



Mary Ann Manges <mmanges@amadorgov.org>

Fwd: Specific plan guidance from state OPR

Amador County Planning Department <planning@amadorgov.org>
To: Mary Ann Manges <mmanges@amadorgov.org>

Thu, Oct 8, 2020 at 9:54 AM

One more to add to the comments for the two Kirkwood items on the PC agenda. I've already saved in the digital folders.
Thanks,
CB

----- Forwarded message -----

From: <katherine@mokeriver.com>
Date: Tue, Oct 6, 2020 at 5:55 PM
Subject: Specific plan guidance from state OPR
To: Planning Department <planning@amadorgov.org>
Cc: Glenn Spitzer <gspitzer@amadorgov.org>, Sherry Pease <sherry@foothillconservancy.org>, Mara Feeney <marafeeney@gmail.com>

Dear Planning Staff:

Please add the attached document to the comments on the Martin Point subdivision and to the comments for the October 14, 2020, Planning Commission items on the Kirkwood map extensions.

I'll point you to the first sentences of the first paragraph. See also pages 29-32.

The Specific Plan

A specific plan is a tool for the systematic implementation of the general plan. It effectively establishes a link between implementing policies of the general plan and the individual development proposals in a defined area.

The Amador County General Plan was comprehensively updated 13 years after the adoption of the Kirkwood Specific Plan. The latter must be amended to conform to the former.

Thank you,

Katherine K Evatt
Volcano, CA

 specific_plans.pdf
1065K

Governor Gray Davis

The Planner's Guide to Specific Plans



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Steven A. Nissen, *Director*

Terry Roberts, *Manager, State Clearinghouse*

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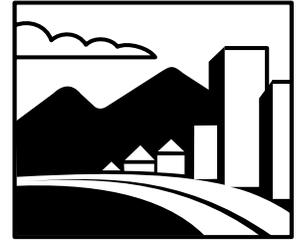
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Introduction



This guideline was originally produced in 1998 as a replacement for an earlier publication entitled *Specific Plans in the Golden State*, written by the Office of Planning and Research in 1989. Since the original publication, specific plans have evolved in use and creative application. However, specific plans continue to function as versatile tools for implementing general plans without substantial legal challenge to the nature of their use. They systematically implement the general plan for all or part of the area under its scope in any of three ways: 1) by acting as statements of planning policy that refine the general plan policies applicable to a defined area, 2) by directly regulating land use, or 3) by bringing together detailed policies and regulations into a focused development scheme.

The use of specific plans, in many cases, has gone beyond the original legislative intent and combined detailed development plans with environmental policies, programs and goals to create defined areas which are functional, livable, and affordable and which offer the sense of place commonly envisioned in the creation of the general plan. Although specific plans are being used for projects ranging from “new towns” to manufacturing and warehousing developments, there remain many basic uncertainties about what a specific plan is, how it functions, its relationship to the implementation of the general plan, and the extent of its powers.

The purpose of this document is to clarify these uncertainties and provide new and innovative examples of specific plans and their use. It examines the pertinent statutes (Government Code §65450 et seq.), suggests

guidelines for the preparation and implementation of a plan, and provides examples and references to unique or innovative plans prepared throughout the state.

While researching this guide, the Office of Planning and Research reviewed the preparation and adoption of specific plans and the related environmental documents. In addition, we examined those specific plans which have received APA Comprehensive Planning Awards and others which are commonly viewed as exceptional. We have reviewed California court cases concerning specific plans and detailed the most relevant cases on the subject.

The Planner's Guide To Specific Plans is written primarily as a guide to counties and general law cities; however, charter cities will find the information contained herein to be relevant in their use of specific plans as well. Although charter cities are exempt from the specific plan statutes contained in Government Code §65450-65457, once a charter city adopts a specific plan, the city must make findings of consistency between the specific plan and any proposed tentative subdivision map before the subdivision can be approved.

The information contained in this document is meant to provide direction and references to planning practitioners for the development of specific plans. Interested individuals and other participants involved in local land use planning may also find it useful. The suggestions for style, format and techniques are meant to be advisory only and should not be construed as being mandatory. All references are to the Government Code unless otherwise noted.

Part One: The Specific Plan



The Specific Plan

A specific plan is a tool for the systematic implementation of the general plan. It effectively establishes a link between implementing policies of the general plan and the individual development proposals in a defined area. A specific plan may be as general as setting forth broad policy concepts, or as detailed as providing direction to every facet of development from the type, location and intensity of uses to the design and capacity of infrastructure; from the resources used to finance public improvements to the design guidelines of a subdivision.

A specific plan may encompass an area as large or larger than the 2,800 acres affected by the Ahmanson Ranch Specific Plan in Ventura County, or as small as a single acre. A specific plan may be developed in response to a single policy issue, or to address each applicable policy of the general plan. It may also diverge from the issues contained in the general plan into other subjects viewed by the community as being of relevance.

To an extent, the range of issues that is contained in a specific plan is left to the discretion of the decision-making body. However, all specific plans, whether prepared by a general law city or county, must comply with Sections 65450 - 65457 of the Government Code. These provisions require that a specific plan be consistent with the adopted general plan of the jurisdiction within which it is located. In addition, specific plans must be consistent with any Airport Land Use Plan pursuant to Public Utilities Code §21676. In turn, all subsequent subdivision and development, all public works projects and zoning regulations must be consistent with the specific plan.

The initiation of the specific plan process may be motivated by any number of factors including development issues or the efforts of private property owners, elected officials, citizen groups, or the local planning agency. As with a general plan, the authority for adoption of the specific plan is vested with the local legislative body pursuant to §65453(a). However, unlike the general plan, which is required to be adopted by resolution (§65356), two options are available for the

adoption of a specific plan: 1) adoption by resolution, which is designed to be policy driven, or 2) adoption by ordinance, which is regulatory by design.

The adoption of a specific plan is a legislative act similar to adoption of a general plan or zoning ordinance. Therefore, specific plans may be subjected to voter initiative and referenda (*Yost v. Thomas* (1984) 36 Cal.3d 561 and *DeVita v. County of Napa*, (1995) 9 Cal. 4th 763). (For further discussion see Part 4.)

Specific Plan Attributes & Disadvantages

A thorough specific plan can enable planners to effectively implement selected long term general plan objectives in a short time frame. The enabling statutes are flexible, allowing public agencies to create standards for the development of a wide range of projects or solutions to any type of land use issues. The plan may present the land use and design regulations which guide the development of a city center, such as the City of Brea's Towne Plaza Specific Plan, or incorporate land use and zoning regulations, infrastructure plans, and development approval processes for the development of residential, office, commercial and open space uses, such as the City of Folsom's Parkway Specific Plan and Design Guidelines. The plan may be organized into a concise set of development policies and include land use regulations, a capitol improvement program, or financing program within a single document.

A specific plan may be used to implement the policies of an optional economic development element of a general plan. Policies of the general plan which are specific to financing infrastructure improvements and extensions, or cost recovery programs may be implemented by matching land uses with supporting public facilities. This is done to assist development engineering departments and developers avoid ineffective or undersized streets, sewers, water lines, and other necessary improvements. In addition, it may directly impose exactions in association with the general plan's capitol improvement policies.

The specific plan process must provide opportunities for the general public, as well as residents located within planning areas, to assist in the planning of their particular communities. Public involvement helps define the community's vision of future growth and development.

Future development proposals may benefit from the foundation created by the specific plan. For example, a Program EIR adopted to fulfill the plan's CEQA obligation may streamline the processing of subsequent discretionary projects by obviating the need for additional environmental documentation.

The specific plan represents a good tool for developing a community "sense of place." A creative and innovative specific plan may bridge the gap between monotonous urban development and a livable neighborhood.

The specific plan also has disadvantages. These include the time, cost, and obligation of staff resources to prepare and implement the plan. To be effective, the plan requires the collection and analysis of significant amounts of detailed data. Since most planning agencies do not have the staff to commit to the preparation process, most plans include the involvement and cost of outside consultants. Similarly, the incorporation of the plan into the day to day planning processes may require the commitment of additional staff time, particularly when the plan establishes regulations which are only applicable to the area affected by the plan.

Further, specific plans prepared for a single project may become obsolete if the project is not implemented. The result could include the need for extensive revision or repeal.

The adoption of a specific plan does not vest development by statute, but its entitlements may be defined by development agreements and vesting tentative maps. Specific plans themselves are dynamic documents and may be subject to change. There are no assurances to residents and project proponents that the plan will not be subject to future revisions.

Statutory Requirements

Section 65451 of the Government Code mandates that a specific plan be structured as follows:

- (a) A specific plan shall include a text and a diagram or diagrams which specify all of the following in detail:
 - (1) The distribution, location, and extent of the uses of land, including open space, within the area cov-

ered by the plan.

- (2) The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.
- (3) Standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable.
- (4) A program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out paragraphs (1), (2), and (3).
- (b) The specific plan shall include a statement of the relationship of the specific plan to the general plan. (The entire specific plan statute is included in Appendix B of this report for reference.)

The statutes apply to all counties and general law cities. They do not apply to charter cities unless incorporated by local charter or code. However, charter cities are required to comply with the Subdivision Map Act's findings requirements pertaining to a subdivision's consistency with an adopted specific plan pursuant to §65455.

Legal Adequacy

A specific plan must meet the minimum requirements of the statute listed above in order to be legally adequate. Numerous specific plans reviewed by OPR commonly lack one or more of the following:

- Maps, diagrams or descriptions to adequately describe the distribution, location, extent, and size of the major infrastructure components needed to serve the project. Energy and solid waste facilities are commonly overlooked.
- A thorough discussion of the implementation measures necessary to carry out §65451 (a)(1-4).
- A discussion of the methods to be used for infrastructure financing and a program for implementation.
- A detailed statement of the relationship of the specific plan to the general plan, including consistency between both plans and a comparison of goals, objectives, and policies.
- A discussion of how the plan implements the policies of the general plan.

Area And Community Plans

Practicing planners in California have used a variety of euphemisms to describe specific plans. The creative use and combination of planning terms to describe various planning tools has blurred the distinction between specific plans, community plans, and area plans to the extent that the terms are often misused. The following discussion highlights the differences among such plans.

A community plan is defined in Public Resources Code §21083.3 as a part of the General Plan which (1) applies to a defined geographic portion of the total area included in the general plan, (2) includes or references each of the mandatory elements specified in §65302 of the Government Code, and (3) contains specific development policies adopted for the area, and identifies measures to implement those policies, so that the policies which will apply to each parcel can be determined.

Area plans are not specifically mentioned in statute; however, they are authorized under §65301(b), which allows individual sections of the general plan to be devoted to a particular subject or geographic area. In addition, they are also allowed as optional elements or subjects under §65303.

Area and community plans address a particular region or community within the overall planning area of the general plan. An area or community plan is adopted as a general plan amendment. It refines the policies of the general plan as they apply to smaller geographic areas, and is implemented by local ordinances such as those regulating land use and subdivi-

sion. Area or community plans also provide forums for resolving local conflicts among competing interests. An area or community plan must be consistent with the general plan of which it is a part.

Specific plans differ from area and community plans in the following ways:

- A specific plan is not a component of a general plan. It is a separately adopted general plan implementation document.
- Specific plans are described by statute (§65450 et seq.). There are no statutes that specify the contents of area plans.
- The purpose of a specific plan is the “systematic implementation” (§65450) of the general plan. Neither community plans nor area plans have an emphasis on implementation. They are used to refine the policies of the general plan relating to a defined geographic area.
- Although a specific plan must be “prepared, adopted, and amended in the same manner as general plans” (§65453), it may be adopted by resolution or ordinance and may be amended as often as necessary. Community and area plans may only be adopted or amended by resolution, and the number of amendments is subject to the limits set out in §65358 for general plan amendments.

Specific plans are required under §65451(a)(2) to identify proposed major components of infrastructure needed to support planned land uses. Community plans and area plans may, but are not required to, contain similar analyses.

Part Two: Guidelines for Preparing Specific Plans



The purpose of this part is twofold: (1) to outline a strategic approach to the preparation, adoption, and implementation of specific plans; and (2) to provide a framework and explanation of the statutory requirements for specific plans. In addition, this part provides a brief discussion of the California Environmental Quality Act (CEQA) and the role it plays in the specific planning process.

I. Decision To Prepare A Specific Plan

Government Code §65450 provides that the local planning agency, planning commission and/or legislative body has the authority to initiate the preparation of a specific plan. Private parties may also initiate a plan as provided for by local agencies. An example of the initiation by a private party would be an application for a tentative subdivision map which, under a local subdivision ordinance or general plan policy, requires the concurrent preparation of a specific plan.

II. Planning Process

The following model is a modified version of the strategic planning process described in the *General Plan Guidelines*, and adapted to the intricacies of specific plans. This model is conceptual and may be used as a reference to guide the selection or development of a process which meets the needs of the respective jurisdiction. Other comprehensive planning models are available which may achieve similar results.

A. The Work Program

The preparation of a work program should be the first consideration after making the decision to prepare a specific plan. The program should set forth the responsibilities the departments, consultants, and/or individuals will take in each phase of the process. In addition, it should provide direction in the scope of the work to be performed, the funding mechanisms, consultants, public participation, and deadlines.

Early Direction:

The work program should incorporate early policy direction from the legislative decision making body, defining the general direction for the specific plan and its objectives and policies. This direction may take the form of precise guidelines for what the specific plan should accomplish, or a general vision of the planning area.

This early direction may change as a result of public input, committee recommendations, or new information obtained during the collection or analysis of data. Regardless, the early policy direction will provide staff, consultants, and the public a basis for beginning the process of preparing a specific plan.

Consultant or Staff Preparation:

The legislative decision making body has the discretion to decide who may prepare a specific plan. Specific plans may be prepared by agency staff, by a private consulting firm under a contract to assist staff, or solely by a consultant performing the role of staff. In other situations, specific plans may be a requirement of a project and prepared by a project proponent or by a consultant under contract to the project proponent. Private parties may also be responsible for preparing or contracting for the preparation of a specific plan as part of a project application. Whenever a consultant is preparing the plan, the work program should require an administrative draft, so that agency staff can review progress of the plan. The agency must budget for sufficient staff resources to ensure that the administrative draft is reviewed for consistency with the general plan and other regulations of the city or county.

Adoption Deadlines:

Deadlines should be incorporated into the work program to ensure the timely completion of the specific plan. The deadlines should be reasonable to ensure that the quality of the product is consistent with the expectations of the decision makers. The time lines are typically a product of either the political constraints of a local legislative body, or the development proposals which will follow after the adoption of the specific plan.

The Permit Streamlining Act is not applicable to the adoption of a specific plan. Therefore, prudence should prevail in the adoption of deadlines which are functional and realistic.

Public Participation:

The participation of those working or residing within a specific plan area or more broad participation of the local citizens can play an important role in the preparation of a specific plan. Section 65453 states that "A specific plan shall be prepared, adopted and amended in the same manner as a general plan..." as such, opportunities for the involvement of citizens, public agencies, public utilities, civic education, and other community groups must be provided pursuant to §65351. For example, the City of San Jose utilizes the assistance of a community-based task force composed of property owners, business owners, residents, other agencies, school districts, and other stakeholders when preparing specific plans. The city credits this involvement for the general support apparent during public hearings on and implementation of its specific plans.

B. Current Context

The planning area, as it currently exists, is a function of past decisions and policies. Similarly, the development of a specific plan which serves as the basis for decision making in the future is a function of the existing social, political, economic, and physical environments. The community's values and views of the existing planning area will strongly influence the direction and focus of the specific plan.

Planning Area Issues:

Each planning area possesses characteristic issues which should be addressed by the specific plan. The issues may include those relevant to historic preservation, environmental quality, residential development, economic development, architectural regulation, commercial/industrial parks, and urban infill. These issues will form the basis for the detailed policies and implementation measures of the specific plan.

Existing Land Use:

The existing uses of land within the planning area must be analyzed to determine the influence they will have and the role they will play under the specific plan. Existing agricultural, industrial, or floodplain open space uses may substantially affect the type of uses planned for adjacent properties. The continuation of existing uses may dramatically affect the planned uses

set forth by the specific plan. Land uses surrounding the planning area should also be analyzed and connections/transitions/buffers between uses designed to ensure compatibility with those allowed by the specific plan.

Environmental Conditions:

An evaluation of the planning area's natural environment, including wildlife habitat, natural hazards, and resources, help provide direction to the type and intensity of development which is planned to occur. This analysis should also include an evaluation of the existing flood plain, seismic, slope and other constraints which will determine the intensity of development and feasibility of implementing plans.

