Developer in order to set forth the terms, conditions, and obligations of all parties signatory to the contract. California Government Code, Section 65864, et seq., and the procedures for Development Agreements, adopted by the City of Ontario, provide the authority for the Development Agreement.

**8.2.3.2 Conditional Use Permits (CUP)**

Conditional Use Permits shall be required for land use classifications typically having unusual site development features or operating characteristics requiring special consideration so that they may be designed, located, and operated compatibly with uses on adjoining properties and in the surrounding area. Conditional Use Permits must be first granted by the Zoning Administrator or Planning Commission before a use is allowed within a particular district.

CUP performance standards herein for drive-thru facilities (Section 5.3.8.8) constitute the minimum deemed necessary under general circumstances and in most cases to prevent adverse effects from drive-through facilities. Other and further standards may be required as conditions of approval defined by City Planning staff to ensure that such uses are in accord with the intent of the Specific Plan and in concert with the integrity of the commercial or mixed-use project.

### 8.3 PHASING

Development within the Rich-Haven Specific Plan area is expected to occur in two general phases, with the first phase encompassing those builders participating in the NMC Builders, LLC Eastern Portion Infrastructure Agreement. Phase II are those not participating in the NMC Builders, LLC Eastern Portion Infrastructure Agreement (Planning Areas 1a – f). Refer to Figure 8-1, *Phasing Plan*.

#### 8.3.1 PHASE I

Phase I includes all development within Planning Areas 2 through 8. Development of individual planning areas and associated parks facilities will occur as appropriate levels of master infrastructure, public facilities, and any required dedications are provided. Phasing sequence is subject to change over time to respond to various factors. Improvements within individual phases may overlap or develop concurrently. Development phasing will be implemented through the approval by the City of tentative tract maps and development permits. Backbone infrastructure to serve all areas of the Rich-Haven Specific Plan area shall be installed by the developer(s) in accordance with the City's adopted Master Plan for the areas or any approved amendments to it. Infill service mains will be installed/constructed in phases as development occurs and conditioned by the City Engineer's office to support individual phases of development. The development of Planning Areas will provide viable, future utility and circulation connections to those undeveloped properties, as necessary.

#### 8.3.2 PHASE II

Phase II includes a mixture of residential products within Planning Area 1, Future development phasing will be implemented through the approval by the City of tentative tract maps and development permits.

#### 8.3.3 COMMUNITY FACILITIES AND SERVICES

The timing for installation of community facilities, including park and trail facilities, and payment of impact fees for public services for the Specific Plan will be determined as part of the City's approval process in accordance with the provisions of the existing City fee ordinance. Community facilities, such as bike routes, will be developed in conjunction with construction of public improvements. Those portions of the Neighborhood Parks, paseos, and open space areas adjacent to individual developments within each Planning Area will be constructed to provide amenities as development progresses.



## 8.4 PROJECT FINANCING

The financing of construction, operation, and maintenance of public improvements and facilities (the “facilities”), and public service will include funding through a combination of financing mechanisms. Final determination as to the facilities to be constructed and as to maintenance responsibilities – whether publicly or privately maintained, will be made prior to recordation of the final maps. In order for the project to be fiscally self-sufficient, the following financing options can be considered for implementation:

### Facilities and Services:

- ❖ Private capital investment for the construction of facilities.
- ❖ Community Facilities District (CFD) established pursuant to the Mello-Roos Community Facilities District Act of 1982, or other special district, to provide funding for the construction of a variety of public facilities and the provision of public services.

### Operation and Maintenance:

- ❖ By individual private property owner.
- ❖ By private property owners or Home Owners Association.
- ❖ By Community Facilities District (CFD) established pursuant to the Mello-Roos Community Facilities District Act of 1982, or other special district.

City Council approval is a prerequisite for the implementation of any and all special district financing mechanism. The use of the Mello-Roos Community Facilities District Act of 1982 [the “Act”) to finance public facilities and services will be at the City’s sole discretion. Moreover, the use of the Act must be consistent with the City’s adopted goals and policies concerning the use of the act.

## 8.5 MAINTENANCE RESPONSIBILITIES

During the course of maintenance of public utilities (including storm drain) within private and public streets, the City will pave the streets and restore landscaping per City standards. Restoration of any enhancements above and beyond City standards, including but not limited to architectural, hardscaping and landscaping enhancements shall be the responsibility of the HOA or other entity maintaining those enhancements. This applies to all areas where public utilities are located including but not limited to public and private streets, gated communities, alleys, etc.

