Chapter 3: Plan Implementation

3.1 Basic Concepts

The most important opportunity represented by the Fairview Village Plan Area is that it is held in only three major property ownerships. A complex implementation program is not required. The Specific Plan is designed so that each owner is made responsible for all of the improvements that are necessary for development of his or her property. In essence, it is a feasible, market driven, “pay-as-you-go” Plan.

 Adoption of the Specific Plan establishes a comprehensive set of policies, land uses, infrastructure improvements and development standards for the Plan Area sufficient to guide the subsequent review process for project applications, which is discussed as one part of the implementation program. This procedural aspect of the implementation program may include the following components:

- Annexation
- Tentative Subdivision Maps
- Land Use and Development Standards
- Amendments to the Specific Plan and Continuing General Plan Conformance

The second part of the implementation program identifies the responsibilities of the property owners to fund and build the community facilities necessary to allow development of the Plan Area. In summary, each property owner, upon adoption of the Specific Plan, will be bound when seeking development approvals to the following set of agreements:

- Infrastructure improvements shall be built according to the location, size, capacity and design described in the Specific Plan;

- Unrestricted access shall be provided, through easements or dedications, for the construction and maintenance of Specific Plan infrastructure projects by other benefiting property owners;

- Reimbursement, where appropriate, shall be paid to or accepted from other property owners for utility infrastructure oversizing or for other extra costs of direct benefit to an owner other than the one making the improvements; and
Each property owner shall be responsible for the costs of all improvements actually shown on a tentative subdivision map application.

The Fairview Specific Plan provides a sufficient level of direction for public improvement and community facility requirements to guide the subsequent process necessary to review and approve developer applications for tentative subdivision maps and development projects. The following sections discuss in more detail the major features of the Specific Plan implementation and conform to the requirements of Section 65451 (b) of the Government Code.

3.2 Submission and Approval of Subsequent Projects

3.2.1 Annexation

The Specific Plan establishes the full nature of the costs to facilitate development of the Plan Area and addresses all factors identified by Section 56841 of the Government Code, as outlined in the City of Modesto General Plan and in conformance with the request for findings by the Stanislaus County Local Agency Formation Commission (LAFCO). In so doing, the Specific Plan clears the way for future annexation of the Plan Area by the City of Modesto.

![Figure 3.1: Development Sub-Areas](image)
3.2.2 Tentative Subdivision Map Applications

The tentative subdivision map application process is governed by the City of Modesto's Subdivision Ordinance and the State Subdivision Map Act (Sections 66410 et. seq.). The Tentative subdivision map application shall provide final design of connector and local roads and shall contain a notation for construction of public improvements or a posting of securities for the financing of such improvements.

To be approved, tentative subdivision map applications must conform to the requirements of the Specific Plan and be consistent with any relevant certified mitigation measures identified in the Fairview Village FEIR, as discussed in sections 3.2.3 and 3.2.4 below. Following tentative subdivision map approval, development projects may be submitted for development plan review.

3.2.3 Conformance With Final EIR Mitigation Measures

Specific impacts for which specific mitigation measures were adopted have been identified as part of the discussion of individual components of the Land Use and Infrastructure Elements of the Specific Plan. These impacts and the required mitigation measures are referenced as follows:

- Traffic and Circulation Needs (p. 42 of the FEIR; Section 2.3.1 of the Specific Plan);
- Generation of Noise (p. 52 of the FEIR; Section 2.2.4 of the Specific Plan);
- Loss of Productive Agricultural Land (p. 59 of the FEIR; Section 2.2.2 of the Specific Plan);
- Increased Demand for Schools (p. 73 of the FEIR; Section 2.2.4 of the Specific Plan); and
- Generation of Hazardous Materials (p. 76 of the FEIR; Section 2.2.4 of the Specific Plan).

All certified mitigation measures identified in the Master EIR for the Modesto Urban Area General Plan will apply city-wide, including Fairview Village, as appropriate.

