

## 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, Ontario General Plan, and the Development Code.

#### 8.1.1 ADOPTION

The Rich-Haven Specific Plan shall be adopted by ordinance in accordance with the NMC GPA Section 8 Implementation Programs, Subarea Specific Plans I-7, page 8-4.

#### 8.1.2 ENFORCEMENT

The Rich-Haven Specific Plan serves as the implementation tool for the General Plan 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.

The pre-zoning ordinance adopted by the City Council on April 20, 1998, designates the entire sphere of influence area as "SP/AG" (Specific Plan District/Agricultural Preserve). The zoning designation of SP requires the area be developed with a series of Specific Plans that carry out objectives of the SOI General Plan, with land uses consistent with the approved General Plan.

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 19 Residential Planning Areas. Residential unit transfer allows for the redistribution of residential units and associated daily trip budget allocations from one Planning Area to another or 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 4,256 dwelling units.
- b. A developer 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, in addition to requirements outlined within Section 8.1.6, *Mixed-Use Implementation Mechanisms*.
- c. The number of excess residential units identified for transfer to another Residential District 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. The unit transfer shall be accompanied by the completion of the Regional Commercial/Mixed-Use Specific Plan Consistency Application within Appendix A, addressing the said

units to be transferred as per Section 8.1.6, *Mixed-use Implementation Mechanisms*.

- e. Regional Commercial/Mixed-Use District unit transfers to the Residential District may not exceed 15% of the total residential units in the receiving Planning Area.
- f. There would be no significant adverse effect on projected demands on parks, schools, infrastructure, or community facilities.
- g. Grading would remain in substantial conformance with the approved Specific Plan.
- h. No new significant environmental issues would result.

### 8.1.6 MIXED-USE IMPLEMENTATION MECHANISMS

As envisioned in this Specific Plan, any mix of uses allowable 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, granted that the mix of uses meets the requirements of the Mixed-Use Implementation Mechanisms established by this Section 8.1.6. The Mixed-Use Implementation Mechanisms control the ultimate mix of uses within the Regional Commercial/Mixed-Use District through 1) a trip cap and trip budget, and 2) Development Regulations including land use restrictions, building heights, floor area ratios, density restrictions, parking and open space standards. These are summarized in Table 8-3 and any submittal for a site plan within the Regional Commercial/Mixed-Use District Consistency Application within Appendix A.

#### 8.1.6.1 *Maximum Trip Cap & Specific Plan Land Use Trip Budget*

The NMC GPA Transportation Implementation Plan identifies a baseline capacity for the Rich-Haven Specific Plan Area of 49,368 daily trips, with no more than 37,022 of these trips allocated to the Regional Commercial/Mixed-Use District (based upon a total of 1,306,800 sf. of regional commercial uses, and an adjusted daily trip rate of 28.33 ksf)<sup>1</sup>. Trip rates for each type of use are based on Table 8-1, *Land Use Trip Rate Table*, reflecting trip rates that were included in the Transportation Implementation Plan for a potential selection of uses within the project, based on ITE values.

<sup>1</sup> Assumes a rate adjusted downwards by 34% to reflect an average rate of pass-by trips at shopping centers.

**Table 8-1**  
**Land Use Trip Rate Table**

Land Use Category	Daily Trip Rates <sup>9</sup>	Adjusted Daily Trip Rates
	Per DU	Per DU
Single-Family Residential	9.57	9.57
Multi-Family Residential <sup>1</sup>	6.24	6.24
	Per KSF	Per KSF
Neighborhood Commercial <sup>2</sup>	40.67	22.8 <sup>3</sup>
Community Commercial <sup>2</sup>	40.67	22.8 <sup>3</sup>
Regional Commercial <sup>4</sup>	42.92	28.33 <sup>5</sup>
Town Center Retail <sup>4</sup>	42.92	28.33 <sup>5</sup>
Town Center Office <sup>6</sup>	11.01	9.69 <sup>7</sup>
Business Park Support Retail	40.67	8.13 <sup>8</sup>
Business Park	12.67	11.23 <sup>7</sup>
	Per AC	
County Park	2.28	n/a