Infrastructure Constraints:

The type and intensity of future development proposed by a specific plan is limited by the capacity of existing infrastructure or the ability to provide new public facilities. The analysis should identify available opportunities for development, as well as potential constraints resulting from the effect new development may have on schools, roads, sewage systems, water supplies, energy consumption and other public services and facilities. Existing utilities, easements, and encumbrances of property may also restrict land use.

Existing Commitments and Policy Constraints:

Past approvals of development entitlements and other quasi-judicial and legislative decisions may have produced limitations to the scope of the specific plan. The adoption of agricultural preserves, biological conservation easements, vesting tentative maps, and development agreements may limit the type and extent of uses allowed, or restrictions to development under the specific plan. For example, the land use and minimum parcel size for a specific plan prepared for an area subject to agricultural preserve contracts will be limited by the minimum allowable parcel size and uses established by local ordinance consistent with the provisions of the Land Conservation Act (Williamson Act) of 1965.

C. Long Term Direction

As a tool for the systematic implementation of the general plan, specific plans should provide the mechanism through which the long term direction of the general plan is implemented. This direction should be balanced against the objectives, policies, zoning ordi-

nance, subdivision ordinance, and other programs which will be implemented through the specific plan.

Issues, Opportunities, and Assumptions:

The issues that have been identified and perhaps were the impetus for preparation of the specific plan should be systematically addressed through objectives, policies, and programs. The policies developed to address the issues must be considered relative to the direction provided by the general plan and the early guidance provided by the legislative decision-making body. Problems may often be resolved through creative application of financing, design features, or attributes of the planning area.

Development and/or conservation opportunities should be identified and utilized in the specific plan. For example, land owned by the local agency within the planning area may be suitable as a future public facility site, or land with significant habitat value may be suitable for a mitigation banking program. Analyses regarding infrastructure financing, ground water availability, and market demand may also help decision makers assess the viability of the plan in the future.

The preparation of a specific plan requires decision-makers, planners, and the public to form certain assumptions concerning the future of the planning area. For example, assumptions might be made for a specific plan area traversed by riparian corridors that open space, and perpetual conservation and maintenance easements will need to be included for viability of the plan.

Formulating Objectives, policies, and implementation measures:

Objectives provide direction to the physical development of the planning area. As such, they help define the range and types of data necessary for preparing the plan. Consequently, cities and counties should develop their initial objectives early in the preparation process. Objectives tend to be general and lack the focus which is required to foster a functional specific plan, but can always be supplemented with more specific policies.

A comprehensive set of policies should be developed which define and implement the objectives. Policies should be written with consideration of their implementation and the project specific implications. The functionality of the policies will often determine the success of the specific plan.

The implementation measures should be functional and realistic by design. A specific plan which is well written and focused can be self-implementing. However, the submittal and approval of individual

development proposals will normally result in implementation. Including zoning ordinances and design criteria in the specific plan will shape the planning area over time as individual development projects are designed for consistency with the plan.

D. Steps for Consideration

The following is a general list of considerations and information for inclusion in specific plans. It includes statutory requirements for coordination and review.

Data Collection and Analysis:

The information used in the early stages of specific plan preparation must be current and kept up-to-date throughout the planning process. The previously identified issues, opportunities, assumptions, and initial objectives will establish a direction for studies and help to define the range of information necessary to complete the plan. Background information and technical analyses should be included in the specific plan appendices for future reference and use in future projects. The amount of data collected and analyzed should be sufficient to address any pertinent questions regarding the plan and the plan area. This information should be comprehensive enough to satisfy the needs of both the specific plan and its CEQA document.

Information Sources:

A direct relationship exists between the quality of the information used to prepare a specific plan and its effectiveness. Case study examples of other jurisdictions' specific plans may provide angles for approaching area issues. The Office of Planning and Research's Book of Lists (updated annually) can help to locate recently adopted examples. In addition, the yearly awards presented by the California Chapter of the American Planning Association, recognize up-to-date examples of "good" plans. A number of text book references are available through the American Planning Association's BookService which covers comprehensive planning. Several publications track and analyze planning-related litigation including Daniel J. Curtin, Jr.'s *California Land-Use and Planning Law*. The State planning laws regulating planning, zoning, and development are another subject for research. Each year, the Legislature enacts laws affecting local government planning activities. The Office of Planning and Research annually compiles these statutes under the title of *Planning, Zoning and Development Laws*.

Public Agency Information:

Other governmental agencies may adopt subsequent projects which will affect the specific plan. These agencies may have information readily available which will address issues or requirements of the plan. Agencies should be contacted at the local, regional, state, and federal levels. One issue which transcends each of these levels is the supply of water. For example, the local public works department may have information regarding infrastructure; at the regional level, the Local Agency Formation Commission may have information regarding the extension of services or forming service areas; at the state level, the regional water quality control board provides information regarding levels of water quality; and at the federal level, the Bureau of Reclamation has information regarding the water projects and supply in the state.

Inter-Governmental Coordination:

Section 65103(e)(f) requires local governments to coordinate the preparation of local plans (specific plans) with the plans and programs of other public agencies. Intergovernmental coordination involves more than an exchange of information and plans; rather, it fosters cooperative efforts to address issues and promotes planning on a comprehensive basis. The planning process enables various agencies to resolve conflict through collaborative efforts. In addition, CEQA requires that the agency preparing the specific plan consult with responsible and trustee agencies regarding the project implications and the environment.

California Environmental Quality Act (CEQA):

CEQA requires local governments to prepare environmental documents prior to approving "projects." An initial study is prepared for a specific plan or amendment to analyze the potential for significant impacts to the environment. In such cases, where a significant effect may occur, an environmental impact report (EIR) must be prepared. The contents of a specific plan and its EIR overlap extensively. The data, analyses, and studies for one, will likely be necessary for the other. For this reason, both documents should be prepared concurrently and may utilize much of the same information. Individual development projects which follow the specific plan may be well served by a detailed analysis in the EIR. Further discussion of this topic is contained in Part 3 of this document.

Revising Objectives:

Refinements to the draft objectives should take place throughout the planning process. The data, analyses, and input from advisory committees may change individual aspects of the plan. For example, the identification of a threatened or endangered species within a portion of the plan area may alter the type and intensity of proposed uses allowed by the plan.

Policies, Implementation Measures, and Alternative Plans:

For any set of objectives there will be a number of possible courses of action to pursue. Policies, implementation measures, and programs should be developed for each of the alternative planning scenarios. The relationship of each objective and alternative course of action should be considered in light of the general plan, zoning ordinance, subdivision ordinance, capital improvement program, and other programs that will be implemented. Consistency with the general plan should be carefully analyzed and the plan amended as necessary. The policies, programs and implementation measures provide for the creative application of the specific plan to the planning area. Each should be carefully reviewed for clarity, effectiveness, and functional application. The alternative plans enable the decision makers, stakeholders, and other participants to choose from a variety of scenarios, solutions, and programs which will shape the planning area. Although the alternatives may only differ in their treatment of a particular issue, each must be realistic to ensure that the alternative is viable. In addition, the alternatives may be used to satisfy the EIR's requirements for a discussion of project alternatives.

Selecting The Preferred Plan:

After the plan alternatives have been thoroughly reviewed, decision makers should be able to select the preferred course of action from either one or a synthesis of several alternative plans. When the decision is made to combine two or more parts of separate alternatives, the objectives, policies, and implementation measures may need refinement to ensure that the plan effectively and consistently accomplishes its purpose.

Adopting The Plan:

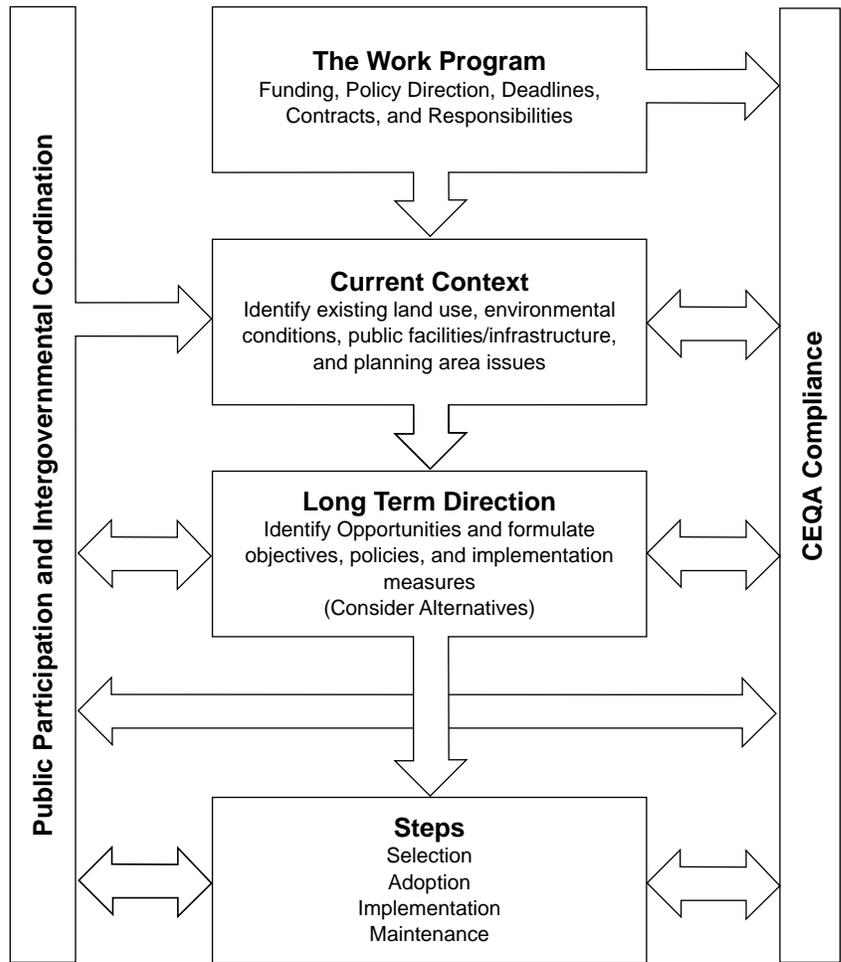
As previously noted, a specific plan may be adopted by either resolution or ordinance. Whether adopting a new specific plan or amending an existing one, the planning commission and board or council must hold at least one public hearing each to consider the proposal prior to making the final decision (§65453 and

65353). At least 10 days prior to each of these hearings, public notice of the time and place of the hearing must be given in the manner prescribed by state law (§65090 et. seq.). As a project which would affect the “permitted uses or intensity of uses of real property,” expanded notice to property owners must also be given pursuant to §65091. The EIR or other environmental documentation must be certified by the legislative body prior to the adoption of the specific plan pursuant to CEQA Guidelines §15092.

Implementation:

Section 65451(a)(4) requires that a specific plan contain a program of implementation measures including regulations, programs, public works projects, and financing measures. A plan adopted by resolution will primarily be implemented through the enactment of separately adopted ordinances and programs. A plan adopted by ordinance will be implemented by regulations and measures contained in the plan itself. Capital improvement projects, public facility financing, application of regulations to development projects, and habitat conservation and restoration projects may act to implement the plan. (Further discussion of this topic is contained in Section 6.)

Figure 1
Specific Plan Process Diagram



MODEL SPECIFIC PLAN OUTLINE

While state law specifies the mandatory specific plan contents pursuant to §65451, it leaves the format to the discretion of the local legislative body. Many of the specific plans reviewed as part of this report utilized an approach to organization similar to that of the individual elements of a general plan, covering information relating to land use, housing, circulation, open space, and so on. The following model outline is intended as a guide to the organization of a specific plan which is effective, efficient, and statutorily complete.

I. Introductory Plan Information

- A. Title Page
 - 1. Name of the plan
 - 2. Name of local agency (Project proponent and/or public agency)
 - 3. Date of adoption
- B. Credits, acknowledgments and participants
- C. Table of Contents
- D. List of Tables
- E. List of diagrams and maps
- F. Copy of Adopting Resolution and/or Ordinance

II. Summary

- A. Purpose statement and range of issues
- B. Location
- C. Acreage
- D. Summary of preparation process

III. Introduction

- A. Detailed specific plan purposes
- B. Development and conservation issues addressed in the plan
- C. Project location, including influencing jurisdictions
 - 1. Written description
 - 2. Regional location map (See Figure 2)
 - 3. Vicinity map (See Figure 3)
 - 4. Site Location Map (See Figure 4)
- D. Planning area information and environmental description
- E. Statement of whether the document is policy or regulatory by application (If the plan is both policy and regulatory by design, explain the relationship between the policies and regulations.)
- F. Statement of how the plans policies and/or regulations accomplish the objectives of the plan.
- G. Relationship of the specific plan to the general plan.
- H. Relationship of the specific plan to neighboring plans and those of other jurisdictions, regional agencies, and the state.
- I. A list of projects required by law to be consistent with the specific plan (e.g. rezonings, tentative subdivision maps and public works projects).

IV. Land Use Planning and Regulatory Provisions

- A. The land use plan - a statement of development policies (opportunities, issues, and analysis of data) pertaining to the planned type, intensity, and location of land uses consisting of :
 - 1. Objectives
 - 2. Policies
 - 3. Programs
 - 4. Plan proposals
 - a. Diagram and written description of planned land uses (See Figures 4 and 5).
 - b. Characteristics of each land use designation (e.g. single family residential, neighborhood commercial, open space for conservation).
 - 1) Development Standards
 - 2) Standards for conservation, development, and utilization of natural resources.
- B. Land Use Regulations
 - 1. Statement of purpose or intent
 - 2. Applicability
 - a. Statement of applicability of the regulations to the planning area and designations on the specific plan land use plan diagram.
 - b. Effective date of the regulations
 - 3. Statement of relationship between the specific plan regulations and the zoning, subdivision, and other local ordinances.
 - 4. Development standards.
- C. Design Standards
 - 1. Building design, massing & height
 - 2. Parking ratios/standards, location & orientation
 - 3. Garage door size & type
 - 4. Entrances, access, & on-site circulation

V. The Infrastructure Plan

- A. Transportation: Development policies pertaining to the planned distribution, location, extent and intensity of public and private transportation consisting of:
 - 1. Objectives
 - 2. Policies
 - 3. Discussion of the relationship between the objectives, policies and how they are implemented through the individual plan proposals.

4. Plan proposals
 - a. Diagram(s) and written description of proposed transportation components, including improvements that support the planned land uses. (See Figure 6 and 7)
 - b. Development standards for the primary components of public and private infrastructure (street cross-sections and material requirements).
- B. Public Service Infrastructure (water, sewer, and storm drainage): Development policies pertaining to the planned distribution, location, extent, and intensity of water, sewer, and storm drainage consisting of:
 1. Objectives
 2. Policies
 3. Discussion of the relationship between the objectives, policies and how they are implemented through the individual plan proposals.
 4. Plan proposals
 - a. Diagram(s) and written description of proposed water, sewer, and drainage systems, including the improvements which support the planned land uses. (See Figures 8 and 9)
 - b. Development standards for the primary components of public infrastructure (See Figure 9).
- C. Solid Waste Disposal: Development policies pertaining to the planned distribution, location, extent, and intensity of solid waste disposal facilities and services consisting of:
 1. Objectives
 2. Policies
 3. Plan Proposals
 - a. Description of the type and location of proposed solid waste disposal facilities and serving necessary to support the planned land uses.
 - a. Description of the proposed facilities and services to be provided (e.g., transformation station and recycling).
- D. Energy: Development policies pertaining to the planned distribution, location, extent, and intensity of energy facilities and services consisting of:
 1. Objectives
 2. Policies
 3. Plan proposals
 - a. Description of the type and location of proposed energy facilities, transmission lines, and easements necessary to support the planned land uses.
 - b. Description of the proposed facilities and services to be provided (e.g., distribution of natural gas and the regulation of pressure).
- E. Other essential facilities necessary to support the

proposed land uses (e.g., schools, fire stations, street lighting and landscaping).