3.2.4 Land Use and Development Standards

As discussed in the Land Use Element, land use and development standards are regulated through the City Zoning Ordinance, as modified by a Specific Plan Overlay Zone. According to Article 19, Sections 10-2.1901-05 of the City of Modesto Zoning Ordinance, existing designations shall be used as the Principal Underlying Zoning, concurrent with a Specific Plan Overlay Zoning (SP-O) to “supplement regulations established by the ‘principal underlying zones’ with certain uses, standards, and development review processes adopted through the Specific Plan process (Sec. 10-2.1901). The SP-O Overlay Zone is applied concurrently with adoption of the identified ‘Principal Underlying Zoning’ and only on property within the Fairview Specific Plan Area.
The effect of the SP-O Overlay Zone is that "all subsequent development shall comply with the uses, standards, and development review procedures of the Underlying Principal Zone, the SP-O Overlay Zone, and the adopted Specific Plan, including all implementation actions thereof." In the event of a conflict between the uses, standards, and development review processes of the underlying principal zoning (such as R-1, R-2, R-3, C-1, etc.) and those of an adopted Specific Plan, those of the Specific Plan, and its subsequent implementation actions, shall prevail (Sec. 10-2.1904).

As noted in the Land Use section of the Plan, certain residential properties may be determined to lie within a zone of potential odor impacts from the nearby City of Modesto Wastewater Treatment Plant, which is located to the northeast of the Plan Area. In such cases, a disclosure, or other mechanisms satisfactory to the City Attorney as determined at the time of the subdivision application, may be used to achieve the goals of providing for the present and future operations of the treatment facility. Adjacent and nearby agricultural land uses also may come to be in conflict with new residential land uses that may be necessary to agricultural activity and future home buyers and prospective residents of Fairview Village shall be provided disclosure that they are subject to noise, dust, odor, and other impacts from adjacent agricultural uses.

3.2.5 Amendments to the Specific Plan

Because of its programmatic nature and as economic conditions dictate, the Specific Plan may require more Amendments than other types of plans. The City of Modesto requires the following process for amending the Specific Plan.

- Proposals to amend the Specific Plan must be accompanied by detailed information documenting the change requested and accompanied by textual revisions and revised maps or diagrams.

- Documentation of the need for Amendments should indicate the economic, social, or technical issues that generate that need. Proposals to amend the Specific Plan also must be accompanied by studies that address such issues as conformance with Specific Plan principles and policies, compatibility with adopted land uses and infrastructure requirements.

- Applications for amending the Specific Plan also must provide an impact analysis for levels and types of development other than or in excess of the maximums addressed in the certified FEIR (Depending on the nature of the Amendment, supplemental environmental analysis may be necessary, according to CEQA legislation [section 15162]).

- City staff will review submitted material and provide a staff report to the Planning Commission and City Council for action (Clarification of individual studies may be required. Staff also will review the Amendment for consistency with the General Plan and determine whether the need to amend the Specific Plan can be supported by the conclusions in any of the supplemental studies.).
• Both the Planning Commission and City Council must hold public hearings on Amendments to the Specific Plan, in accordance with Section 65453 of the State Government Code.

3.2.6 Relationship of the Specific Plan to the General Plan

The Specific Plan provides for the implementation of General Plan Policies according to adopted “Neotraditional Planning Policies” and conforms to Section 65451 (b) of the Government Code.

3.3 Long Range Financing Strategy

3.3.1 Purpose

A long range financing strategy for Fairview Village is provided as part of the Specific Plan, both in accordance with specific plan State Government Code requirements (Section 65451, item 4) and with City of Modesto Urban Area General Plan policy, which states that: “Each Comprehensive Plan should include a long-range financing strategy which provides reasonable estimates of the costs of on- and off-site infrastructure to support the proposed development pattern. The strategy should generally address public facility funding, including schools, for any development project which serves to implement the subject Comprehensive Plan. If new public facilities are required which will also serve the broader community, the Comprehensive Plan should include options for broad-based funding mechanisms.”

On-site facilities are defined as being located within the property boundaries that define the Plan Area. Off-site facilities are defined as being located outside the property lines that define the overall Plan Area. These boundaries are described in the introductory section of the Plan.