1. Rate is average of rates for apartments (6.63/unit) and Residential Condominium/Townhouse (5.86/units)

2. Rate is for ITE land category 814: Specialty Retail Center

3. The rate is adjusted down by 43.9% to reflect the average rate of pass-by trips at neighborhood and community retail uses

4. The rate is for ITE land use category 820: Shopping Center

5. The rate is adjusted down by 34% to reflect the average rate of pass-by trips at shopping centers

6. The ratio is for ITE land use category 710: General Office Building

7. The rate is adjusted down to reflect the fact that an average of 12% of the employee trips are generated internally in NMC and are therefore captured in the residential trips

8. It was assumed that 80% of the business park retail trips would be internal to the business park

9. As per NMC GPA Transportation Implementation Plan

Table 8-2, *Specific Plan Land Use Plan Trip Generation*, presents a trip budget for the land uses assumed to be developed as part of this Specific Plan. Although this represents a best guess at future land uses, the actual mixture of uses to be developed in Rich-Haven is flexible, given that future development is consistent with the Mixed-Use Implementation Measures, one of which is adherence to the ultimate trip cap of 49,368 daily trips, with no more than 37,022 of these trips allocated to the Regional Commercial/Mixed-Use District.

**Table 8-2**  
**Specific Plan Land Use Plan Trip Generation**

Land Use	Size	ITE Code #	Daily Trips	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
PA's 1-6 (NMC Subarea 6)									
Single-Family Residential	503 dus	210	4,814	94	283	377	325	183	508
County Park	13.3 ac	411	30	0	0	0	0	0	1
PA's 1-6 (NMC Subarea 6) Subtotal			4,844	94	283	377	325	183	509
NMC GPA Trips			4,844						
Transferred Trips			0						
PA's 7-19 (NMC Subarea 12)									
Single-Family Residential	621 dus	210	5,943	116	349	466	401	226	627
Condominiums	1,355 dus	230	8,455	101	495	596	690	340	1,030
County Park	37.1 ac	411	85	0	0	0	1	1	2
PA's 7-19 (NMC Subarea 12) Subtotal			14,483	218	844	1,062	1,092	567	1,659
NMC GPA Trips			7,502						
Transferred Trips			6,981						
PA's 1-19 (Sub Area's 6&12) TOTAL			19,327						
NMC GPA Available trips PA's 1-19			12,346						
Transferred Trips			6,981						
PA 20 (NMC Subarea 19)									
Condominiums	725 dus	230	4,249	54	265	319	369	182	551
Internal Capture			-1,033	-7	-8	-15	-53	-36	-89
Residential – PA 20 Total			3,216	47	257	304	316	146	462
Regional Commercial	247,400 sf	820	7,009	103	66	168	293	318	611
Neighborhood Commercial									
Commercial	143,400 sf		3,270	51	32	83	105	113	218
Commercial Subtotal			10,278	153	98	251	398	431	829
Internal Capture			-1,130	-9	-10	-19	-44	-56	-100
Retail – PA 20 Total			9,148	144	88	232	354	375	729
Town Center Office	50,000 sf	710	551	69	9	78	13	62	75
Internal Capture			-107	-3	-2	-5	-4	-9	-13
Office – PA 20 Total			444	66	7	73	9	53	62
PA 20 (NMC Subarea 19) Subtotal			12,807	257	352	609	679	574	1,253