VI. Program of Implementation Measures

- A. Description of the regulations and ordinances which will implement the specific plan.
- B. Capital improvement program
 1. Estimated cost of capital projects identified in the specific plan's infrastructure plan.
 2. The measures by which each capital project will be financed.
 3. Identification of parties responsible completing each proposed improvement.
- C. Financing measures necessary for implementation of each of the specific plan's proposals other than capital improvements.
 1. List and description of projects needing financing.
 2. Cost estimates
 3. The measures by which each specific plan proposal will be financed.
 4. Identification of parties responsible for completing each proposal.
- D. Phasing plan for the specific plan proposal including capital improvements (See Figure 10)
- E. Subsequent development entitlements
- F. Other Programs

VII. Relationship of the Specific Plan's Environmental Document to Subsequent Discretionary Projects

- A. Projects that will be exempt from additional environmental documentation based on the plan's EIR.
- B. Projects that will require additional environmental documentation.

VIII. Specific Plan Administration

- A. Specific plan cost recovery fees authorized by §65456
- B. Specific plan amendment procedures
 1. State requirements
 2. Local requirements

IX. Specific Plan Enforcement

X. Appendices

- A. Precise description of the specific plan area boundary.
- B. Summaries of key specific plan background data and information.
- C. Glossary of specific plan terms

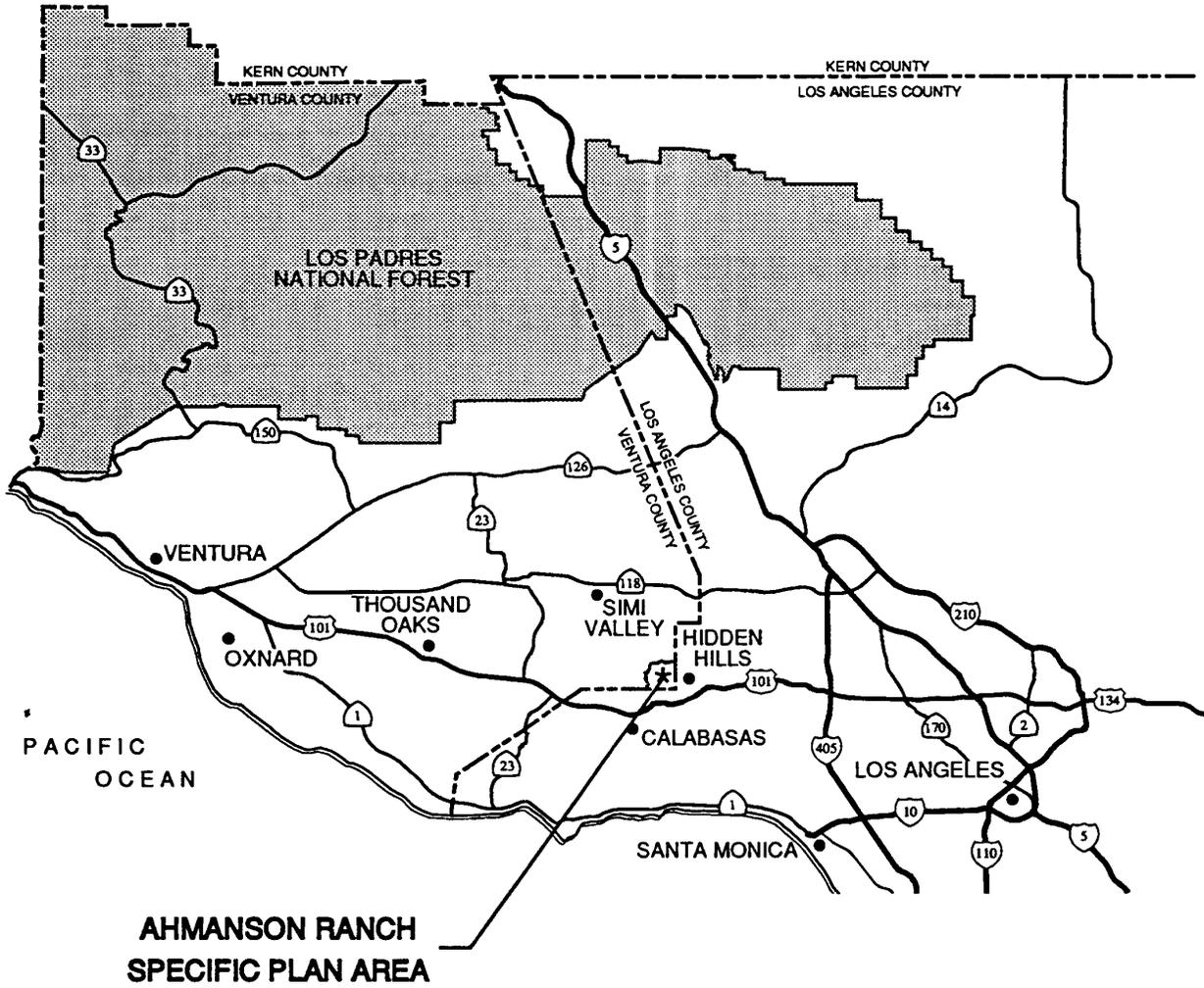


Figure 2
Regional Location Map
Source: *The Ahmanson Ranch Specific Plan, Ventura County*

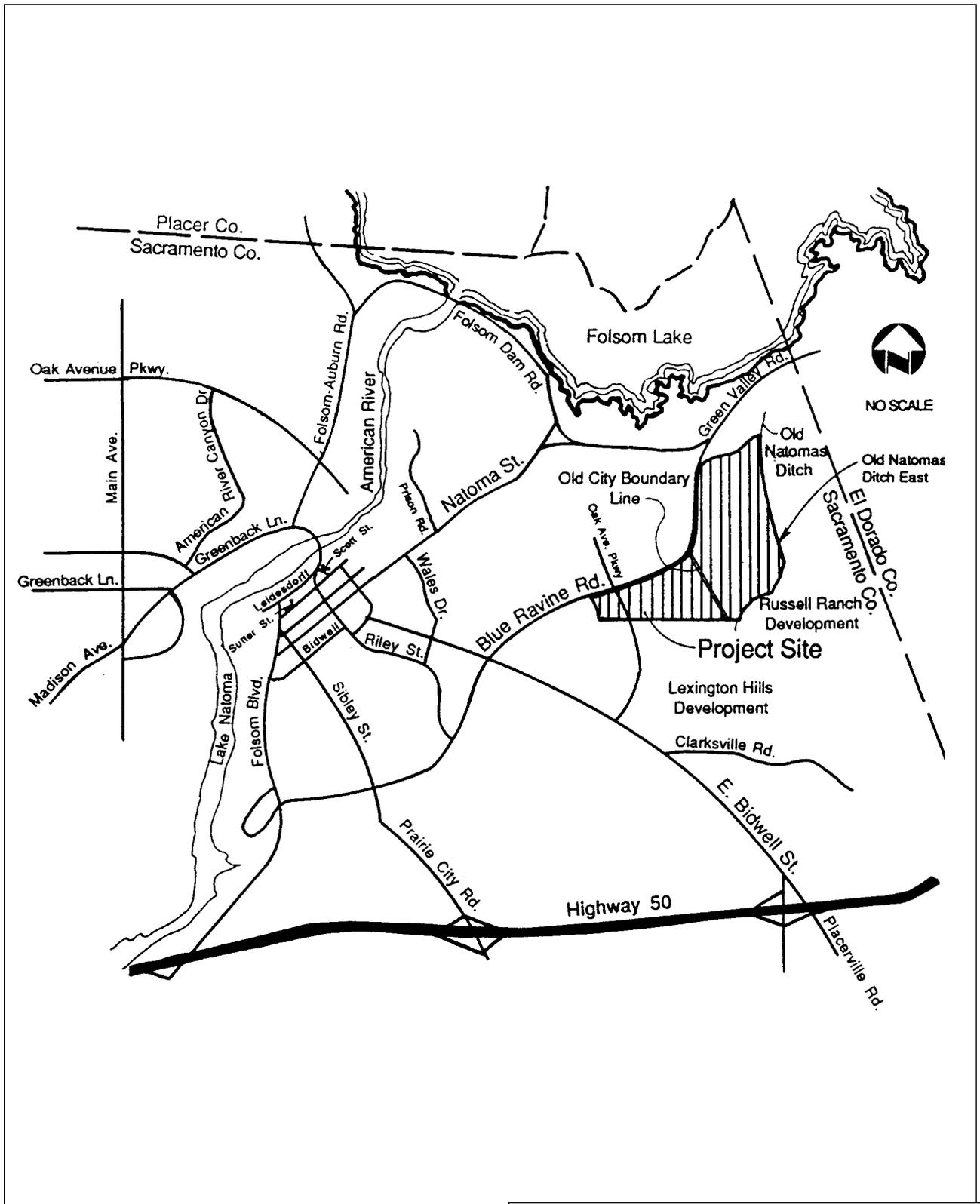


Figure 3
 Vicinity Map
 Source: *The Parkway Specific Plan and Design Guidelines, City of Folsom*

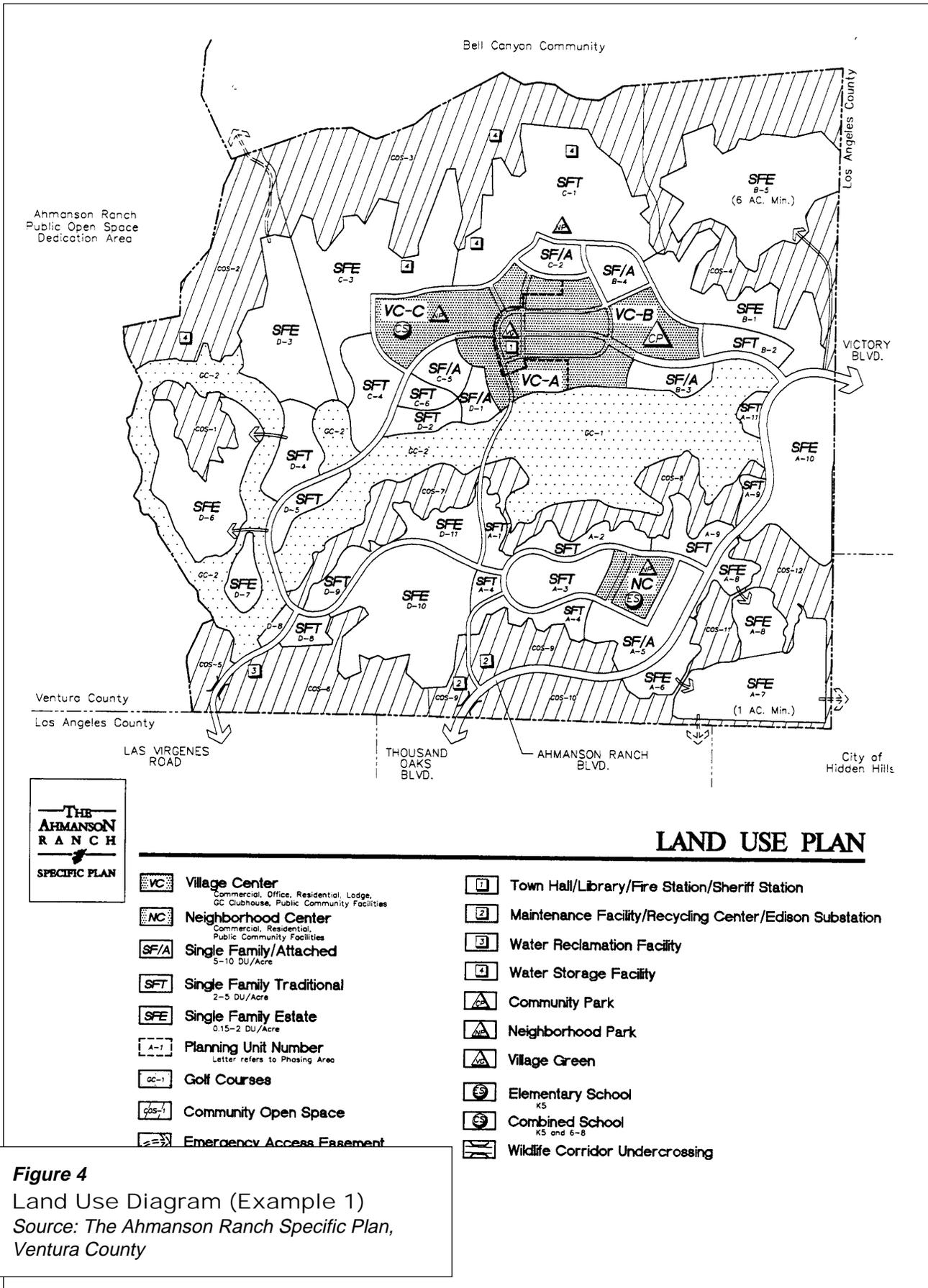
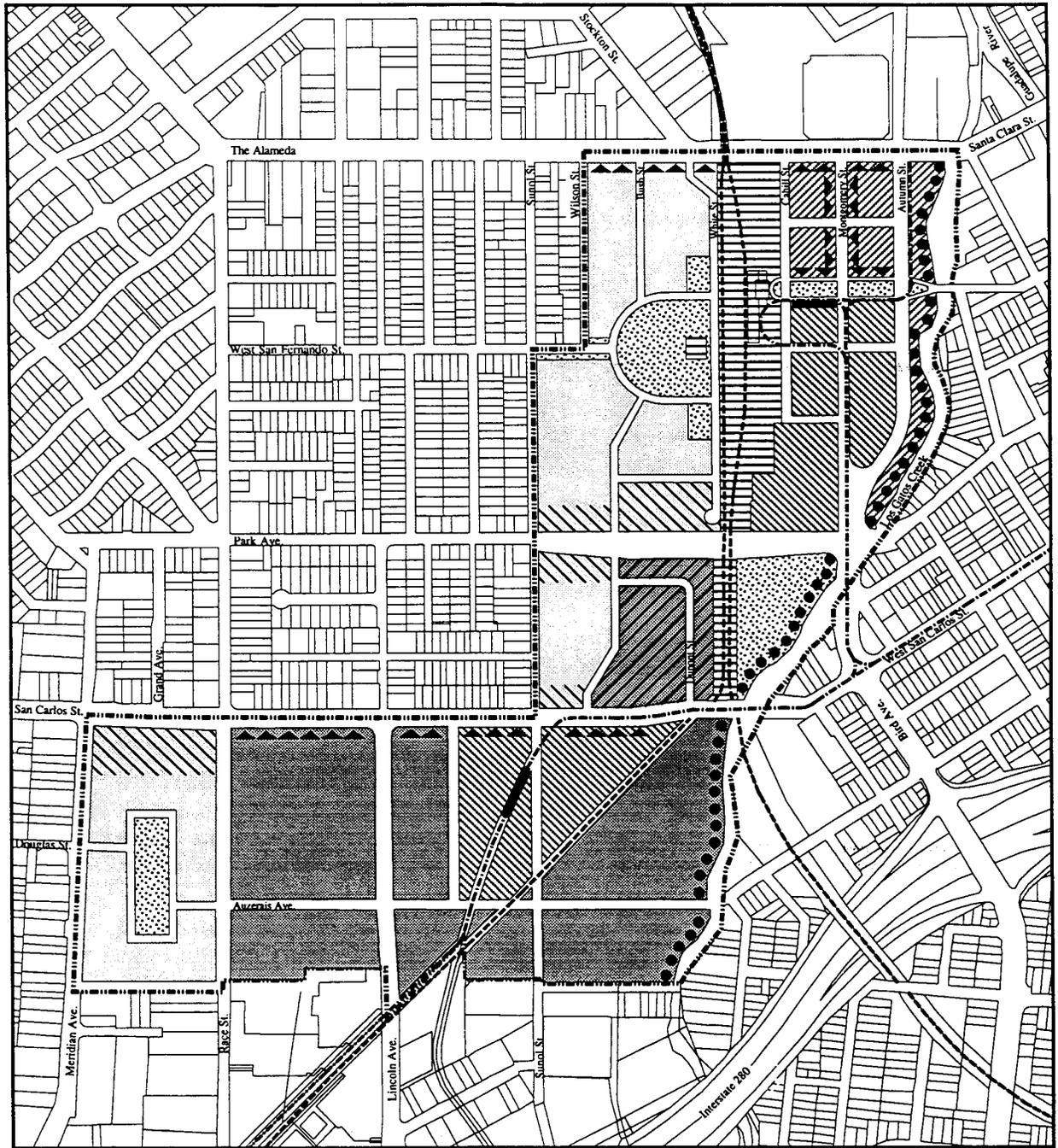


Figure 4
Land Use Diagram (Example 1)
Source: The Ahmanson Ranch Specific Plan,
Ventura County