A basic concept of the Specific Plan Financing Strategy is that infrastructure improvements are to be constructed in conjunction with new development on a pay-as-you-go basis. These infrastructure improvements shall be sized according to identified future needs with compensation from property owners who will receive future benefit. Wherever feasible and as determined by negotiation, the Specific Plan property owners may build and dedicate community facilities in lieu of traditional City and County fee service agreements.

Infrastructure improvements necessary to support proposed new development are the responsibility of individual property owners and financing may include City and/or County fees. In general, fees are understood to be both the City’s Capital Facilities Fees (CFF), the County’s Public Facility Fees (PFF), as well as an allocated portion of school and building permit fees. The following spreadsheet provides an introductory overview of planned infrastructure improvements and funding responsibilities described in the various sections of the Long Range Financing Strategy.
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<th>Facility Type</th>
<th>Total Estimated Cost (1995 Dollars)</th>
<th>Existing County Fees</th>
<th>Existing Modesto Fees</th>
<th>School Impact Fee</th>
<th>Mello-Roos District</th>
<th>Site Specific Owner Financing</th>
<th>Property Dedications</th>
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</tr>
</tbody>
</table>
3.3.2 Implementation Policies

The following policies will be used to implement the Long Range Financing Strategy:

1. Unless specifically excepted, each property owner will finance and construct community facilities, as specified in the Specific Plan, which occur directly on his or her property.

2. The above referenced community facilities will be sized by each property owner, in accordance with the Specific Plan, for the benefit of future planned development. In the event that the properties develop out of sequence, each property owner is required to provide easements and access that may be necessary to install facilities for the benefit of the other property owners. Each property owner will reimburse the other(s) for their oversize expenses at the time of filing the first final subdivision map within each of the three major ownership groups.

3. The existing Citywide and County fees for new construction will prevail for development within the Plan Area and are intended to pay for all off-Plan Area community facilities, unless specifically excepted.

4. Property owners may receive credits to the payment of Citywide and County fees to the extent that there exists any duplication of improvements provided by the property owner versus improvements intended by the fee structure.

5. Accounting for facility oversizing will be handled by the property owners, in conformance to standard accounting practices. Repayment will be enforced by the City by being part of the City’s requirement for the subdivision map filing (see Item 2, above). Disputes among property owners will be subject to binding arbitration by a member of the American Arbitration Association (AAA). Outstanding balances for oversizing will be subject to 10% annual interest, payable by the benefitting “downstream” property owner at the time of final map filing.

6. The costs of developing the Specific Plan shall be reimbursed to the property owners who have fronted those costs. Reimbursement shall be through plan application fees required from non-contributing property owners. It shall be an equal share of the costs of preparing the Specific Plan and environmental documents, including the Fairview Village FEIR, and shall be prepared upon annexation of the property owner’s property. The property owner financing the Specific Plan shall assume responsibility for maintaining accounting records to established City standards. Any disputes which arise shall be resolved through binding arbitration by the American Association of Arbitrators (AAA).

7. General Plan housing policies implemented by the Specific Plan include an increased supply of entry level or “step-up” housing, sale and rental practices that support equal opportunity for ownership and that follow established fair housing practices, a process that seeks to remove procedural constraints to housing production, and construction that meets energy conservation requirements. Finally, approximately 40 multi-family units are
planned to be built by the completion of construction for Fairview Village. Of these multi-family units, 15% or approximately 60 units are proposed to be marketed as affordable according to the City of Modesto's "affordable housing" requirements of the General Plan.

3.3.3 Characteristics of Fairview Village Which Simplify the Financing Strategy

Several characteristics of the Fairview Village project greatly simplify public facility funding. These characteristics are summarized as follows:

1. Small Plan Area

At approximately 350 acres, Fairview Village is a relatively small Plan Area. There are no significant public facility deficiencies that cannot be remedied through the typical subdivision process.

2. Consensus Between Property Owners

One of the most significant obstacles to public facility funding often is a multiplicity of property owners, each of whom has a different development time frame. Fairview Village is free of this problem, as there are only three property owners and the Specific Plan does not require any particular sequence of property development. One of the owners, Terra Pacific (100 acres) has immediate development interests. Galas Properties (80 acres) desires to develop, but has no immediate plans. The third property owner, Bava (170 acres), is restricted from immediate development by an "unopposed" Williamson Act contract with no set date for non-renewal.