Land Use	Size	ITE Code #	Daily Trips	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
NMC GPA Trips			18,511						
Available Trips to Transfer			5,704						
<b>PA 21A</b>									
Single Family Residential	202 dus	210	1,933	38	114	152	131	73	204
Multi-Family Residential	650 dus	220/230	4,056	62	247	309	245	132	377
Residential Subtotal	852 dus		5,989	100	361	460	376	205	581
Internal Capture			-606	-4	-5	-9	-29	-18	-47
<b>Residential - PA 21A Total</b>			<b>5,383</b>	<b>96</b>	<b>356</b>	<b>451</b>	<b>347</b>	<b>187</b>	<b>534</b>
Regional Commercial	50,000 sf	820	1,417	21	13	34	59	64	124
Neighborhood Commercial	200,000 sf	814	4,560	71	45	116	146	158	304
Retail Subtotal	250,000 sf		5,977	92	59	150	205	222	428
Internal Capture			-751	-6	-6	-12	-23	-33	-56
<b>Retail - PA 21A Total</b>			<b>5,226</b>	<b>86</b>	<b>53</b>	<b>138</b>	<b>182</b>	<b>189</b>	<b>372</b>
Town Center Office	75,000 sf	710	826	103	14	117	19	93	112
Internal Capture			-161	-2	-2	-4	-6	-6	-12
<b>Office - PA 21A Total</b>			<b>665</b>	<b>101</b>	<b>12</b>	<b>113</b>	<b>13</b>	<b>87</b>	<b>100</b>
<b>PA 21A Subtotal</b>			<b>11,273</b>	<b>282</b>	<b>420</b>	<b>702</b>	<b>542</b>	<b>463</b>	<b>1,005</b>
NMC GPA trips			13,883						
Available Trips to Transfer			2,610						
<b>PA 21B (Portion of Subarea 19)</b>									
Multi-Family Residential	200 dus	220/230	1,248	19	76	95	75	41	116
Internal Capture			-320	-2	-2	-4	-18	-12	-30
<b>Residential - PA 21B Total</b>			<b>928</b>	<b>17</b>	<b>74</b>	<b>91</b>	<b>57</b>	<b>29</b>	<b>86</b>
Regional Commercial	112,600 sf	820	3,190	47	30	77	133	145	278
Internal Capture			-341	-3	-3	-6	-15	-18	-33
<b>Commercial - PA 21B Total</b>			<b>2,849</b>	<b>44</b>	<b>27</b>	<b>71</b>	<b>118</b>	<b>127</b>	<b>245</b>
Town Center Office	10,800 sf	710	119	15	2	17	3	13	16
Internal Capture			-23	-1	0	-1	-1	-3	-4
<b>Office - PA 21B Total</b>			<b>96</b>	<b>14</b>	<b>2</b>	<b>16</b>	<b>2</b>	<b>10</b>	<b>12</b>
<b>PA 21B Subtotal</b>			<b>3,873</b>	<b>75</b>	<b>103</b>	<b>177</b>	<b>178</b>	<b>166</b>	<b>343</b>
NMC GPA trips			4,628						
Available Trips to Transfer			755						

Land Use	Size	ITE Code #	Daily Trips	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
PA 20, 21A, & 21B (Subarea 19)			27,953						
NMC GPA Available trips PA 20&21			37,022						
Available Transfer trips in PA 20&21			9,069						
Proposed Project Transfer trips to PA 1-19			6,981						
<b>SPECIFIC PLAN TOTAL TRIPS</b>			<b>47,280</b>						
TOTAL ALLOWABLE SPECIFIC PLAN AREA TRIP CAP <sup>1</sup>			49,368						
TOTAL AVAILABLE TRIPS			2,088						

1. Per information contained in the NMC GPA Transportation Implementation Plan
2. Total trips per planning area may be exceeded based upon supplemental traffic study to the satisfaction of the Planning Department.
3. Planning Areas 1 through 6 shall include a minimum of 80 dwelling units of 7,200 sf or above
4. NMC GPA Specific Plan Subarea 19 (Planning Areas 20, 21A and 21B) shall include a total minimum of 889,200 sf of commercial uses (PA 20 shall include a minimum of 440,800 sf; PA 21A 325,000sf; PA 21B 123,400 sf.)