LAND USE MAP

- | | | |
|---|--|--|
|  High Density Residential (HDR)
(25-65 du/ac) |  Combined Commercial Industrial/
Live/Work Residential Overlay (CI-LW) |  Light Rail Transit |
|  High Density Residential
General Commercial Overlay (HDR-GC) |  Public / Quasi-Public (PQP) |  CalTrain |
|  Transit-oriented Mixed Use (TMU)
(Office and/or Residential) |  Public P | |
|  General Commercial (GC) |  Los Gatos | |
|  Combined Commercial Industrial (CI) |  Ground
Retail F | |

Figure 5
Land Use Diagram (Example 2)
Source: Midtown Specific Plan, City of San Jose

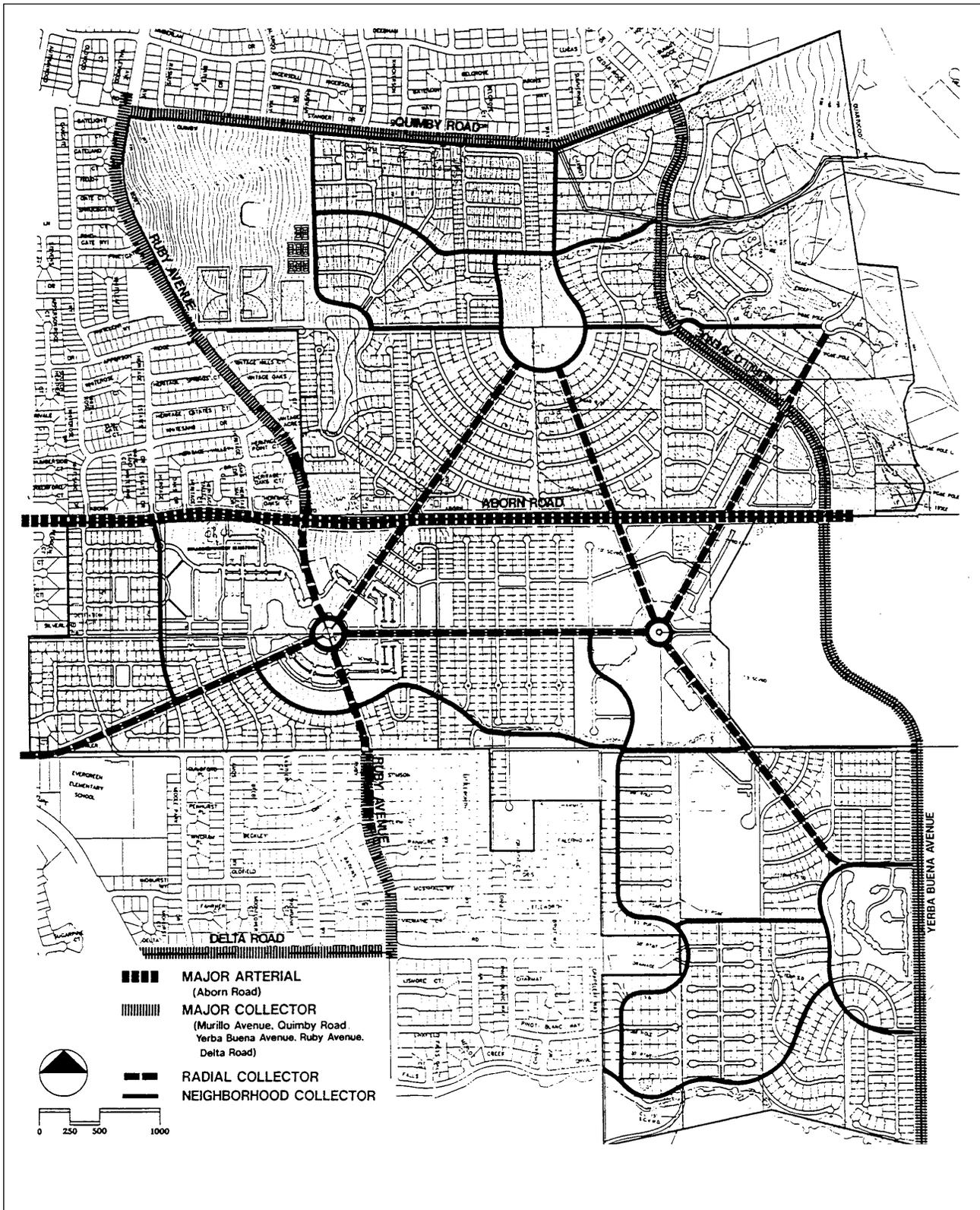
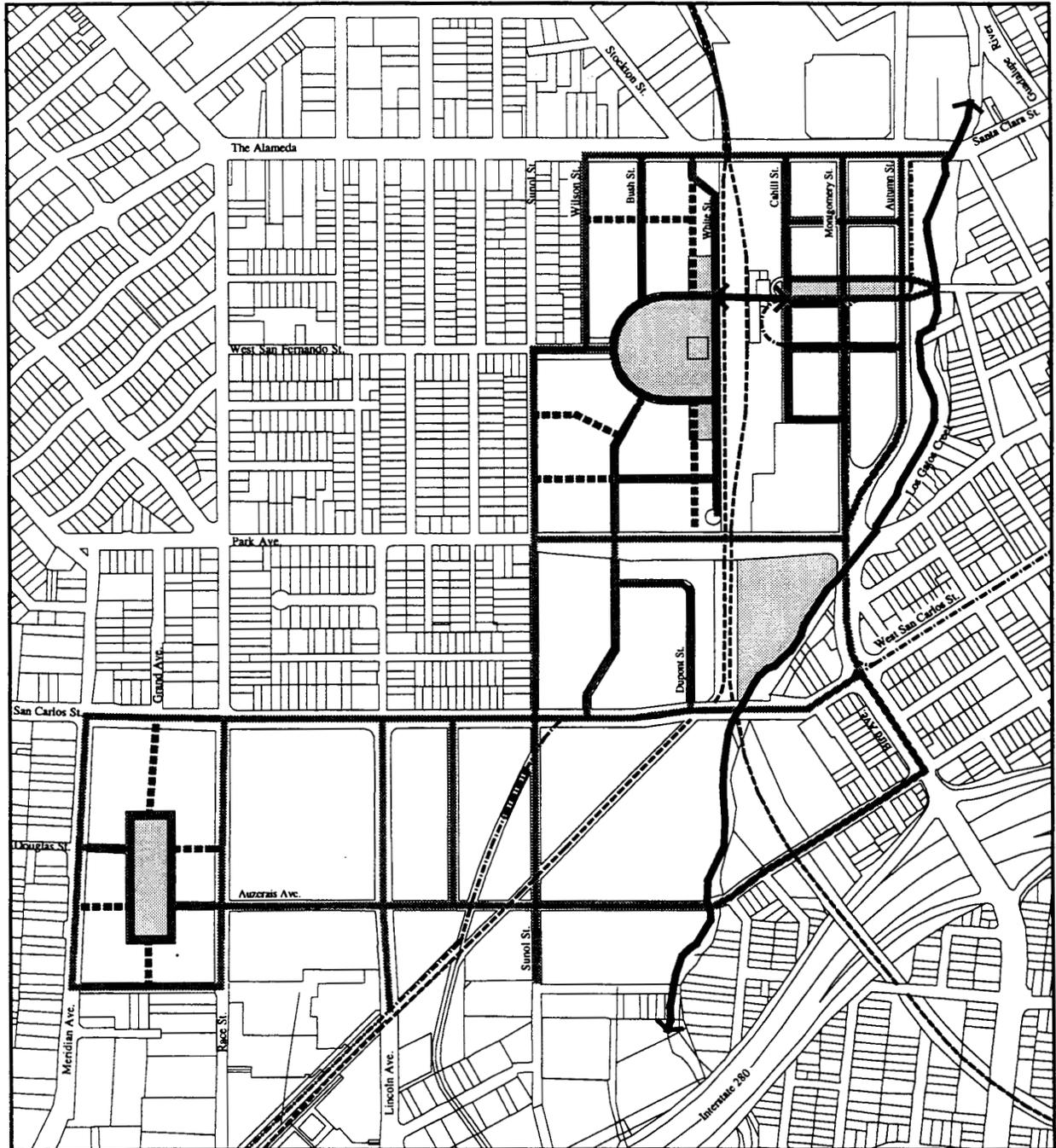


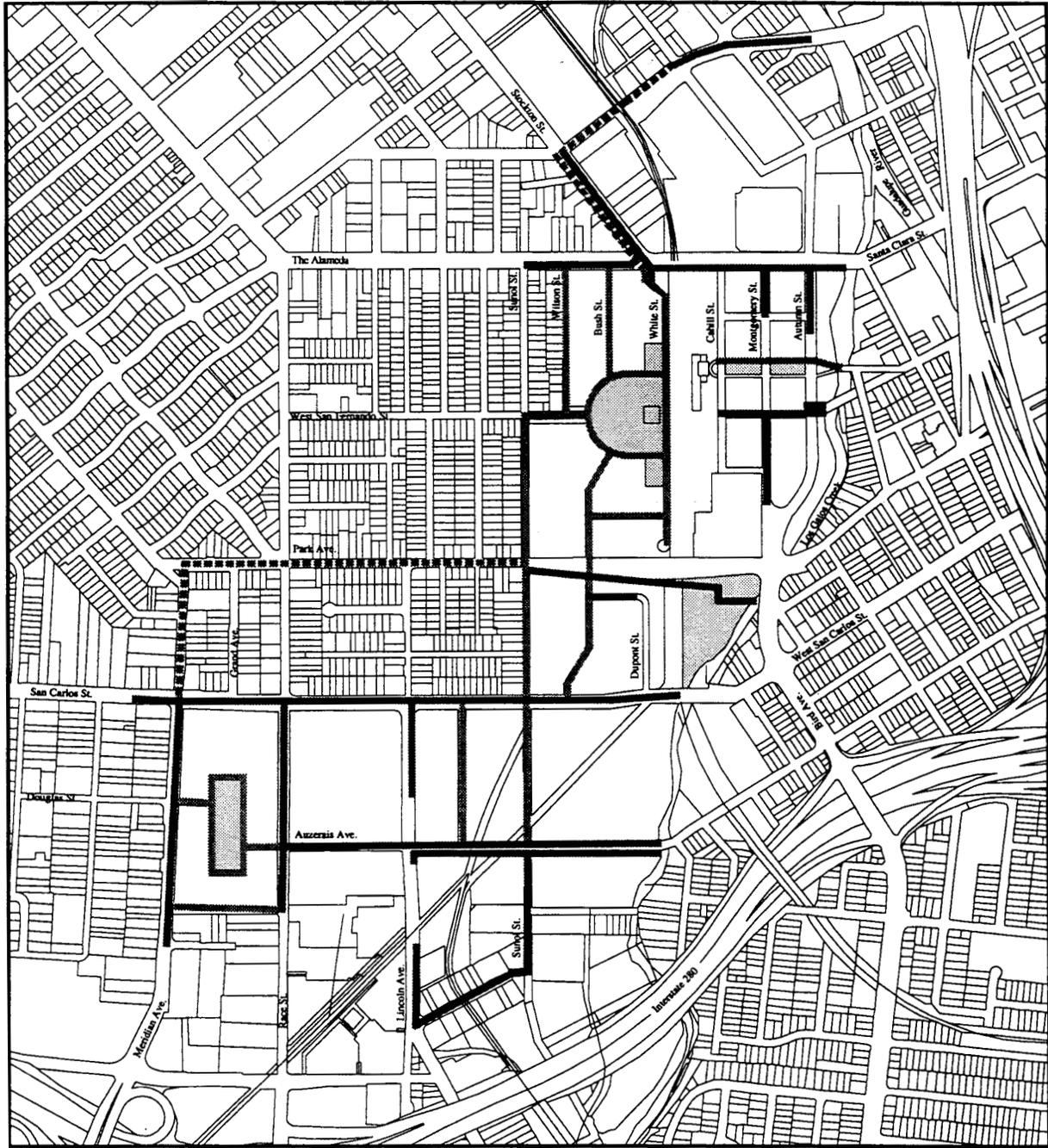
Figure 6
 Circulation Plan Map
 Source: Evergreen Specific Plan, City of San Jose



PEDESTRIAN CIRCULATION

-  Public Street Network
-  Dedicated Pedestrian Way
-  Potential Local Streets & Mews
-  Public Parks / Open Space

Figure 7
 Pedestrian Circulation Map
 Source: Midtown Specific Plan, City of San Jose



STORM DRAINAGE SYSTEM

-  Proposed Storm Drainage Lines
-  Proposed Relief Storm Drainage Lines
-  Existing Storm Drainage Lines

Figure 8
 Infrastructure Plan Map (Example 1)
 Source: *Midtown Specific Plan, City of San Jose*

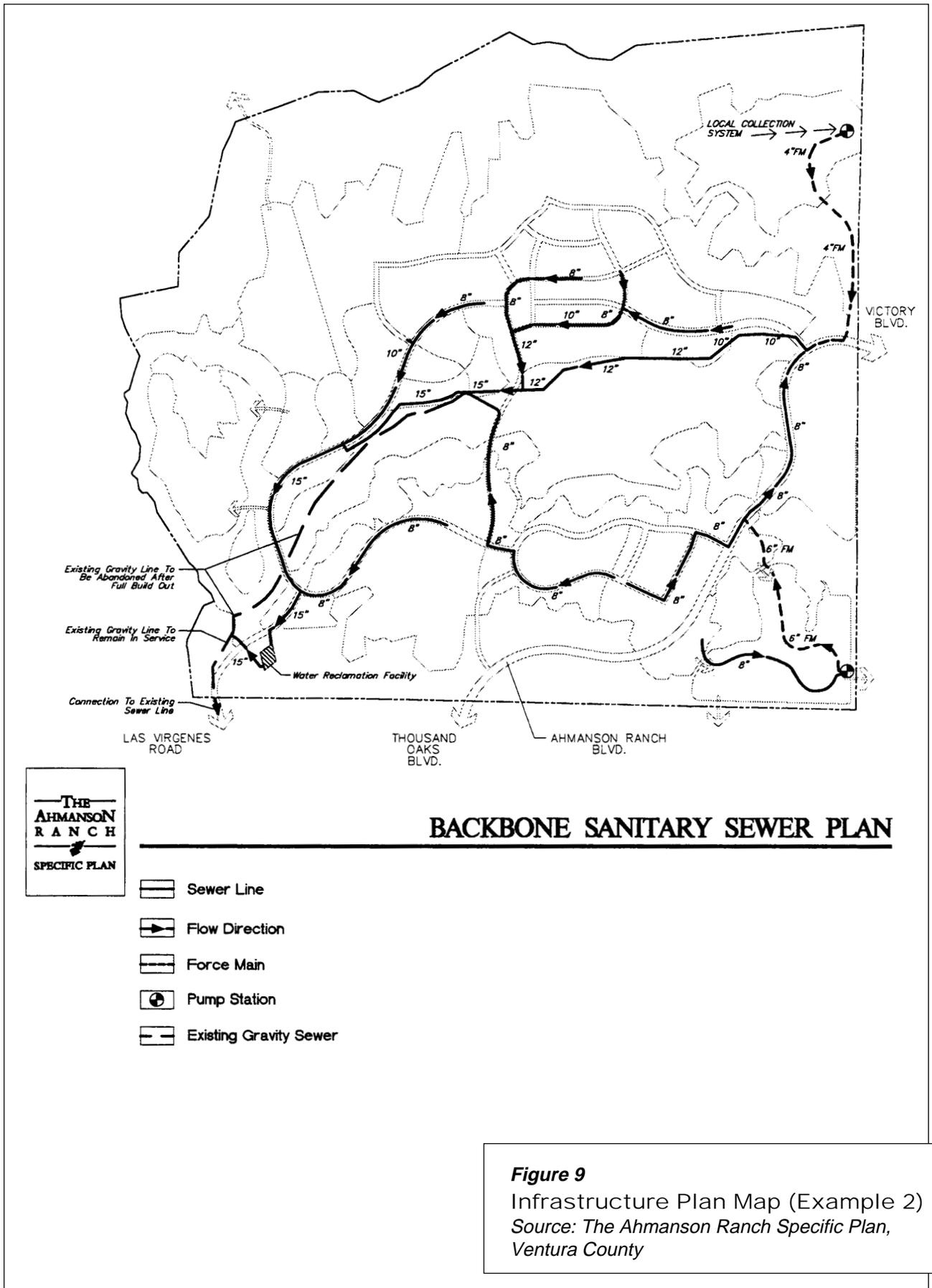


Figure 9
Infrastructure Plan Map (Example 2)
Source: The Ahmanson Ranch Specific Plan,
Ventura County