Each property owner, upon adoption of the Specific Plan, will be bound when seeking development approvals to the following set of agreements:

a) Infrastructure improvements shall be built according to the location, size, capacity and design described in the Specific Plan;

b) Unrestricted access shall be provided, through easements or dedications, for the construction and maintenance of Specific Plan infrastructure projects by other benefiting property owners;

c) Reimbursement, where appropriate, shall be paid to or accepted from other property owners for utility infrastructure oversizing or for other extra costs of direct benefit to an owner other than the one making the improvements; and

d) Each property owner shall be responsible for the costs of all improvements actually shown on a tentative subdivision map application.
3. Existing Urban Development Adjacent to Plan Area

Fairview Village directly fronts on Hatch Road, Carpenter Road and Whitmore Avenue. Development will require full improvements along these street frontages but, as noted in the following section, other off-site improvements are minimal. Similarly, all other urban facilities are readily available to the site. Therefore, the normal subdivision process of the City of Modesto will insure the timely provision of urban services to each development project.

4. Minimal Off-Site Requirements

The following off-site requirements are required for the complete buildout of Fairview Village:

a) Sanitary Sewer: Incremental expansion of capacity at the treatment plant.

b) Water: None, as water already is provided to the site.

c) Streets: Roadway improvements to those portions of Carpenter Road, Hatch Road, and Whitmore Avenue fronting the Fairview Village properties and, as identified in the Fairview Village FEIR, mitigation requirements to widen portions of the Carpenter/Hatch intersection.

d) Traffic Signals: A proportionate share of three traffic signals, as identified in the Fairview Village FEIR and described as required mitigation in the Circulation and Access section of the Infrastructure Element of the Plan (2.3.1, item 3).

e) Storm Drainage: Minimal, if any, off-site facilities required.

f) Schools: None off-site.

3.3.4 Public Facility Funding Sources, Costs and Development Specifications

The Infrastructure Element of the Fairview Village Specific Plan describes a number of community facilities necessary to implementation of the Plan. The following funding sources will be used to cover the costs of those facilities.

1. Streets, On-Site

a) Funding Source(s): Developer dedication and improvement of all arterial street widenings, connector streets and local residential streets.

b) Net Costs to City: None. Development will provide 100% financing for these improvements.
c) Specifications: Circulation and Access Section of the Infrastructure Element (2.3.1); (1) Prior to the issuance of the first tentative subdivision map within the Plan Area, the applicant will submit a study suitable to the Director of Public Works and Transportation providing projected traffic volumes for all Plan Area connectors; (2) At the time of the tentative subdivision map application, the developer shall submit the design of the necessary connector streets, including landscaping, and shall dedicate these facilities to the proper City agency. At the same time and subject to approval by the City, the design of the landscaped drainage basins also shall be submitted and dedicated by the property owner to the appropriate City agency as complementary components of the circulation and access network; and (3) Public use of the sewer easement is subject to approval by the City.

2. Streets, Off-Site

   a) Funding Sources: Capital Facilities Fees.

   b) Net Costs to City: None. The Public Works and Transportation staff believe that the Capital Facilities Fee is sufficient to pay for the project's fair share of off-site street improvements.

   c) Specifications: Fairview Village FEIR identified mitigation measures included in the Circulation and Access Section of the Infrastructure Element (2.3.1, item 3).

3. Traffic Signals, Off-Site

   a) Funding Sources: Capital Facilities Fees

   b) Net Costs to City: None. The Public Works and Transportation staff believe that the Capital Facilities Fee is sufficient to pay for the project's fair share of off-site traffic signals.

   c) Specifications: Fairview Village FEIR identified mitigation measure included in the Circulation and Access Section of the Infrastructure (2.3.1, item 3).

