

Chapter 4. Implementation and Financing

A. PLAN IMPLEMENTATION

The following defines the implementation measures that will guide development within the Plan Area.

1. Action Required for Implementation of the North Beyer Park Specific Plan

The following actions are required prior to development of land uses proposed in the Specific Plan:

- a. Approval of tentative and final subdivision maps.
- b. Approval of land use and site design review, where applicable.

2. Tentative and Final Subdivision Map Approvals

Implementation of residential uses in the Plan Area will require processing of a tentative map. The tentative map process is governed by the City's Subdivision Ordinance and the State Subdivision Map Act (Sections 66410 et seq). Tentative and Final Subdivision Map approval requires conformance to the requirements of the Specific Plan and Mitigated Negative Declaration for the Specific Plan.

3. Specific Plan Amendment Process

Any amendments to the Specific Plans shall be in accordance with Section 65453 of the Government Code, which provides the amendment procedure for Specific Plans.

B. IMPLEMENTATION POLICIES

The following policies will be used to implement the long range financing strategy:

1. Unless specifically accepted, each property owner shall finance and construct improvements as specified in the Specific Plan, and in accordance with the City of Modesto Standards which occur directly on their property.
2. The referenced improvements will be sized by each property owner, in accordance with the Specific Plan. 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 map within each development, building permit or connection to the system whichever occurs first.

3. The existing Citywide and County fees for new construction will prevail for development within the Plan Area and are intended to pay for the improvements as specified in this Specific Plan.
4. Property owners may receive credits to the payment of Citywide and County fees to the extent that there exists any duplication of improvements intended by the fee structure.
5. Accounting for facility oversizing will be the responsibility of the property owners, in conformance with City Policies and Standards. Repayment will be enforced by the City by being part of the City's requirements for the subdivision map filing. 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 benefiting 'downstream' property owner at the time of final map filing, building permit or connection to the system whichever occurs first.
6. To the extent permitted by law, the costs of developing the Specific Plan, including but not limited to traffic studies, noise studies and environmental documentation, shall be reimbursed by property owners in the Specific Plan to the property owners in the Specific Plan who have fronted those costs. Reimbursement shall be pursuant to City of Modesto Ordinances and Policies. The existing church sites within the Specific Plan shall not be responsible for the costs associated with the development of the Specific Plan. Disputes among property owners will be subject to binding arbitration by the American Association of Arbitrators (AAA).
7. The City shall require dedication of land for road improvements and construction of arterial and collector street improvements consistent with Citywide policies and regulations.
8. Reimbursement for oversizing utility lines and roadway improvements shall also be consistent with Citywide policies and regulations.

C. CEQA MITIGATION MONITORING

CEQA Section 21081.6 requires the public agency approving a project to adopt a reporting or monitoring program for mitigation measures made conditions of project approval. The North Beyer Park Specific Plan complies with this requirement by incorporating the mitigation measures from the North Beyer Mitigated Negative Declaration (project CEQA review document) into the Specific Plan as development policies and/or standards. These measures are thus fully enforceable with project approval.

As part of the addition of the Claratina Driving Range into the North Beyer Specific Plan a Mitigated Negative Declaration was adopted along with a Mitigation Monitoring and Reporting Program. The mitigation measures contained therein are to be imposed at the redevelopment of the property to a church. The mitigation measures will be made conditions of the Final Development Plan, which is required prior to redevelopment of the Claratina Driving Range property.

D. FINANCING

A long range financing strategy for the North Beyer Park Plan Area is provided as part of this Specific Plan, both in accordance with State Government Code Requirements and with the City of Modesto Urban Area General Plan Policy.

A basic concept of the Specific Plan Financing Strategy is that infrastructure improvements are to be constructed in conjunction with individual project development. These infrastructure improvements shall be sized according to identified future needs with compensation from property owners who will receive future benefit. The City of Modesto does require Specific Plans to provide for the installation and maintenance for certain public facilities as identified below (See Item E.2.b on Page 4-4) through participation in a City Mello-Roos Community Facilities District.