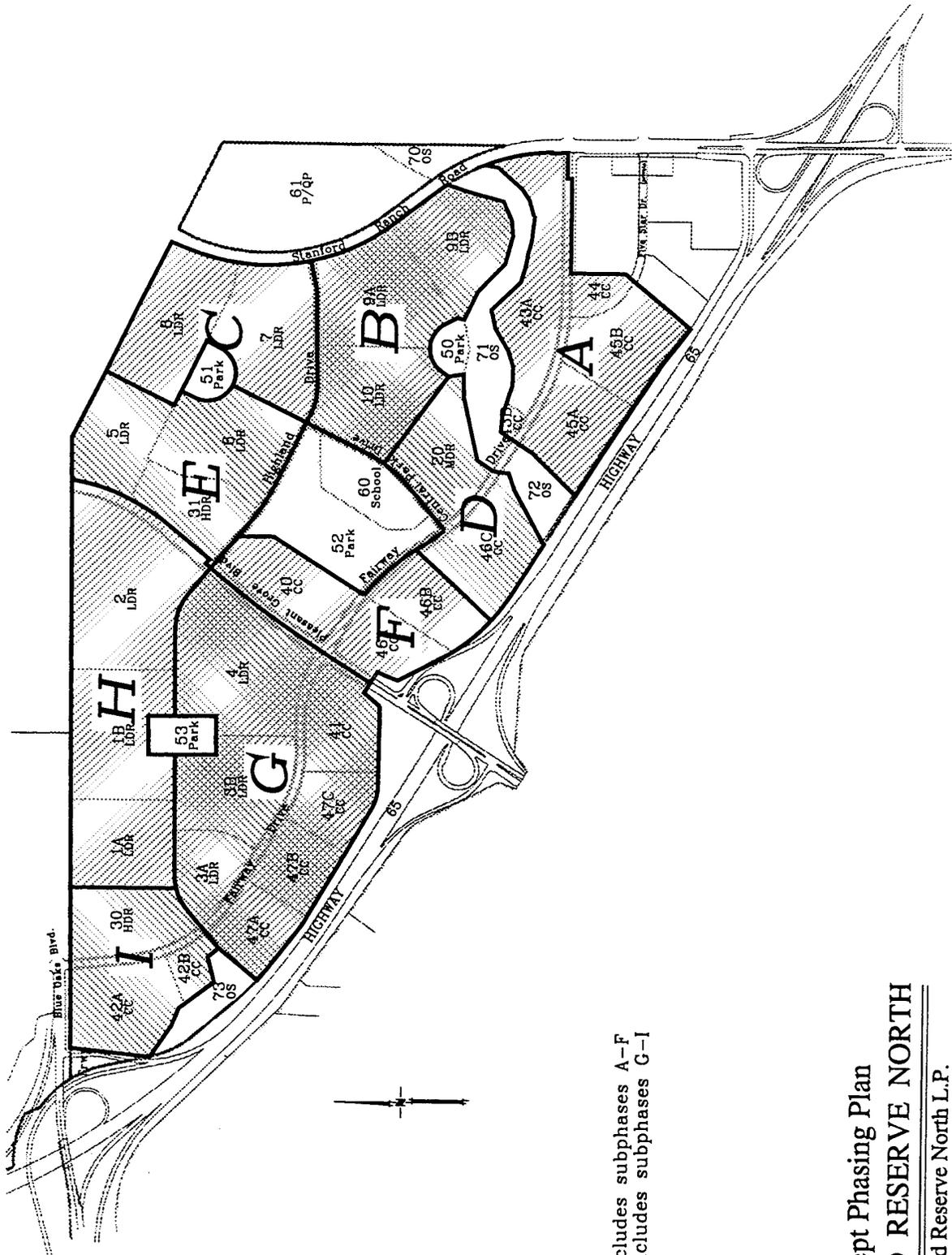


Figure 10
 Phasing Plan Map
 Source: Highland Reserve North Specific Plan,
 City of Roseville

Note:
 Phase I includes subphases A-F
 Phase II includes subphases G-I

Concept Phasing Plan
HIGHLAND RESERVE NORTH
 Highland Reserve North L.P.
 Roseville • MacKay & Somps • California

Part Three: CEQA and Specific Plans



Adoption of a specific plan is a project subject to the California Environmental Quality Act (CEQA). As such, the specific plan normally requires the preparation and consideration of an environmental impact report (EIR) disclosing the potential significant environmental effects of the plan, plan alternatives, and the means by which possible environmental damage may be reduced or avoided. Revisions to an existing specific plan may also require CEQA analysis through a subsequent, supplemental, or tiered EIR, or a negative declaration. The information in the EIR provides decision makers with the insight necessary to guide policy development, thereby ensuring the plan's policies will address and provide the means by which to avoid potential impacts to the environment. This section discusses the relationship between the specific plan and its EIR. The EIR process and requirements are discussed in detail in the State CEQA Guidelines.

Plan/EIR Analysis:

To the extent feasible, the process of preparing the specific plan and the environmental analysis should proceed concurrently because both documents require many of the same studies and resulting information. As the name implies, a specific plan EIR should contain analyses specific enough to reflect the level of detail in the plan (CEQA Guidelines §15146). However, as shown in the decision of *Stanislaus Natural Heritage Project, Sierra Club v. County of Stanislaus* (1996) 48 Cal.App.4th 182, analysis of significant effects may not be deferred to later developments under the specific plan, nor to later tiered EIRs. The Stanislaus court found that a specific plan EIR failed to discuss the impact of providing a long-term water supply for the project, and thus the county could not make an informed decision regarding the environmental consequences of the project. The court concluded that the county could not defer the analysis of crucial impacts to later environmental documents that would be prepared as the specific plan was implemented.

CEQA Alternatives:

CEQA and the State CEQA Guidelines include provisions for streamlined approaches to environmental review commonly referred to as “tiering” (CEQA Guidelines §15152). Tiering is commonly used to simplify the environmental review required for projects which follow specific plans and general plans. The result is a limited review of those project-specific effects which either were not examined or not fully examined in the specific plan EIR.

Program EIR:

A program EIR may be prepared for a series of related actions that are characterized as one large project or program (CEQA Guidelines §15168). Activities which relate to and follow the specific plan must be examined in light of the program EIR to determine if additional limited environmental analysis is warranted. Later activities which have been adequately analyzed under the program EIR will not require additional environmental documentation. If an activity may result in additional effects, or new mitigation measures are needed, a subsequent or supplemental EIR, or negative declaration must be prepared (CEQA Guidelines §15162 and 15163).

Master EIR:

A Master EIR functions similarly to a program EIR for a multi-phased project such as a specific plan. A Master EIR forms the basis for analyzing the effects of subsequent projects (CEQA Guidelines §15175, et. seq.). Later projects which are consistent with the specific plan and which fall “within the scope” of the plan's Master EIR require no further negative declaration or EIR. A master EIR may be re-certified for a subsequent project which is related to and substantially consistent with the specific plan (CEQA Guidelines §15178). Other projects which differ materially or result in potential impacts not previously analyzed, may be covered by a “focused EIR” that details the new project-specific impacts while incorporating the previous analysis of cumulative and growth inducing impacts by reference (CEQA Guidelines §15179.5).

Tiering:

When tiering is used, the later EIRs or negative declarations must refer to the prior EIR and state where a copy of the prior EIR may be examined. The later EIR or negative declaration should state that the lead agency is using the tiering concept and that the EIR or negative declaration is being tiered from the earlier specific plan EIR (CEQA Guidelines §15152(e)).

Exemption of Subsequent Projects:

Section 65457 provides that once the EIR has been certified and the specific plan adopted, any residential development project, including any subdivision or zone change, that is undertaken to implement and is consistent with the specific plan is exempt from additional CEQA review. This exemption does not apply if after the adoption of the specific plan, any of the events which would trigger preparation of a subsequent or supplemental EIR occur, including substantial changes in the project or circumstances under which the project is being undertaken requiring major revisions in the project, or new information becomes available which was not known at the time the EIR was certified. However, if a supplemental EIR is prepared covering the changes, new circumstances, or new information and is certified, the exemption will apply to the projects which then follow the specific plan.

Another exemption is described under Public Resources Code §21080.7. In urbanized areas, no addi-

tional EIR or negative declaration is required for “any project involving the construction of housing or neighborhood commercial facilities” when: (1) the project is consistent with a specific plan that has a certified EIR and that has been adopted not more than five years prior to making the required findings under this section; (2) the EIR is sufficiently detailed to identify the project’s significant effects and corresponding mitigation measures; (3) the lead agency has determined the type of environmental document needed in accordance with Public Resources Code §21080.1 and has given notice of such fact in accordance with subdivision (b) or (c) of §21092 of that code; (4) the lead agency makes one or more of the findings required by Public Resources Code §21081 and §15091 of the CEQA Guidelines; and, (5) the lead agency files a notice of decision with the county clerk for posting.

These examples of tiering and exemptions underscore the advantages of preparing an EIR which analyzes the specific plan in enough detail to streamline the environmental review of subsequent projects. This is particularly important when a specific plan covers an extensive area or is the prelude to several development projects. Local agencies should include policies in the specific plan for the application of tiering and particularly exemptions of subsequent projects.

Part Four

Adoption, Amendment, Repeal, and Administration



Procedure for Adopting and Amending a Specific Plan

The process of preparing, adopting, and amending a specific plan is generally the same as that for a general plan (§65350-§65358). In addition, the specific plan statutes allow for exceptions and additional procedures (§65453, §65454, and §65456).

Upon completion of the draft specific plan, the planning department staff will prepare reports to the planning commission and the legislative body. The reports will describe the contents of the plan, provide a recommendation for approval or denial, related findings (for the purposes of the CEQA and/or general plan consistency), and possibly a resolution for adoption. The report will normally include an analysis of the project's effect on the environment pursuant to the CEQA. If it has not occurred previously, staff will include recommendations for the certification of the environmental document. Any proposed amendments to the general plan or the zoning ordinance related to adoption and implementation of the specific plan should be presented at the same time.

Hearing and Notice:

The planning commission must hold at least one public hearing pursuant to §65353 prior to forwarding its recommendations to the legislative body. Pursuant to §65354, a recommendation for approval requires the affirmative vote of not less than a majority of the total membership of the commission.

The public hearing enables the public to present testimony regarding the plan and further involves interested individuals in the process. Section 65090 provides that public hearing notice must be provided at least 10 days preceding the hearing. This is accomplished by placing notice in a local newspaper of general circulation. Alternatively, if there is no such newspaper, the notice must be posted in at least three public places within the jurisdiction of the local agency.

If the adoption or amendment of a specific plan would affect the permitted uses or intensity of uses of real property, 10 day prior notice of the hearing must

also be mailed or delivered directly to each of the following: (1) the owner(s) of the property or the owner's duly authorized agent, and to the project applicant; (2) each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected; and (3) all owners of real property as shown on the latest equalized assessment roll within 300 feet of the boundaries of the real property that is the subject of the hearing (§65091). However, where the notice to nearby property owners would affect more than 1,000 persons, a 1/8 page newspaper advertisement may substitute for that part of the notice.

In addition, the commission must provide advance notice to anyone who requests it in writing (§65092 or 65945). The commission may provide additional notice in any other manner it deems necessary or desirable.

Special notice pursuant to §65096 is required whenever a person applies for a specific plan amendment or any entitlement for use which would permit all or any part of a cemetery to be used for other than cemetery purposes.

Anyone may appeal the commission's decision to the legislative body under the procedures set forth under §65354.5. As with any legislative act, the legislative body, not the planning commission, has final say. In most cases, an appeal of the commission's decision may not be necessary because the legislative body must hold a public hearing on the matter anyway.

A legislative body must hold at least one public hearing prior to adopting or amending a specific plan (§65355). A public hearing notice must be published in a local newspaper of general circulation at least 10 days prior to the hearing (§65090) or if a local newspaper is not available then notice shall be posted in at least three public places pursuant to this section. The legislative body must also notify anyone who makes a written request for notice pursuant to §65092 or 65945. The notice, as with the planning commission, may also need to meet the requirements under §65096.

Once the hearing(s) have been completed, the

legislative body will take action to approve, conditionally approve, or deny the specific plan. Any conditions of approval should be made an integral part of the specific plan prior to its adoption. If necessary, final approval should be delayed so that the conditions can be added. If the plan is to be approved with a substantial modification not previously considered by the commission, the plan must be referred back to the commission for their reconsideration and recommendation (§65356).

Adoption Options:

Unlike the general plan, which must be adopted by resolution (§65356), two options are available for the adoption of a specific plan: Adoption by resolution or adoption by ordinance. An ordinance is a local statute, enforceable by law. According to Black's Law Dictionary, the term "resolution" "...is usually employed to denote the adoption of a motion, the subject matter of which would not properly constitute a statute.... Such is not law but merely a form in which a legislative body expresses an opinion."

The choice between the two is dependent upon the role which the plan is intended to fill. When adoption is by resolution, the specific plan becomes a policy document similar to the general plan. It takes the form of a more specific set of policies which may give direction to the mix of land uses or goals of a particular development. When adoption is by ordinance, the specific plan effectively becomes a set of zoning regulations that provide specific direction to the type and intensity of uses permitted or defines other types of design criteria including architectural standards. However, it is important to note that as in *City of Sausalito v. County of Marin*, (1970) 12 Cal.App.3d 550,565, the adoption of plans which effectively rezone property must be completed by ordinance consistent with §65850.

The enactment of a specific plan is a legislative act subject to adoption or repeal by voter initiative even when enacted by resolution (*Yost v. Thomas* (1984) 36 Cal. 3d 561, *Midway Orchards v. County of Butte* (1990) 220 Cal. App. 3d 765, *De Vita v. County of Napa*, (1995) 9 Cal. 4th 763).

Cities and counties have not only been subject to specific plan referenda (*Chandis Securities v. City of Dana Point* (1997) 52 Cal. 4th 475), but have also sponsored voter initiatives to adopt specific plans for a variety of reasons. One common reason is to increase public involvement through voter approval. In other circumstances, adoption by voter initiative has been used due to controversy or political expediency. In effect, the electorate makes legislative decisions in

place of the city council or county board of supervisors.

The initiative and referendum may only be used to enact, change, or repeal a legislative act. An initiative may not be used to direct a plan to be prepared (*Marblehead v. City of San Clemente* (1991) 226 Cal. App. 1504). (See also: *Growth Control by the Ballot Box: California's Experience*, (1991) 24 Loyola of Los Angeles Law Review)

Legal Challenge:

Actions filed to attack, set aside, void, or annul the decision of a city or county to adopt or amend a specific plan must be brought within 90 days of the agency's decision (§65009). Judicial review of a specific plan, including its conformance with the general plan, is based on whether the action by the legislative body was arbitrary, capricious, lacking evidentiary support, and/or whether it failed to proceed with public notice, hearings, and other procedural requirements of law. For a more comprehensive discussion, see *Curtin's California Land Use and Planning Law*.

Fees

Pursuant to §65456, the legislative body may impose a charge on persons seeking approvals required to be consistent with an adopted specific plan or may require a deposit equal to the estimated cost of preparing a specific plan for adoption, amendment, or repeal. Costs may be recovered in any of several ways. An applicant seeking to initiate a project-related specific plan may be required to deposit the estimated cost of the entire specific plan process at the front end of the application process and then reimburse the agency for the final cost as a function of real cost accounting. Alternatively, a city or county may absorb the cost of the process and then recoup the cost through pro-rated developer fees or permit fees for projects required to be consistent with the adopted specific plan.

Cities and counties often utilize a combination of developer direct financing, developer fees, facility districts, and other financing mechanisms to recoup the cost of the specific plan preparation and implement the requirements of the plan.

Public and Governmental Agency Participation

The specific plan is an accumulation of information collected, organized, and transformed into a set of detailed policies, objectives, programs and standards used to guide future development. The information

collected as part of public and agency involvement ensures that concerns, preferences, priorities, and needs are discussed and considered in the decision making process. Section 65351 requires that the planning agency provide opportunities for the involvement of citizens, public agencies, public utility companies, and civic, education, and other community groups through hearings and any other means deemed appropriate.

Section 65352 further requires that the plan be referred to abutting cities or counties, special districts, school districts, local agency formation commissions, councils of government, public water systems supplying 3,000 or more customers, and specified air quality management districts. A city or county may accomplish this through public hearings or any other appropriate means including, but not limited to, community workshops, a website, written or telephone correspondence, and surveys. Each of these agencies has up to 45 days to comment on the proposed plan.