The mixture of types of uses is derived based upon anticipated market conditions, and may be adjusted as long as the overall maximum daily vehicle trip cap for the Regional Commercial/Mixed-Use District and the overall project is not exceeded. The following provides procedures for submittals necessary to ensure compliance with the trip cap and trip budget restrictions:

- a. The Planning Department shall maintain a current Trip Budget Allocation form depicting the maximum unit/square footage and trip cap for the Regional Commercial/Mixed-Use District and the overall project. The form shall specify the assumed square footage and unit count for the current land use proposal within the Specific Plan (See Table 8-3). In addition, the form shall specify the amount of square footage approved for development with the equivalent daily vehicle trips assigned to the Planning Area, the amount of daily vehicle trips available within the individual remaining Planning Area and overall Regional Commercial/Mixed-Use District, and/or available to transfer to another Planning Area and/or other NMC Subareas. The essential requirement is to document the daily vehicle trip status as it is impacted by each individual development within the Regional Commercial/Mixed-Use District (Planning Areas 20 and 21) and Specific Plan so that sufficient roadway capacity remains to accommodate later projects. Also refer to Table 8-3, *Specific Plan Consistency, Checklist*, for the consistency checklist to be submitted at the time of a development proposal within the District.
- b. **Calculation of Daily Trips on Parcels:** The calculation of daily trips assigned to a parcel will occur upon approval of a site plan, design approval for a new development, or submittal of an application for building permits, whichever occurs first. A revised trip budget allocation form shall be submitted with such

application for City review and use. Refinements to calculations can be made at the building permit stage where square footage changes are proposed to a development. The calculation of the daily vehicle trips could consider, if applicable, pass-by and internal capture reductions, per the guidelines set forth in the *ITE Trip Generation Handbook*.

- c. **Calculation of Daily Trips for Multiple Use Developments:** In a development containing more than one use (including vertical mixed-use buildings), daily vehicle trips shall be calculated by multiplying the total square footage for each use, and/or dwelling unit count, by the respective trip generation rates and adding the daily trips for each land use on a parcel to derive the total daily vehicle trips for the project. Applicable internal capture discounts could be applied for mixed-use developments per the guidelines set forth in the *ITE Trip Generation Handbook*.
- d. **Deviations from the Regional Commercial/Mixed-Use District Trip Budget:** A proposed project shall be allowed to deviate from the Specific Plan land use mix shown in Table 8-2 as long as it can demonstrate that sufficient daily capacity exists to serve the area and that the overall total trip cap is not exceeded for the overall Specific Plan and Regional Commercial/Mixed-Use District, and in compliance with the Mixed-Use Specific Plan Consistency Application to be submitted at the time of a development proposal. In addition to:
  - ❖ Consistent with the authorized permitted and conditionally permitted uses, the exchange of approved land uses within the Trip Budget Allocation may be approved subject to the review and approval of the total trip generation of the Regional Commercial/Mixed-Use District Planning Area by the Planning Director and Public Works. Total trips per planning area may be exceeded based upon developer prepared supplemental traffic study to the satisfaction of the Planning Department.
  - ❖ In the event a specific unlisted permitted or conditionally permitted use is identified for a proposed development, a traffic analysis may be required to be prepared by a licensed traffic engineer and reviewed and approved by the City Engineer.
  - ❖ Proposed projects will be analyzed in terms of: 1) consistency with the allowable uses as outlined in Section 5.5 of this document; 2) the portion of the trip budget allocation projected to be consumed by the project; 3) the ability to ensure availability of daily vehicle trip capacity for subsequent projects within the Regional Commercial/Mixed-Use District; 4) building heights are review and approved by the Planning Department; 5) a maximum FAR of 3.5 for mixed-use and/or Gross Leaseable Space Constraints, and 0.75 for single use buildings, with a maximum FAR of 2.0 over the entire planning area; 6) parking standards identified within Section 5, *Development Standards*, ensure that parking demand, as associated with each specific use of the development, will be



met; 7) the density of all residential uses does not exceed 18 dwelling units per gross acre, measured within each planning area over the entire Regional Commercial/Mixed-Use District; and 8) complies with open space requirements identified within Section 5 of this document.