4. Sanitary Sewer

   a) Funding Sources: Existing City fees and developer requirements.

   b) Net Costs to City: None. Citywide user and connection fees, which are updated from time to time, are sufficient to pay for needed sewer facilities.

   c) Specifications: Sanitary Sewer Section of the Infrastructure Element (2.3.2). Any public use of the sewer easement is subject to approval by the City.
5. **Water**
   a) Funding sources: Existing City fees and developer requirements.
   b) Net Cost to City: None. Citywide user fees, which are updated from time to time, are sufficient to pay for needed water facilities.
   c) Specifications: Water Section of the Infrastructure Element (2.3.4).

6. **Stormwater Drainage**
   a) Funding Sources: Developer requirements and a Mello-Roos Community Facilities District.
   b) Net Cost to City: None. Development will provide 100% financing for these improvements.
   c) Specifications: Storm Drainage Section (2.3.3) of the Infrastructure Element (2.2.3). The property owners will provide for the design and construction of the landscaped drainage basins, in conformance with applicable City standards and criteria, and, as part of the subdivision map application, will dedicate these areas to the appropriate City agency or department.

7. **School**
   a) Funding Sources: Separate agreement with the School District and Mello-Roos Community Facilities District (separate from and not associated with any Mello-Roos District established by the City). In addition to financing construction costs and bond issuance costs, a Mello-Roos can be used to finance furniture, fixtures, equipment and operating and maintenance expenses as well as legal and financial consulting costs associated with establishing the district. Formation of a Mello-Roos district involves the issuance of tax exempt bonds. Debt service on the bonds is repaid from a special tax levied annually on property owners within the district. Because it is a tax rather than an assessment, there is no requirement that the tax be tied to the benefit received.
   
   b) Net Cost to City: None; the applicant will reach full agreement with Modesto City Schools to insure funding and to mitigate all impacts to the Schools District.
   
   c) Specifications: Separate agreement with the Modesto City School District; (1) The Specific Plan ensures that the school mitigation agreement between the Modesto City School District and the applicant shall be executed prior to the submittal of the first subdivision map within the Plan Area; (2) Prior to any transfer of property to the Modesto City School District, a Phase I Environmental Audit should be prepared for the project site by a qualified consultant, in conformance with the general guidelines and standard practice established in the American Society for Testing and Materials (ASTM) Standard Practice E1527-94, and focusing on the pat use of pesticides on site, the presence of any underground storage tanks, and the presence of soil and/or groundwater contamination resulting from the pesticide use; (3) Any contamination problems identified would need to be remediated through the development of a remediation plan for the project site; and (4). The remediation plan must be approved in advance by the appropriate authorities.
8. Parks
   a) Funding Sources: Developer requirements and Capital Facilities Fees.
   b) Net Cost to City: None. Development will provide 100% financing for City part.
   c) Specifications: Neighborhood Parks in the Open Space Section of the Land Use Element (2.2.5); (1) The Parks and Recreation Department, in coordination with the School District, shall be responsible for the design and construction of all planned improvements; (2) The central neighborhood park area shall be dedicated to the City Parks and Recreation Department as part of a tentative subdivision map application by owners of the Sub-Area B property; and (3) The City shall provide for the maintenance of the new central neighborhood park and that cost is not included as part of the Mello-Roos Community Facilities District budget, as discussed below.

9. Landscape Maintenance
   a) Funding Sources: Developer requirements and a Mello-Roos Community Facilities District.
   b) Net Cost to City: The Mello-Roos Community Facilities District will pay for all necessary maintenance that is not normally included in the City’s scope of responsibility.
   c) Specifications: To be developed as the Mello-Roos Community Facilities District is established; (1) According to City policy, the Fairview Specific Plan Area shall receive standard landscape and lighting maintenance services from the City, to the level that they do not diminish service capabilities to other parts of the City; (2) The Plan Area Mello-Roos Community Facilities District would supplement those services and would be managed through the appropriate City department, such as Public Works and Transportation; and (3) The categories of landscape improvements whose maintenance costs are included as part of the Mello-Roos Community Facilities District budget are as follows: (a) Landscape medians, if constructed, on Hatch Road, Carpenter Road, and Whitmore Avenue; (b) Stormwater drainage basins; (c) Landscape setbacks along lots adjacent to expressways and arterials; (d) Sewer outfall easement, if landscaped; and (e) The TID Lateral, if appropriate.