A good example of public and agency involvement is the San Luis Obispo's Railroad District Plan, which received the 1999 APA Award of Excellence. It was found to be a "fine example of the type of district plan that is useful, involves the public and is a good communication tool". It comprehensively addresses land use, transportation and circulation, aesthetics, open space and historic preservation, and implementation in the railroad corridor of the town.

In addition to the statute requiring the referral of plans and notification to specified local agencies and the public of its public hearings, notification pursuant to CEQA is required for the plan's environmental document. For further discussion of public notice and responsible and trustee agency review, refer to the State CEQA Guidelines and *CEQA Deskbook* by Ronald E. Bass, Albert I. Herson, and Kenneth M. Bogdan.

Additionally, §65919 et. seq. requires the proposal to adopt or amend all or part of a specific plan to be referred to affected cities and counties for comments and recommendations.

Timing of Amendments

Unlike the mandatory elements of the general plan which, pursuant to §65358(b), may not be amended more frequently than four times during each calendar year, the specific plan may be amended as often as necessary by the local legislative body pursuant to §65453(a). However, no specific plan may be amended unless the proposed amendment is consistent with the general plan (§65454).

Conditions of Approval

OPR does not recommend attaching conditions to the approval of the specific plan, especially when the plan would rezone or otherwise affect the permitted uses or intensity of the use of land. Separating conditions from the plan may complicate administration and implementation by creating policies or regulations that will directly affect the plan, but that are not included in it. Internal inconsistencies between the plan and conditions may result. The plan should be revised as needed prior to final adoption to incorporate regulations and conditions directly into the plan.

Specific Plan Repeal

A specific plan is repealed in the same manner that it is amended pursuant to §65453(b). Similar to the adoption, the planning commission and legislative body must each hold at least one public hearing prior to taking action. Alternatively, a specific plan may be repealed by voter initiative.

Plan Administration

The administration of specific plans require special care. Often, the design standards and zoning adopted under the plan will differ from that of the zoning ordinance covering the other portions of the community. Agencies which adopt several specific plans, each with its own format and unique development specifications, may encounter increased permit processing times and errors due to varying plans, formats, and provisions.

Several options exist to simplify plan administration. The first is educating planning staff about the intricacies of the plan through plan summaries, comparisons, and matrices. Existing zoning maps and other references should be changed to reflect the area covered by the plan and any changes in zoning or permit requirements. If necessary, the local zoning ordinance should be amended immediately to establish conformity with the plan. In jurisdictions where the adoption of several specific plans are being considered, the agency may consider adopting written specific plan guidelines. Guidelines for the preparation of specific plans establish format and content requirements which will enable staff to familiarize themselves and more effectively implement the plan. The guidelines may also provide project proponents with an explanation of the required plan elements and how it is utilized by the

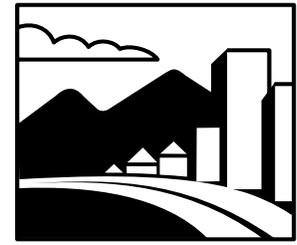
particular agency. (See appendix C for an example of specific plan guidelines)

Another option is to utilize computer software programs to aid in administration. The advent of "on-line" technology and "automated" project and permit review has provided planners with increasingly sophisticated tools which can be used to implement specific plans. For example, an on-line general plan

enables planners to review projects for consistency with the general plan by entering the important characteristics of land development projects into a software program. The program compares the project features with the plan, identifies applicable goals and policies by topical area, and prepares a report. Similar technology is available to assist in the implementation of the specific plan.

Part Five

A Specific Plan's Relationship to Other Planning Measures



Consistency With The General Plan

A specific plan may not be adopted or amended unless the proposed plan or amendment is consistent with the general plan pursuant to §65454. Section 65359 requires that any specific plan of a city or county that is applicable to the same areas or matters affected by a general plan amendment shall be reviewed and amended as necessary to make the specific plan consistent with the general plan. Consistency is commonly demonstrated through the statement of the relationship of the specific plan to the general plan as required by §65451(b) or through a discussion of the individual policies and programs and how each consistently implements the general plan.

Zoning, subdivision, and public works projects must be consistent with the general plan and specific plan pursuant to §65455. (See also §66473.5, 65860, and 65401.) The California Attorney General has opined that, “the term ‘consistent with’ means ‘agreement with.’ The courts have held that the phrase ‘consistent with’ means ‘agreement with; harmonious with.’ The term ‘conformity’ means in harmony therewith or agreeable to” (see 58 Ops. Cal. Atty. Gen. 21, 23 (1975)).

As used in the *General Plan Guidelines* and based on the language contained in the statutes and various legal interpretations by the courts, a general rule for consistency determinations can be stated as follows:

An action, program, or project is consistent with the general plan if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment.

A finding of a project's consistency with a general plan or specific plan would be reversed only if, based on the evidence before the council, a reasonable person could not have reached the same conclusion. (*No Oil, Inc. v. City of Los Angeles* (1987) 196 Cal.App.3d 223, citing *McMillian v. American General Finance Corp.* (1976) 60 Cal.App.3d 175, 186)

Specific plans may differ in their implementation of the general plan depending upon whether they are adopted by resolution or by ordinance. A specific plan adopted by resolution will propose implementation measures, whereas a specific plan adopted by ordinance imposes regulations. If the specific plan is regulatory by design, the plan's regulations must promote the general plan's statement of development policies. In particular, the regulations must be enactments resulting from and complying with the directives of the general plan's policies, plan proposals, or action programs.

Diagram Consistency:

Section 65451(a) requires that a specific plan include a diagram or diagrams which specify the distribution, location, and extent of the uses of land, including open space, within the area covered by the plan. The diagram(s) must be consistent with the general plan. In *Las Virgenes Homeowners Association v. Los Angeles County* (1986) 177 Cal.App.3d 310, the court held that the general plan is only required to contain a diagram of the general locations illustrating the policies of the plan. General plan policies can establish that parcel-specific designations are to be reflected in a specific plan. Therefore, the boundaries of a specific plan's land use designations need not precisely match the generalized boundaries delineated on a general plan diagram provided that it reflects a reasonable approximation of a general plan's land use designations. The land use distributions and locations contained in the specific plan should be consistent with those of the general plan. For example, if a general plan designates an area for residential and neighborhood commercial uses, the specific plan for the same area should not have provisions for industrial uses. This would be inconsistent with the general plan. Because a specific plan is intended to systematically implement the general plan, its diagram does not supersede that of the general plan. Rather, it details and fosters the general plan's development policies.

Specific plans which include multiple development phases and development over a longer time frame

may not initially be consistent with the general plan diagram if provided for in the text of the general plan. For example, the first phases of a project may include existing agricultural land uses not shown under the diagram. However, later phases of the same project may include residential development on the same land, accurately portraying the allowable uses under the general plan diagram.

Consistency With Airport Land Use Plans:

In each county with a public use airport, an airport land use commission prepares a comprehensive airport land use plan (ALUP) addressing all such airports and their environs within the county. Section 65302.3 requires that the general plan, and any applicable specific plan be consistent with the ALUP. Further, §65302.3(b) requires that the general plan and specific plan be amended within 180 days to be consistent with any amendment to an ALUP. However, the consistency requirement may be overridden by the legislative body when findings are adopted pursuant to Public Utility Code §21676 (See *California Aviation Council v. City of Ceres*, (1992) 9 Cal. App. 4th 1384).

Amendments to a specific plan or general plan affecting the airport planning area must be reviewed by the airport land use commission and a determination made as to the consistency with the ALUP. If the commission finds that the amendment is inconsistent and the local legislative body does not concur, the city council or board of supervisors may, by a two-thirds vote, overrule the commission's determination pursuant to Public Utility Code §21676.

Consistency With The California Coastal Act:

The California Coastal Act (Public Resources Code §30000 et seq.) exists to "protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources" (Public Resources Code §30001.5). The coastal zone extends from the California/Oregon border to the California/Mexico border, seaward to the end of the jurisdictional waters of the United States, including all offshore islands, and inland generally 1,000 yards (Public Resources Code §30103). The Coastal Act is applicable to all those portions of cities, counties, and charter cities that are within the coastal zone, excluding the area of jurisdiction of the San Francisco Bay Conservation and Development Commission (70 Ops.Cal.Atty.Gen. 220 (1987)).

Local agencies with jurisdiction over land within the coastal zone must prepare a local coastal program (LCP) to implement the Coastal Act. However, an

agency may request, in writing, that the California Coastal Commission prepare all or part of an LCP (Public Resources Code §30500(a)). An LCP is "portions of a local government's general plan, or local coastal element which are sufficiently detailed to indicate the kinds, location, and intensity of land uses..." (Public Resources Code §30108.5). The Coastal Commission has permitting authority over development within the coastal zone including certification of the LCP, oversight for local planning efforts, and permanent jurisdiction over development on coastal zone tidelands, submerged lands, and public trust land (Public Resources Code §30500).

Just as a specific plan may be used to implement a general plan, it may also be used to implement an LCP. A specific plan may be used to enact the land use regulations covering the entire coastal zone within a city or county, or focus the policies of the LCP on only a portion of zone. Specific plans that amend an LCP must be reviewed and certified by the commission (70 Ops.Cal.Atty.Gen. 220 (1987)).

Consistency With SMARA:

The Surface Mining and Reclamation Act of 1975 (SMARA) ensures that adverse environmental effects are prevented or minimized, mined land reclaimed, mineral production and conservation encouraged, and hazards to the public health and safety eliminated (Public Resources Code §2712). The Act requires cities and counties to adopt ordinances in accordance with state policy for the review and approval of reclamation plans and for the issuance of permits to conduct surface mining operations.

SMARA requires local agencies to prepare or amend a specific plan to "plan for future land uses in the vicinity of, and access routes serving..." a surface mining operation when requested by the mining operator or other interested person (Public Resources Code §2764). This does not apply if the local general plan contains mineral management policies consistent with SMARA which apply to the surface mining area.

When adopting or amending a specific plan, the local legislative body must make findings as to whether the future land uses and access routes will be compatible with the mining operation. If the land uses and access routes are not compatible with the continuation of surface mining, the local agency must also state why incompatible uses are proposed, in light of the regional importance of the operation (Public Resources Code §2764(b)).

Other Measures That Must Be Consistent With Specific Plans

The specific plan statute under §65455 states that “No public works project may be approved, no tentative map or parcel map for which a tentative map was not required may be approved, and no zoning ordinance may be adopted or amended within an area covered by a specific plan unless it is consistent with the adopted specific plan.” Section 65451 requires that a specific plan set forth detailed development criteria, standards, and implementation programs. Thus, there is little or no opportunity for programs and other measures, which implement the specific plan, to vary from its requirements. In addition to §65455, there are a number of other statutes that address the issue of consistency between specific plans and implementing measures.

Annexations, Detachments, and Incorporation:

Section 56841(g) requires Local Agency Formation Commissions (LAFCO) to consider, among other issues, the consistency of proposals for annexation, detachment, or incorporation with applicable specific plans prior to approval.

Capital Improvement Programs:

Five-year capital improvement programs prepared by special districts, school districts, or other agencies created by joint powers agreements, must be referred to the planning agency of each affected city and county within which the district or agency operates, for review as to its consistency with any applicable specific plan. Section 65403(c) requires that the capital improvement program or any part of the program not be carried out if the planning agency finds that it is not consistent with any applicable specific plan. However, the finding may be overruled by the district or agency proposing to carry out the capital improvement program.

Condominium Conversions:

The requirements of the Subdivision Map Act for consistency with general plans and specific plans under §66473.5, §66474, and §66474.61 do not apply to condominium projects or stock cooperatives that subdivide airspace in existing structures unless a specific plan contains definite objectives and policies, specifically directed to the conversion of existing buildings pursuant to §66427.2. Consistency may also be required where new structures or additions to existing structures occur.

Development Agreements:

A specific plan facilitates the administration of a development agreement through the separation of policies and regulations which are specific to the site from those of the jurisdiction as a whole. As such, §65867.5 requires that a development agreement be approved only if the provisions of the agreement are consistent with any applicable specific plan.

Housing Projects:

Housing projects are defined by Health and Safety Code §34212 as being housing or community-related activities involving governmental funding or assistance. These projects are subject to applicable planning, zoning, sanitary, building laws, ordinances, and regulations. Any housing authority planning a housing project must take into consideration the relationship of the project to any larger plan or long-range program (specific plan) for the development of the area in which it is located consistent with Health and Safety Code §34326.

Land Projects:

Section 66474.5 restricts local agencies from approving a final subdivision map for any land project unless: (a) the local agency has adopted a specific plan covering the area included within the project; and (b) the agency finds that the land project, together with the provisions for design and improvements, is consistent with the specific plan. Land projects are defined by §11000.5 of the Business and Professions Code.

Park Land (Quimby Act):

Local agencies may, by ordinance, require the payment of fees or dedication of land for park or recreational purposes as a condition of the approval of a tentative or parcel map. Prior to imposing this requirement, the local legislative body must adopt a general plan or specific plan with policies and standards for parks and recreational facilities. The required fee or dedication must be consistent with these policies and standards pursuant to §66477(d).

Public Utilities:

Public Utilities Code §12808.5 requires public utility districts to refer proposals to locate or construct lines and accessory structures for the transmission and distribution of electricity to each affected city or county for their approval. The local legislative body must hold one public hearing and, within 60 days, adopt a resolution, including findings of consistency with any relevant specific plans, for approval or denial of the

proposal. However, the utility district may, by a four-fifths vote, render the local agency's decision inapplicable.

Public Works Projects:

Local public works projects may not be approved unless they are consistent with any applicable specific plan pursuant §65455.

Subdivisions:

Section 66473.5 requires that the local legislative body only approve a tentative map, or a parcel map for which a tentative map was not required, if it finds that the subdivision, together with the provisions for its design and improvement, is consistent with any specific plan which has been adopted covering the area of the proposal.

Inconsistency between a proposed subdivision and an adopted specific plan is grounds for denial (§66474). This may include inconsistent design or improvement of the proposed subdivision.

Section 66474.61 requires that the advisory agency, appeal board, or city council of a city with a population exceeding 2.8 million (Los Angeles) deny approval of a tentative map or parcel map if it finds that the proposed map or the proposed subdivision's design or improvement is inconsistent with applicable general and specific plans.

Specific plans often contain conceptual subdivision maps which are used to present the ideal pattern of development for the plan area. Subsequent tentative maps must comply with the standards for design, improvements, land use, and density; however, they are not and should not be required to strictly comply with the conceptual designs, unless so stated in the plan.

Subdivision Land Reservations:

A local agency may, by ordinance, require the reservation of real property in a subdivision for parks and recreational facilities, fire stations, libraries or other public uses. Section 66479 requires that reservations be based upon an adopted specific plan or an adopted general plan containing policies and standards for those uses. The reservations must be consistent with these policies and standards.

Zoning:

Section 65455 requires that the adoption or amendment of a zoning ordinance be consistent with any applicable specific plan covering the same area.

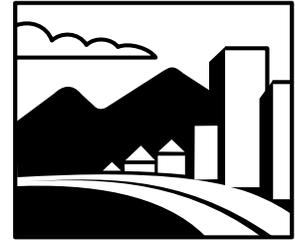
A planning commission, in its written recommendation to a city council or board of supervisors regarding the adoption or amendment of a zoning ordinance, must describe the relationship between the proposed zoning ordinance or zoning amendment with the applicable general and specific plan pursuant to §65855.

Summary:

Inconsistencies in implementation or conflict with existing policies, programs, and ordinances must be identified and corrected as early as possible. Adjustments to existing planning and regulatory programs should be made before or concurrently with the adoption phase of the specific plan process. After adoption, any identification of inconsistency must be followed by the amendment of either existing plans and regulations or the specific plan itself. Failure to correct inconsistencies can result in the inability to enforce specific plan regulations and policies (see *Anderson v. City of La Mesa* (1981) 118 Cal. App. 3d 657).

Part Six

Specific Plan Implementation Measures



Implementation

Whether regulatory or policy oriented, all specific plans must contain a “program of implementation measures including regulations, programs, public works projects, and financing measures pursuant to §65451(a)(4). Common strategies are to include a form of an overlay-zone or other zoning-like regulation as part of the implementation program. Implementation of public infrastructure and facilities policy is also commonly accomplished through the inclusion of a capital improvements program.