- ❖ Adjustments to the amount, intensity, or mix of uses may occur if consistent with the Specific Plan, as long as sufficient daily vehicle trips remain to accommodate remaining development potential on a parcel where development proposals have not been submitted.
- e. **Trip Budget Transfers:** Where available daily vehicle trips remain for an undeveloped parcel(s) within Specific Plan Planning Areas, the transfer of daily vehicle trips to another Planning Area shall not occur without the authorization of the landowner(s) of the developed or undeveloped parcel(s) within the contributing Planning Area agreeing to transfer. This approval shall be in the form of an agreement to run with the land and subject to review and approval by the City Attorney prior to approval to the transfer. Trip budget transfers to other Subareas within the NMC shall be reviewed and approved by the Planning Director and Public Works in the form of an agreement between the property owners. In addition to:
- ❖ All transfers of available daily vehicle trips shall be documented in the Trip Budget Allocation for those transfers. Transfer of trips within the Specific Plan area to the Residential District shall be in conformance with Section 8.1.5, *Residential Unit Transfer*. Transfer of trips/residential units to other Subareas within the NMC shall be documented on the Trip Budget Allocation Form prepared by a traffic engineer and identify revised receiving Subarea potential trips/residential units.
- f. **Establishments of Trip Generation Rates:** Trip generation rates for estimating the number of daily vehicle trips that will be generated for the land uses in the Specific Plan are based on NMC GPA Transportation Implementation Plan, and/or as approved by the Planning Department.

#### 8.1.6.2 Compliance with Development Regulations

Proof of Compliance with the following regulations (summarized from Section 5) must be submitted as part of any submittal for a project within the Mixed Use District, including a letter report identifying the Trip Budget Allocation Transfer request.

- a. **Permitted Uses.** In addition to the above Trip Budget Mechanism described above, the ultimate mixture of uses within the Regional Commercial/Mixed Use District shall consist entirely of land uses permitted or conditionally permitted in Section 5, *Development Regulations*, of this Specific Plan, and application of Traditional Neighborhood Design Criteria.

- b. **Building Heights.** Building heights within the Regional Commercial/Mixed-Use District shall be reviewed and approved by the Planning Department as part of the site plan review process.
- c. **Floor Area Ratio (FAR).** Development within the Regional Commercial/Mixed-Use District must be consistent with Rich-Haven's maximum floor area ratio (FAR) of 0.5:1 for single use buildings and 2.0:1 for vertical mixed-use buildings, with a maximum FAR of 2.0 over the entire planning area.
- d. **Density Restrictions.** Development within the Regional Commercial/Mixed-Use District must not exceed Rich-Haven's density restrictions of 18 dwelling units per gross acre for all residential uses, measured within each planning area of the Regional Commercial/Mixed-Use District. Refer to Section 5, *Development Regulations*
- e. **Parking Requirements.** Development within the Regional Commercial/Mixed-Use District must meet the parking standards established in this document's Section 5, *Development Regulations*.
- f. **Open Space Requirements.** Development within the Regional Commercial/Mixed-Use District must meet the common and private open space standards established in this document's Section 5, *Development Regulations*.
- g. **Trip Budget Allocation Transfer Form.** A Trip Budget Allocation Transfer Form shall be prepared by a traffic Engineer approved by the City, identifying the following: 1) Proposed Planning Area units/trips; 2) Proposed Planning Area Specific Plan units/trips; 3) Total un-allocated Proposed Planning Area units/trips; 4) Receiving Planning Area units/trips; 5) Receiving Planning Area Maximum units/trips (15% max increase); 6) Revised Receiving Planning Area units/trips; 7) Total Revised District units/trips allowable; 8) Receiving NMC SubArea units/trips; 9) Revised Receiving NMC SubArea units/trips; 10) Total Specific Plan Adjusted units/trips. Refer to Section 8.1.6.1, *Maximum Trip Cap & Specific Plan Land Use Trip Budget*.