Improvements constructed within the Rich-Haven Specific Plan will be maintained through a combination of public and private entities as described below and shown within Table 8-4, *Maintenance Responsibilities*, and:

### 8.5.1 PROJECT FINANCING

The financing of construction, operation and maintenance of public improvements and facilities (“facilities”), and public services will include funding through a combination of financing mechanisms. Final determination as to the facilities to be constructed and maintenance responsibilities – whether publicly or privately maintained, will be made prior to recordation of the final maps. In order for the project to be fiscally self-sufficient, the following financing options can be considered for implementation:

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#### Operation and Maintenance:

- ❖ By individual private property owner.
- ❖ By private Property Owners Association or Homeowners Association.
- ❖ By Community Facilities District (CFD) established pursuant to the Mello-Roos Community Facilities District Act of 1982, or other special district.

City Council approval is a prerequisite for the implementation of any and all special district financing mechanisms. The use of the Mello-Roos Community Facilities District Act of 1982 (the “Act”) to finance public facilities and services will be at the City’s sole discretion. Moreover, the use of the Act must be consistent with the City’s adopted goals and policies concerning the use of the Act.

## 8.6 METHANE REMEDIATION

The City of Ontario is in the process of adopting protocol to assess the potential for methane generation on proposed building sites in areas previously used for certain agricultural practices. The preliminary protocol requires the following, which may be modified after approval of a final protocol:

- ❖ Prior to issuance of a grading permit, a methane site assessment shall be prepared to determine whether the property was ever used as a dairy, poultry ranch, hog ranch, livestock feed operation, manure stockpile site, manure burial site, agricultural pond, or for any other purpose that might result in the deposition of materials which could produce significant methane. The report will provide recommendations as to which areas should be tested after grading and which areas that should be exempt from methane testing, based upon historic site usage.

- ❖ The assessment report shall be submitted to the City of Ontario for review and approval. Areas identified in the assessment, which indicate a potential for methane generation, shall be tested 30 days after rough grading has been completed. Testing would occur on a weekly basis for four weeks.

After testing, recommendations for methane mitigation measures are made on a lot-by-lot basis depending on the concentrations detected in the soil gas probes. Mitigation designs would be submitted to the City of Ontario, along with the result of the methane testing, for review and approval as part of building permit issuance.

**Table 8-4  
Maintenance Responsibilities**

	City and/or Special District	Private Homeowners Association (HOA)	Private Homeowners/ Commercial Property Owners	Utility Entity
Master Plan Roadways ( <i>Riverside Drive, Haven Avenue, Milliken Avenue, Mill Creek Avenue, Chino Avenue, Ontario Ranch Road</i> )	√			
Interior Project Streets ( <i>curb to curb Primary Entry Street, Secondary Entry Streets, Neighborhood Streets, and street lights</i> )	√			
Parkway of Master Plan Roadways ( <i>curb to perimeter walls including landscape, sidewalks, street lights</i> )	√			
Parkways of Interior Project Streets <sup>1</sup> ( <i>landscaping, sidewalks</i> )		√		
Interior Tract Graffiti Removal		√		
Private interior yard walls			√	
Private Recreational Areas		√		
Monument Signs and Master Plan Roadways	√			
Monument signs within tract entry		√		
Traffic Signals	√			
Traffic Control Signs	√		√	
Alleys		√		
Community Trail (SCE Corridor Trail)	√			
Off-site and on-site water, sewer, and storm drain improvements ( <i>excluding laterals- Only those facilities in public roads and/or easements</i> )	√			
Neighborhood Park (5 acres or more)	√			
Pocket/LinearPark		√		
Residential/Urban Parks		√		
Front Yard Landscaping Areas ( <i>Planning Areas 1, 4 &amp; 5</i> )		√		
Landscaping and Common Areas ( <i>Planning Areas 6, 7, &amp; 8</i> )			√	
Community Theme Wall and Entry Monuments ( <i>outside face for Graffiti removal</i> )	√			
Community Theme Wall and Entry Monuments ( <i>structural integrity and face repair</i> )		√		

	City and/or Special District	Private Homeowners Association (HOA)	Private Homeowners/ Commercial Property Owners	Utility Entity
Community Neighborhood Entries ( <i>within Neighborhood edges on Master Plan Roadways</i> )	√			
Driveway & Parking Areas (including landscaping) Serving Commercial Property		√		
Private Streets in Gated Communities		√		
Alley Landscaping and Lighting		√		
Electricity				√
Natural Gas				√
Communications Systems	√			√
Police	√			
Fire	√			
NPDES Facilities (Off-site)/WQMP <sup>2</sup>		√		
NPDES Facilities on private property		√		

1. Include restoration work following public street repairs.
2. Only those facilities in public roads, public right-of-way and/or easements, to be maintained through an Encroachment Agreement with the City of Ontario.

**8.7 MITIGATION MONITORING**

Pursuant to Public Resources Code (PRC) Section 21081.6, a summary of conditions of project approval shall be prepared to mitigate or avoid significant effects on the environment. An approved Mitigation Monitoring Program shall insure that the project and all future development within the project area comply with all applicable environmental mitigation and permit requirements. The final approved Mitigation Monitoring program shall be attached as an appendix to this Specific Plan upon EIR certification.

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