The specific plan must include or identify a financing program. Various financing mechanisms are available to fund the programs of a specific plan including special assessment districts, the Mello-Roos Community Facilities Act, and general obligation bonds. Tax-

increment financing, city and county general fund money, exactions, and other means are discussed further in Table 2.

OPR’s *A Planner’s Guide To Financing Public Improvements*, contains a detailed discussion of financing measures, most of which are applicable to specific plans. Other resources include OPR’s *General Plan Guidelines* and William Abbot’s *Public Needs and Private Dollars*, Solano Press.

Other specific plan implementation programs may include affordable housing projects (implementing the policies of the general plan housing element), economic development, redevelopment programs, project phasing, transportation system management, habitat conservation plans, and local air pollution control measures.

Table 2
Examples of Financing Measures

Proposition 218:

Proposition 218 added Articles XIII C and D to the California Constitution controlling how general taxes are levied and requiring certain previously levied general taxes to be ratified by voters. It reduces all taxes to either general taxes or special taxes. It defines a general tax as “any tax imposed for general governmental purposes” and a special tax as “any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund.” General and special taxes can be reduced or repealed through the initiative process. Benefit assessments and “property related fees and charges” cannot be imposed without prior voter approval. Fees, charges, and assessments can be reduced or repealed through the initiative process.

A city, county, or special district (including a school district) contemplating a special tax levy must hold a noticed public hearing and adopt an

ordinance or resolution prior to placing the tax on the ballot. The ordinance or resolution must specify the purpose of the tax, the rate at which it will be imposed, the method of collection, and the date of the election to approve the tax levy. Approval by a 2/3 vote of the city, county, or district electorate is necessary for adoption. For additional information concerning the implications of Proposition 218 to local government financing, see OPR’s *A Planner’s Guide To Financing Public Improvements*.

Mello-Roos Community Facilities Act of 1982:

The Mello-Roos Act enables cities, counties, special districts, and school districts to establish community facilities districts and to levy special taxes to fund a wide variety of facilities and services required by a specific plan. A Mello-Roos tax can be applied to the planning and design work directly related to the improvements being financed

continued

Table 2 continued

and may also fund services on a pay-as-you-go basis including: police and fire protection, ambulances, flood protection recreational programs, parks, and schools. A Mello-Roos district must be established pursuant to the requirements of §53321. As with all special taxes, Mello-Roos taxes are subject to reduction or repeal by initiative.

A Mello-Roos tax is not a special assessment, so there is no requirement that the tax be apportioned on the basis of property benefit. The tax can be structured so that it varies depending upon the zoning or development intensity of the property being assessed. Apportionment cannot, however, be done on an ad valorem basis. Some of the projects that have been funded through Mello-Roos include public works projects in "planned communities" for Orange County, Riverside County and San Diego as well as public park improvements and school facilities throughout California. See §53311 et seq. for detailed information regarding the establishment of Mello-Roos districts.

General Obligation Bonds:

In 1986, California voters approved Proposition 46, restoring the ability of local governments and school districts to issue general obligation (G.O.) bonds. General obligation bonds require approval by 2/3 of the jurisdiction's voters and are used to finance the acquisition and construction of public capital facilities and real estate (see §29900 et seq., 43600 et seq., and Education Code §15100 et seq.). G.O. bonds are repaid through an increase in the ad valorem property tax being levied by the issuing jurisdiction.

General Obligation bonds may be used to fund such things as schools, libraries, jails, fire protection and capital improvements. According to the California Debt and Investment Advisory Commission, 27 G.O. bond measures were placed on local ballots in the November 1996 election. Fourteen passed, thirteen failed, and nine received more than 60 percent approval. Some of these bonds included K-12 school facilities and seismic-safety retrofitting of public buildings.

Public Enterprise Revenue Bonds:

Local governments have the ability to issue

bonds to finance facilities for revenue producing public enterprises. The enterprises developed under these funds are financed by user charges that, in turn, are applied to bond debt service payments. Revenue bonds do not require approval by 2/3 vote since they are neither payable from taxes, nor from the general fund.

The Revenue Bond Act of 1941 (§54300 et seq.) is the most commonly used bond act. Under this act, bonds may be issued for revenue producing facilities such as airports, harbors, hospitals, parking, and garbage collection. Bonds under this act are adopted by resolution of the legislative body and subject to approval by a simple majority of the voters voting on the bond measure. One example of a public enterprise revenue bond is the Cambria Community Services District's 1989 bond financing of a wastewater treatment plant.

Tax-Increment Financing:

Local governments may activate redevelopment agencies to improve blighted areas. Specific plans are also often used to improve the blighted areas which may at the same time be subject to a redevelopment plan. As an area is redeveloped, it may generate new property tax revenue. This revenue is known as the tax increment. A redevelopment agency engages in tax-increment financing when it funds its activities with bonds, notes, etc., secured by the increment. With certain exceptions, the agency must allocate 20 percent of the tax increment to funding low and moderate-income housing. (See §16 of Article XVI of the California Constitution and §33000 et seq. of the Health and Safety Code)

Impact Fees and Exactions:

Dedications of land and impact fees are exactions which lessen the impacts of new development resulting from increased population or demand on services. Local governments derive their authority to impose exactions from the "police power" granted to them by the State Constitution and/or specific state enabling statutes such as the Subdivision Map Act.

A legally defensible exaction must (a) "advance a legitimate state interest" (such as protection

continued

Table 2 continued

of the public health, safety, and welfare) and (b) mitigate the adverse impacts to that interest that would otherwise result from the project (as held in *Nollan v. California Coastal Commission* (1987) 107 S.Ct.3141). Additionally, in *Dolan v. City of Tigard* (1994) 114S.Ct.2309, the U.S. Supreme Court held that, in addition to the standard for essential nexus established under *Nollan*, there must be a "rough proportionality" between the proposed exactions and the impacts that the project are intended to allay. The California Supreme Court further defined the principals of legal exactions under *Ehrlich v. City of Culver City* (1996)12 Cal.App.4th854. The Legislature has since amended the Mitigation Fee Act (§66000, et seq.) to require the local agency imposing the fee to identify the purpose of the fee and the use to which it will be put. The local agency must also specify the nexus between the development project and the improvement being financed (§66001). It must further establish that the amount of funds being collected will not exceed that needed to pay for the improvement (§66005).

Special Assessment Districts:

Special assessment districts are defined geographical areas which local governments levy assessments to pay for public projects such as streets, sewers, storm drains, landscaping and streetlighting. Special assessments pay for projects that are of specific and direct benefit to particular properties. For example, in order to finance the construction of street facilities which provide sole access to an industrial park, a local government may create an assessment district to cover the cost as it relates to the amount of benefit received by each property being assessed. Proposition 218 established common procedures for forming special assessment districts under Section 4, Article XIII D of the California Constitution. Most assessment districts may use their proceeds to secure bonds.

The following are some of the many special assessment and related acts:

- Improvement Act of 1911 (Streets and Highways Code §5000 et seq.)
- Municipal Improvement Act of 1913 (Streets and Highways Code §10000 et seq.)
- Improvement Bond Act of 1915 (Streets and Highways Code §8500 et seq.)
- Park and Playground Act of 1909 (Government Code §38000 et seq.)
- Tree Planting Act of 1931 (Streets and Highways code §22000 et seq.)
- Landscaping and Lighting Act of 1972 (Streets and Highways Code §22500 et seq.)
- Benefit Assessment Act of 1982 (Government Code §54703 et seq.)
- Integrated Financing District Act (Government Code §53175 et seq.)
- Street Lighting Act of 1919 (Streets and Highways Code §18000 et seq.)
- Municipal Lighting Maintenance District Act of 1927 (Street and Highways Code §18600 et seq.)
- Street Lighting Act of 1931 (Streets and Highways Code §18300 et seq.)
- Parking District Law of 1943 (Streets and Highways Code §31500 et seq.)
- Parking District Law of 1951 (Streets and Highways Code §35100 et seq.)
- Parking and Business Improvement Area Law of 1989 (Street and Highways Code §36500 et seq.)
- Property and Business Improvement District Law of 1994 (Streets and Highways Code §36600 et seq.)
- Pedestrian Mall Law of 1960 (Street and Highways Code §11000 et seq.)
- Permanent Road Divisions Law (Streets and Highways Code §1160 et seq.)
- Community Rehabilitation District Law of 1985 (Government Code §53370 et seq.)
- Geologic Hazard Abatement District (Public Resources Code §26500 et seq.)
- Open Space Maintenance Act (Government Code §50575 et seq.)
- Fire Suppression Assessment (Government Code §50078 et seq.)

Specific Plans And Development Projects

Local agencies may require that a specific plan be adopted for an area as a prerequisite to a development project as part of the requirements of an overlay zone, other ordinances, or for consistency with the policies of the general plan.

Development Agreements:

A development agreement is a tool for establishing a vested right to proceed with development in conformance with the policies, rules, and regulations in effect at the time of approval (§65864). Development agreements provide a developer with assurances for a specified length of time that his/her project may proceed as originally approved, and not be affected by future changes in land use regulations. The authority of local governments to enter into development agreements was tested and upheld by the courts in *Santa Margarita Area Residents Together v. San Luis Obispo County Board of Supervisors*, 84 Cal.App. 4th 221 (2000). In many cases and in exchange for this assurance, the landowner/developer may agree to a larger dedication of land or in-lieu fee for public use as a condition of the agreement.

A specific plan facilitates the administration of a development agreement by separating the development policies and regulations applied to a project site from those of the jurisdiction as a whole. This enables a local agency to revise its jurisdiction-wide plans and ordinances without affecting the policies and regulations "frozen" by an agreement. A specific plan adopted

in correlation with a development agreement would only be amended when corresponding changes are made to the agreement. (See *Midway Orchards v. County of Butte*, 220 Cal. App. 3d 765 (1990); and 76 Ops. Cal. Atty. Gen. 227 (1994))

Vesting Tentative Subdivision Maps:

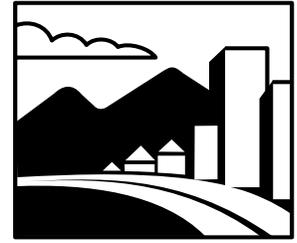
Section 66498.1(b) provides that when a vesting tentative subdivision map is approved, a vested right shall be conveyed to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the application for the tentative map is complete. Once approved, a landowner/developer may proceed with a project unimpeded by subsequent changes to the applicable development regulations. A specific plan adopted prior to the approval of a vesting tentative map may provide local agencies and the landowner/developer a single reference in determining the rights to be vested.

Redevelopment:

Specific plans represent relatively precise development criteria, guidelines, and diagrams which may provide additional direction to agencies and the public in establishing uses and infrastructure improvements that are planned within a redevelopment area. Such plans also set forth in detail the planning and implementation programs that, in the opinion of the local agency, will lead to a successful redevelopment project. In addition, the precision of specific plans is useful in estimating the costs of public improvements to be funded by tax-increment financing and other fiscal programs.

Part Seven

Specific Plan Summaries



Following are summaries of some good specific plans, including those recognized by the California Chapter of the American Planning Association with “Comprehensive Planning Awards of Excellence” over the past few years. The plans included are representative of a broad range of plan types and subject matter included in numerous other plans from around the state.

City of San Jose
Evergreen Specific Plan
 Adopted July 2, 1991

The Evergreen Specific Plan was prepared for the City of San Jose by Dahlin Group, Inc., in response to a general plan amendment in 1989 designating 865 acres as the “Evergreen Planned Residential Community.” The amendment included the requirement that a specific plan be adopted prior to approval of development. The specific plan relies on some unusual techniques for creating an innovative new community with edges that blend seamlessly into adjacent subdivisions and interior features that are distinctive both functionally and visually. Traffic rotaries and radial streets for example, provide direct routes to all of the plan’s facilities and amenities for neighborhoods both inside and outside the plan area. The plan includes provisions for ongoing vineyard and wine-making facilities at Mirassou Vineyards, a circular commercial “village,” parks and additional park acreage, two elementary schools, funding for a new high school, fire station, corridor trails, pocket parks, and extensive internal trail systems. Supporting documents include revisions to existing development policy, financing plan, and the zoning ordinance.

Ventura County
Ahmanson Ranch Specific Plan
 Adopted December 1992

The Ahmanson Ranch Specific Plan was produced by the Ahmanson Land Company for the County of Ventura as part of a development proposal for residential, commercial, and community facility uses. The planning area encompasses approximately 5,433 acres

of which 2,633 acres are to be dedicated as permanent public open space. The remainder of the planning area comprises clustered development on approximately 1,900 acres with an additional 900 acres of community open space. The proposed community would consist of mixed-density and income housing units in a pedestrian friendly setting totaling approximately 3,050 units. The dedicated open space would be combined with surrounding open space areas to form approximately 11,000 acres of important wildlife habitat, corridors, and ecosystems, in an effort to balance the preservation of natural resources with the development of new communities. The plan includes comprehensive design guidelines, development standards, and implementation measures to create a livable community based upon compact and pedestrian oriented design.

City of San Jose
Midtown Specific Plan
 Adopted December 8, 1992

The Midtown Specific Plan was prepared by a consultant team including ROMA Design Group, with oversight from the Midtown Specific Plan Task Force, for the purpose of providing a vision for an area that is undergoing considerable transition and change. This vision includes: creating a pattern of development that reinforces transit; providing diversity in housing opportunities to establish viable and livable neighborhoods; preserving viable industrial and commercial-service; creating an extensive system of pedestrian and open space; balancing circulation needs with consideration of livability; and complementing and extending adjacent residential and commercial areas surrounding midtown. The specific plan will guide the evolution of this 210-acre mixed industrial and commercial area into a new mixed-use community including high-

density commercial and residential uses oriented toward transit, while maintaining some industrial and service commercial uses. This plan provides for close to 3,000 new housing units, 920,000 square feet of new office development, 305,000 square feet of additional industrial/commercial uses, and 335,000 square feet of retail, restaurant, and entertainment-oriented uses. It also incorporates an extensive system of pedestrian ways and open spaces that promotes Midtown as a livable and walkable community, street patterns that prevent excessive residential street traffic in the future, and comprehensive urban design guidelines for creating a compatible relationship with surrounding areas and neighborhoods.

City of West Sacramento
West Sacramento Triangle

A Specific Plan for The Development of Downtown
West Sacramento
Adopted June 30, 1993

The West Sacramento Triangle Specific Plan was prepared for the City of West Sacramento by the Zimmer Gunsul Frasca Partnership for the purpose of providing "a planned, waterfront oriented urban core... complementing established residential and commercial districts within the City with a balanced mix of uses." Its focus is to provide guidance for the development of approximately 188 acres while creating a sense-of-place, promoting economic development, and furthering the use of the area for living, working, and tourist-oriented development. The plan includes provisions for five separate development area components, each with its own identifying characteristics yet unified through redevelopment and development guidelines with an emphasis on establishing a sense-of-place based upon the waterfront.

Separately, the City adopted the Southport Framework Plan in May 1995 as part of its comprehensive planning efforts. Although this is an "area plan" and does not meet the criteria of a specific plan, its purpose is to establish connections between the individual specific plans within its boundaries to accomplish an overall comprehensive planning framework. It demonstrates the ability to provide integration between specific plans and their respective planning areas and regulations.

City of Santa Monica
Santa Monica Civic Center Specific Plan
Adopted November 23, 1993

The Santa Monica Civic Center Specific Plan was prepared for the City by ROMA Design Group. Adoption of the plan was called for by the general plan in response to the need to comprehensively plan for public and private ownership in the area with a central theme of urban design. The planning area includes approximately 45 acres, 26 in public ownership and 15.8 under the ownership of one corporation. The site is within close proximity to the beach and Santa Monica Pier, the Santa Monica Freeway, and adjacent to the city's recently revitalized downtown. The urban design theme is intended to guide development of the area "that is, essentially a meeting place that brings together a broad range of activities within an attractive and inclusive environment." The plan includes a mix of uses including city offices, county justice courts, auditorium, cultural, open space, residential, live/work, professional office, and retail. Development policies are included which "Redefine Main Street" to establish it as a focal point, "Extending the Palisades Landscape," bringing the characteristic landscape of the area into the Civic Center, and "Meeting the City Grid," making the area accessible and friendly by incorporating visual corridors, mixed-use streets, and pedestrian and bicycle ways into the area.