#### ***Determination of Standards Conformance***

To ensure that development proposals are consistent with the Mixed-Use Implementation Mechanisms described in this section, the *Regional Commercial/Mixed-Use Specific Plan Consistency Application* within Appendix A, shall be completed and submitted with proposals for development.

**Table 8-3  
Regional Commercial/Mixed-Use Specific Plan Consistency Checklist**

<p>The following requirements apply to all developments within Planning Areas (PA) 20, 21A and 21B as identified within Section 3.2, <i>Land Use Plan</i>. The checklist shall be completed and submitted with the development proposal. Check if the proposed project fully complies with each respective requirement. Refer to APPENDIX A - <u>Regional Commercial/Mixed-Use Specific Plan Consistency Application</u>, to be completed as part of a development submittal</p>		
REQUIREMENT	DESCRIPTION	CONFORMANCE
1. Regional Commercial Mixed-Use Trip Budget	A daily trip cap of 37,022 daily trips for the entire Regional Commercial/Mixed-Use District is not exceeded, nor is a trip cap of 18,511 daily trips for either Planning Area 20 or 21 without a trip budget transfer authorized by the landowners. Refer to Specific Plan Section 8.1.5 and Appendix A.	✓
2. Permitted Uses	Land Uses Permitted or Conditionally Permitted in this document's Section 5, <i>Development Regulations</i> (Refer to Specific Plan Sections 5.4 and 5.5) and application of Traditional Neighborhood Design criteria.	✓
3. Building Heights	Building heights within the Regional Commercial/Mixed-Use District shall be reviewed and approved by the Planning Director as part of the site plan review process. Refer to Specific Plan Section 5.5.9.	✓
4. FAR	A maximum floor area ratio (FAR) of 0.5:1 for single use buildings and 2.0:1 for vertical mixed-use buildings is not exceeded, with a maximum FAR of 2.0 over the entire Planning Area. Refer to Specific Plan Section 5.5.	✓
5. Density (Residential Overlay Only)	The density of all residential uses does not exceed 18 dwelling units per gross acre, measured within each planning area over the entire Regional Commercial/Mixed-Use District. Refer to Specific Plan Sections 5.4 and 5.5.	✓
6. Parking Requirements	Parking standards, as established in this document's Section 5, <i>Development Regulations</i> , are met. Refer to Specific Plan Sections 5.4 and 5.5.	✓
7. Open Space	Open space requirements, as established within the Specific Plan Section 5, <i>Development Regulations</i> , are met.	✓

### 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 1 through 8 and 21B). Refer to Figure 8-1, *Phasing Plan*.

### 8.3.1 PHASE I

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.