The City intends to create one or more Community Facilities Districts ("CFD's") or similar funding mechanism to fund construction and maintenance of backbone infrastructure, community facilities and services necessary to serve the North Beyer Park Specific Plan Area. The purpose of this funding mechanism will be to ensure the City is collecting all funds necessary to construct and maintain the backbone infrastructure, community facilities and services necessary to serve the Specific Plan Area. It is the policy of the City Council that no new development may occur without forming or annexing to the applicable CFD(s) or other capital and maintenance funding mechanisms adopted by the City at the applicable rate(s) and by paying all applicable fees and taxes.

No precise plan, final map, final development plan, building permit or other development entitlement for any vacant or undeveloped property or for any property which redevelops in the future shall be deemed consistent with the North Beyer Park Specific Plan until and unless the affected parcel is required to form or annex to the North Beyer Park CFD #2 and pay all applicable CFD taxes at the rate established by North Beyer Park CFD #2.

Therefore, as a condition of approval for development of any parcel within the North Beyer Park Specific Plan area, the property owner and/or developer shall be required to take all actions necessary to impose all CFD taxes on the land as are required of parcels within North Beyer Park CFD #2, including but not limited to securing and establishing North Beyer Park CFD #2 or annexing to North Beyer Park CFD #2 if North Beyer Park CFD #2, has already been established and actually paying all CFD taxes assessed based on the tax rates established for North Beyer Park CFD #2. The property owner shall be required to secure and establish North Beyer Park CFD #2, or annex to North Beyer Park CFD #2 at the tax rates established for North Beyer Park CFD #2 prior to recordation of a final map or issuance of a building permit, whichever occurs first, for any property located within Tax Area B. Payment of the CFD tax at the rates established for North Beyer Park CFD #2 shall be required prior to the issuance of a building permit. Each parcel shall also be required to pay all CFF, sewer and water fees and other development fees applicable to the property in accordance with City ordinances, resolutions, regulations, policies and procedures.

While the Claratina Driving Range property has been added to the North Beyer Specific Plan to permit its immediate development as a church, it is more connected to the Hetch Hetchy CPD relative to the provision of future Master Storm Drainage, Sewer and other infrastructure. As such, while the Claratina Driving Range site may redevelop, paying for the cost of providing the services needed for the project today, consistent with City standards and policies, the Claratina Driving Range will be required to form a Mello-Roos Community Facilities District for the Hetch Hetchy CPD (the "CFD") prior to issuance of a building permit for a church use on the Claratina Driving Range property.

Prior to approval of a Final Development Plan for the redevelopment of the Claratina Driving Range property to a church, a Development Agreement, prepared consistent with the provisions of Government Code Section 65864 et. seq. shall be adopted. The Development Agreement shall, among other things, clarify the Claratina Driving Range property's obligation to participate in the formation of the CFD for the Hetch Hetchy CPD, and the financing of CFD improvements, before a building permit will be issued for a church on the Claratina Driving Range property. In addition to the financing issues, the Development Agreement is to address the following items:

1. A prohibition on school uses without further environmental review and City approval;
2. Future connections to Master Storm Drainage and Sewer Facilities;
3. Project Fees;
4. Well Site dedication and reimbursement;
5. Project contribution and reimbursement for the Coffee/Claratina Traffic Signal;
6. Access from the Claratina Driving Range property to the property to the east; and
7. A Site Access Study referred to in Chapter 3, Section D of this Specific Plan.

The list is not intended to be all inclusive, but rather representative of the items which shall be addressed in the Development Agreement.

E. FUNDING METHODS

The infrastructure element of the North Beyer Park Plan Area describes a number of community facilities necessary to implement the plan. The following funding sources will be used to cover the costs of those facilities. All interior infrastructure shall be installed by individual property owners as projects develop:

1. Pelandale Expressway

- a. Funding Source: City of Modesto's Capital Facilities Fee Program (CFF).
- b. Net cost to City: None. Citywide fees will provide financing for these improvements.
- c. Developer to dedicate right-of-way and construct sound wall.
- d. The City will reimburse the developer the cost of 12 feet of right-of-way.
- e. The City is responsible for all improvements of the Pelandale Expressway except the soundwall, which is the developer's responsibility.