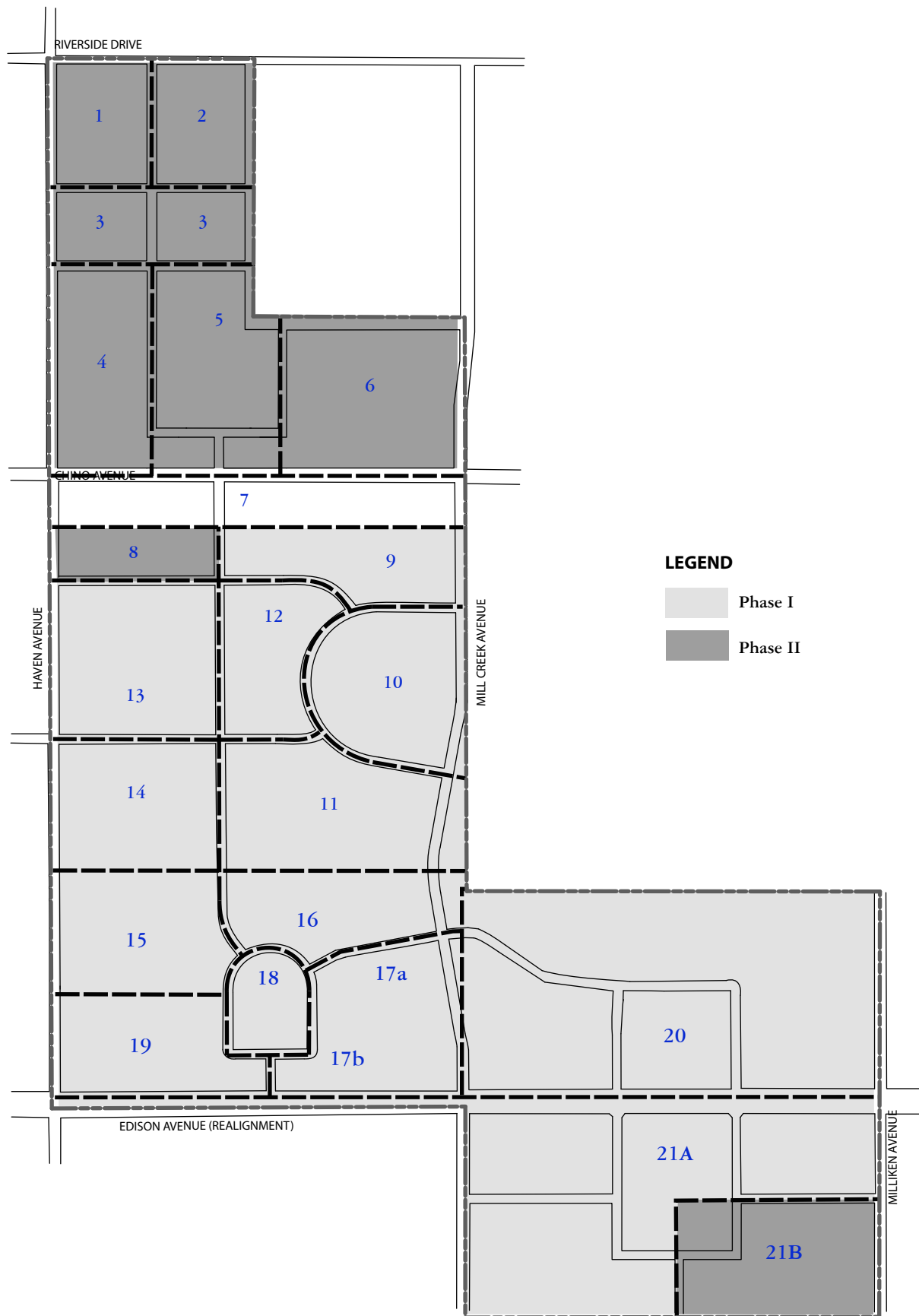
### 8.3.2 PHASE II

Phase II includes a mixture of residential and commercial uses within Planning Areas 1, 2, 3, 4, 5, 6, 7, 8 and 21B. No development plans have been provided at this time and are estimated to occur beyond 2012. The Rich-Haven Specific Plan Land Use Table 3-1, and Section 8.1.6, *Mixed-Use Implementation Mechanisms*, provided the maximum allowable development potential for those Planning Areas. 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:

#### **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 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.

## ADMINISTRATION AND IMPLEMENTATION

- ❖ 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, Edison Avenue</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 Parks		✓		
Linear Parks		✓		
Front Yard Landscaping Areas ( <i>Planning Areas 1-19</i> )			✓	
Landscaping and Common Areas ( <i>Planning Areas 20, 21A and 21B</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> )		✓		
Community Neighborhood Entries ( <i>within</i>	✓			

	City and/or Special District	Private Homeowners Association (HOA)	Private Homeowners/ Commercial Property Owners	Utility Entity
Neighborhood edges on Master Plan Roadways)				
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 (On-site)/WQMP <sup>2</sup>		✓		
NPDES Facilities/Interim Detention Basin on private property		✓		

1. Include restoration work following public street repairs.
2. Only those facilities in the public roads and/or easement.

## 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 complies 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.