2. Principal / Minor Arterials (Coffee and Oakdale Road)

- a. Funding Source: Existing Citywide fees and individual property owner/developer's requirements.
- b. Medians and landscaping setbacks along soundwalls. Funding Source: City Mello-Roos Community Facilities District.
- c. Net cost to City: None. Existing City policies govern the dedication of land for road improvements and requires developers of a given road frontage to construct the first 40' of the road improvements measured from the property line. The City would be responsible for any improvements required beyond the 40'.

3. Collector Street (Mable Avenue) / Minor Residential Streets

- a. Funding Source: Individual property owners/developers shall be responsible for street improvements adjacent to their property.
- b. Net Cost to City: None. Development will provide financing for these improvements.

4. Water

- a. Funding Source: Existing Citywide user fees and Developer Requirements.
- b. Net Cost to City: None. The existing water distribution lines in Mable Avenue will be utilized to serve the North Beyer Park Plan Area. The Plan Area shall be subject to the typical City of Modesto water related fees (i.e. water systems fee, water meter fee, water connection fee, etc.) which are applicable to each individual property owner/developer at the time of development.

5. Sanitary Sewer (Pump Station, Force Main and Sub-Trunk System)

- a. Funding Source: City Sub-trunk sewer fee, which is designated to fund sub-trunk sewers. City sewer bond redemption charge, which includes a component for lift stations.
- b. Net Cost to City: None. Citywide user fees as described above are sufficient to pay for needed sewer infrastructure facilities.

6. Storm Drainage

- a. Funding Source: Each individual property owner/developer shall be responsible for installation of infrastructure improvements (i.e. main storm drain trunk system, storm drain basin), which are required for development of their property and are in accordance with this Specific Plan.
- b. Net Cost to City: None. Development will provide financing for these improvements.

7. Schools

- a. Funding Source: Separate agreement with school district or annexation into the Village One Schools Infrastructure Financing Agency (SIFA CFD 1994-1).

School impacts shall be considered mitigated when the project is annexed to the Schools Infrastructure Financing Agency or has executed a developer fee agreement with Modesto City Schools. As of this date, only four parcels have not completed the mitigation process; A.P.N. 52-05-18, A.P.N. 52-05-20, A.P.N. 52-05-21, A.P.N. 52-05-22. Compliance with this policy shall be a condition on any final map, which includes these parcels.

- b. Net Cost to City: None. The individual property owners/developers shall reach full agreement with Modesto City Schools and the Sylvan School District to insure funding and to mitigate impacts to the school districts.

8. Parks

- a. None are required within the plan area.
- b. Park fees will be paid within the North Beyer Plan Area.
- c. Net Cost to City: None. Citywide fees and development will provide financing for park improvements.

F. UTILITIES

Following are the agencies and organizations, which were providing services to the project area at the time the Specific Plan was originally adopted. Subsequent changes in service responsibilities may occur without affecting the validity of the Specific Plan. The City intends that adequate service will be provided to the project area, irrespective of the organization providing that service.

Electricity – Electricity to the Plan Area shall be provided by the Modesto Irrigation District (MID).

Street Lighting – Street Lighting shall be provided along the streets per Public Works Standards as individual properties develop.

Natural Gas – Natural gas service shall be provided by Pacific Gas and Electric (PG&E).

Telephone – Telephone service shall be provided by Pacific Bell.

Cable Television – Television service shall be provided by Post Newsweek Cable.

Irrigation – Irrigation service is currently provided by the Modesto Irrigation District and existing irrigation facilities will be abandoned and/or relocated as properties develop.

G. INFRASTRUCTURE COST SHARING

Developers that install oversized facilities consistent with this Specific Plan and benefiting other parts of the Plan Area shall be reimbursed. The cost of infrastructure improvements shall be distributed throughout the Plan Area based on a project's relative benefit. A reimbursement agreement or some other form of reimbursement method shall be secured at the appropriate time in the approval process (prior to the recordation of a final map).