City of Folsom
**The Parkway Specific Plan and Design
Guidelines**

Adopted December 1993

The Parkway Specific Plan and Design Guidelines were prepared for the City of Folsom by the Parker Development Company, The Spink Corporation, and Jones & Stokes Associates, Inc. The planning area encompasses 612 acres with provisions for 360 acres of mixed density residential, 6.4 acres of office use, 11.8 acres of commercial use, and 242.4 acres of open space, parkway corridor, riparian mitigation, and other variations of open space uses. The plan incorporates zoning and development standards which supersede prior designations, a financing plan for the provision of necessary public facilities, and a separate financing plan for a special assessment district. The plan has also incorporated a detailed set of design guidelines for landscaping, architecture, lighting and signage. Sepa-

rately, the plan includes as an appendix, the "Parkway and Resource Mitigation Plan." This section establishes a plan for a natural corridor which bisects the planning area providing for the preservation of important habitat, passive recreation, and flood protection. It also forms a resource mitigation program for impacts to natural resources resulting from development, and provides for the preservation of open space and the quality of life in the city.

Mariposa County
Mariposa Town Planning Area Specific Plan
 Adopted January 14, 1992
 Amended February 7, 1997

The Mariposa Town Planning Area Specific Plan was prepared by county staff at the direction of the Board of Supervisors. The plan encompasses the unincorporated town of Mariposa, including approximately 1,900 acres, with a population of 1,565. The area serves as the westerly gateway to Yosemite National Park with more than one million tourists passing through each year. The plan provides for the preservation of the historic Mother Load design and atmosphere of the town while also allowing for commercial and residential growth. Guidelines for design review, historic preservation, and other development standards have been incorporated into the plan. As the center for county government, services, and commerce, the plan policies focus on the viability of Mariposa as a commercial area while maintaining its historic Gold Rush characteristics.

City of Roseville
Highland Reserve North Specific Plan
 Adopted June 1997

The Highland Reserve North Specific Plan was prepared for the City of Roseville by Williams and Paddon, MacKay and Somps, and Wade Associates. The plan area comprises 615 acres in the northeast

portion of the city adjacent to Highway 65. It establishes a framework for the development of the planning area including a village square, traditional residential neighborhoods, pedestrian pathway system, preservation and utilization of watershed open space corridors, and emphasis on the design of public spaces. Plan implementation includes a development agreement which sets forth public infrastructure and financing, Quimby Act park land dedication requirements, and land use and infrastructure requirements. Comprehensive community and landscaping design guidelines have been defined for the purpose of establishing a framework for development and coordinated landscaping leading to the vision underlying the plan.

City of San Luis Obispo
Railroad District Plan
 Adopted June 16, 1998

The Railroad District Plan grew out of citizens' suggestions that a plan be prepared to address several important issues, including traffic circulation, open space and historic preservation, safe pedestrian and bicycle connections, aesthetics, public safety and the need for additional automobile parking. The City Council directed staff to prepare a plan that would address these issues and ensure that the various public improvements planned or underway in the District would be properly coordinated.

The Railroad District influences San Luis Obispo's economy, transportation, and urban character. Recognizing the importance of the District, the General Plan identifies the Santa Barbara Street corridor—the main transportation "artery" which links the District with Downtown and State Highway 101—as a "special design area" and calls for a plan to guide renovation and improvement of buildings, streetscape, landscaping and public use areas. This plan is intended to guide development in the District and to implement General Plan policy for that portion of the special design area encompassed by the District.

Appendix A

Specific Plan Court Cases



TABLE OF CASES

- Yost v. Thomas
- Chandis Securities v. City of Dana Point
- Stanislaus Natural Heritage Project, Sierra Club v. County of Stanislaus
- Mitchell v. County of Orange
- Anderson v. City of La Mesa
- People v. County of Kern

This section identifies major specific plan-related litigation. The following brief summaries highlight the pertinent principles, but are by no means comprehensive discussions of each case. Our intent is simply to bring these cases to your attention. Readers should refer to the full text of the cases for in-depth information. For advice regarding the applicability of a case to specific situations, particularly those cases involving “takings,” consult your legal counsel.

CASES OF THE CALIFORNIA SUPREME COURT

YOST V. THOMAS (1984) 36 Cal.3d 561

The Park Plaza Corporation filed several applications, including a specific plan, to authorize construction of a 360-room hotel and conference center under the City of Santa Barbara’s certified Local Coastal Program (LCP). After the council had approved the project, a local citizens’ group attempted to file a referendum petition to reverse the council’s action. The petition was rejected by city clerk Thomas. The City argued that its approval was ministerial under the Coastal Act and not subject to referendum. The citizens group sued and the trial court found for the City, holding that City’s actions were administrative under the Act and that the powers of initiative and referendum apply only to legislative actions by a local governing body.

The Supreme Court reversed. The Court cited the established principle that referendum applies only to legislative acts. Since adopting or amending a general plan and rezoning are legislative acts, the Court reasoned that specific plans are likewise legislative. The Court also concluded that in enacting the Coastal Act the Legislature had not intended to eliminate local legislative authority. While the Coastal Commission may disapprove an LCP which is inconsistent with state policy or too weak to effectively implement it, the Commission may not specify the precise content of the LCP. Furthermore, local governments may choose the means of implementing the Coastal Act and may be more restrictive of particular development than state policies require.

CASES OF THE CALIFORNIA COURT OF APPEAL

CHANDIS SECURITIES CO. V. CITY OF DANA POINT (1997) 52 Cal.App. 4th 475

The council approved Chandis’ general plan amendment and specific plan for a hotel and 370-unit residential development on the Headlands. Petitions were filed forcing a voter referendum on the project and, as a result of voters’ denial, the council’s action was reversed.

The court held that although the city council acted reasonably to approve the project, the electorate is empowered to reverse that action, particularly since reversal did not conflict with the general plan and maintained the status quo. The court held that the restriction on denying a “development project” under Government Code Section 65589.5 does not apply to legislative projects.

STANISLAUS NATURAL HERITAGE PROJECT, SIERRA CLUB V. COUNTY OF STANISLAUS (1996) 48 Cal.App. 4th 182

In 1993 the County of Stanislaus certified an EIR for a proposed specific plan for a 29,500-acre resort community including 5,000 residences. Suit was brought contending, among other things, that the EIR was inadequate due to its failure to adequately discuss the environmental effects of supplying water to the project. The analysis of water covered the supply through the first 5 years of the project, but deferred further analysis of the supply of water to future phases of development. The county and other respondents contended that “there is no analysis of the potential impacts of the eventual long-term supply” relying upon the tiering provisions of CEQA. Tiering allows for a more specific EIR incorporating by reference the discussion in prior environmental documents allowing for concentration on the environmental effects not analyzed as significant effects in the prior report.

The trial court denied the petition ruling in favor of the county and other respondents. The Court of Appeal reversed the decision because the approval of the project did not follow the fundamental purpose of CEQA being to inform the public and decision makers of the environmental consequences of a project. An EIR must address the impact of supplying water in that the County must “attempt in good faith to fulfill its obligation under CEQA to provide sufficient meaningful information regarding the types of activity and environmental effects that are reasonably foreseeable (*Laurel Heights I supra*, 47 Cal.ed at p. 399).”

MITCHELL V. COUNTY OF ORANGE (1985) 165 Cal.App.3d 1185

During a public hearing on the North Tustin Specific Plan, a property owner requested that their land be re-designated for professional office uses. The Board of Supervisors adopted the North Tustin Plan, but in doing so designated the contested property for residential rather than office uses. The Board also found the plan to be compatible with the general plan. The owner petitioned for a writ of mandate claiming, among other things, that the specific plan was inconsistent with the general plan.

The trial court denied the petition and the owner appealed contending that the court should have used the substantial evidence test when reviewing a specific plan's conformance with a general plan.

The court of appeal affirmed the trial court's decision, referencing *Yost v. Thomas* (1984) 36 Cal.3d 561,

571, noting that the adoption of a specific plan is a legislative act. Therefore, “Judicial review of ‘[a]ctions taken by an administrative agency in its legislative capacity ... is limited to an examination of the proceedings before the agency to determine whether its action has been arbitrary or capricious, or entirely lacking in evidentiary support, or whether it has failed to follow the procedure and give the notices required by law.’ [citations]”

This “arbitrary and capricious” test also applies to challenges to a specific plan's conformance to a general plan. Consequently, the court determined that the consistency determination rests with Orange County's board of supervisors and would not be set aside unless the board acted arbitrarily, capriciously or without an evidentiary basis.

This case indicates that the “arbitrary and capricious” test, rather than the “substantial evidence” test, is the appropriate standard of judicial review for a specific plan adoption. The courts apply the “arbitrary and capricious” test to determine whether there is a rational basis for a legislative act. The burden of proving unreasonableness falls on the person who challenges the local legislature's action. The burden is heavy since, in general, the courts presume that legislative actions are valid. The courts apply the substantial evidence test to adjudicative acts to determine whether they are supported by findings based on substantial evidence. Consequently, from a city's or county's viewpoint, the latter test is more rigorous.

ANDERSON V. CITY OF LA MESA (1981) 118 Cal.App.3d 657

The city of La Mesa's standard zoning ordinances required single-family dwellings to be set back at least five feet from the side lot lines while an applicable specific plan ordinance required ten foot setbacks. A property owner applied to the city for a building permit to construct a new house. The proposed placement was to be about seven feet from a side property line—in compliance with zoning, but not the specific plan. The city issued the permit and the home was built. The city inspected the house six times during construction; however, upon completion, the city refused to issue the occupancy permit unless the owner removed that portion of the house within the ten foot setback required by the specific plan. Further, the city declined to grant a variance allowing a side yard setback encroachment. The owner filed a petition for writ of mandate.

The superior court determined that the owner had acquired a vested right to the existing building location

because she had relied in good faith on the building permit. In addition, the court found no grounds for denial of the variance, but that remodeling would cost \$6,000. The court also found that the city had abused its discretion and ordered the variance and occupancy permit to be issued. The court of appeal affirmed the judgment.

This case illustrates one of the problems that may arise if a city or county fails to keep its zoning ordinance consistent with its specific plan.

PEOPLE V. COUNTY OF KERN (1974) 39 Cal.App.3d 830

In May of 1972, Kern County approved tentative subdivision maps to create 356 lots on 275 acres in Cuddy Valley near Los Padres National Forest. The map approvals required the developer to obtain the county's approval of a specific plan and zone change. The county's adoption of the specific plan "...expressly provided that 'amendments to the zoning ordinance applicable to the area shall conform to this specific plan' in accordance with the tentative maps on file." The developer submitted a zone change application and prepared a draft EIR. The zone change involved reclassifying the site from light agricultural to estate zones. The county circulated the draft EIR to interested public agencies and private groups. The county received numerous comments pertaining to the draft EIR, some of which raised serious environmental issues. The county approved the final EIR without responding to comments on the draft. The county also approved the rezoning and thereafter issued a grading permit.

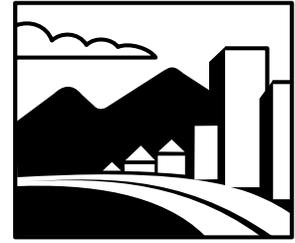
In November of 1973, the California Attorney General filed an action against Kern County and the developer to prevent the issuance of building permits and other entitlements for construction and to require the preparation of an adequate EIR. The trial court denied a preliminary injunction and the Attorney General appealed seeking a writ of mandamus to compel the trial court to issue the preliminary injunction. Kern County contended that the developer had acquired a vested right to develop by virtue of the approval of the tentative maps and adoption of the specific plan. It also claimed that the zone change was a ministerial act and not subject to CEQA.

The Court of Appeal issued the writ of mandamus. It directed the trial court to issue the injunction enjoining Kern County from granting the developer's building permits and entitlements. Based on state law and county zoning ordinance, the court determined that Kern County retained discretion to approve or deny zone changes. Consequently, the approval of the tentative map and specific plan were not the only approvals subject to discretionary action. The approvals did not commit the county to amend the zoning ordinance and as a discretionary project, the rezoning was subject to CEQA in which the final EIR was inadequate due to the lack of response to comments in the Final EIR.

This case indicates that a local government's approval of a specific plan neither provides a vested right to develop nor an automatic zone change entitlement. A government retains its discretion in deciding rezoning application submitted to carry out specific plans.

Appendix B

Selected Statutes



SPECIFIC PLAN STATUTES (Excerpted From The California Government Code)

TITLE 7. Planning and Land Use DIVISION 1. Planning and Zoning CHAPTER 3. Local Planning

Article 8. Specific Plans

Section 65450. Preparation of specific plans

After the legislative body has adopted a general plan, the planning agency may, or if so directed by the legislative body, shall, prepare specific plans for the systematic implementation of the general plan for all or part of the area covered by the general plan.

(Repealed and added by Stats. 1984, Ch. 1009.)

Section 65451. Content of specific plans

(a) A specific plan shall include a text and a diagram or diagrams which specify all of the following in detail:

(1) The distribution, location, and extent of the uses of land, including open space, within the area covered by the plan.

(2) The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.

(3) Standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable.

(4) A program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out paragraphs (1), (2), and (3).

*(Repealed and added by Stats. 1984, Ch. 1009;
Amended by Stats. 1985, Ch. 1199.)*

Section 65452. Optional subjects

The specific plan may address any other subjects which in the judgment of the planning agency are necessary or desirable for implementation of the general plan.

(Repealed and added by Stats. 1984, Ch. 1009.)

Section 65453. Adoption/amendment procedure

(a) A specific plan shall be prepared, adopted, and amended

in the same manner as a general plan, except that a specific plan may be adopted by resolution or by ordinance and may be amended as often as deemed necessary by the legislative body.

(b) A specific plan may be repealed in the same manner as it is required to be amended.

(Repealed and added by Stats. 1984, Ch. 1009; Amended by Stats. 1985, Ch. 1199.)

Section 65454. Consistency with the General Plan

No specific plan may be adopted or amended unless the proposed plan or amendment is consistent with the general plan.

(Added by Stats. 1984, Ch. 1009)

Section 65455. Zoning, tentative map, parcel map, and public works project consistency with specific plans

No public works project may be approved, no tentative map or parcel map for which a tentative map was not required may be approved, and no zoning ordinance may be adopted or amended within an area covered by a specific plan unless it is consistent with the adopted specific plan.

(Added by Stats. 1984, Ch. 1009)

Section 65456. Fees and charges

(a) The legislative body, after adopting a specific plan, may impose a specific plan fee upon persons seeking governmental approvals which are required to be consistent with the specific plan. The fees shall be established so that, in the aggregate, they defray but as estimated do not exceed, the cost of preparation, adoption, and administration of the specific plan, including costs incurred pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. As nearly as can be estimated, the fee charged shall be a prorated amount in accordance with the applicant's relative benefit derived from the specific plan. It is the intent of the Legislature in providing for such fees to charge persons who benefit from specific plans for the costs of developing those specific plans which result in savings to them by reducing the cost of documenting environmental consequences and advocating changed land uses which may be authorized pursuant to the specific plan.

(b) Notwithstanding Section 60016, a city or county may require a person who requests adoption, amendment, or repeal of a specific plan to deposit with the planning agency an amount equal to the estimated cost of preparing the plan,

amendment, or repeal prior to its preparation by the planning agency.

(c) Copies of the documents adopting or amending the specific plan, including the diagrams and text, shall be made available to local agencies and shall be made available to the general public as follows:

(1) Within one working day following the date of adoption, the clerk of the legislative body shall make the documents adopting or amending the plan, including the diagrams and text, available to the public for inspection.

(2) Within two working days after receipt of a request for a copy of the documents adopting or amending the plan, including the diagrams and text, accompanied by payment for the reasonable cost of copying, the clerk shall furnish the requested copy to the person making the request.

(d) A city or county may charge a fee for a copy of a specific plan or amendments to a specific plan in an amount that is reasonably related to the cost of providing that document.

(Added by Stats. 1984, Ch. 1009; Amended by Stats. 1985, ch. 338 and Ch. 1199; Amended by Stats. 1990, Ch. 1572.)

Section 65457. CEQA Exemption

(a) Any residential development project, including any subdivision, or any zoning change that is undertaken to

implement and is consistent with a specific plan for which an environmental impact report has been certified after January 1, 1980, is exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code. However, if after adoption of the specific plan, an event as specified in Section 21166 of the Public Resources Code occurs, the exemption provided by this subdivision does not apply unless and until a supplemental environmental impact report for the specific plan is prepared and certified in accordance with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code. After a supplemental environmental impact report is certified, the exemption specific in this subdivision applies to project undertaken pursuant to the specific plan.

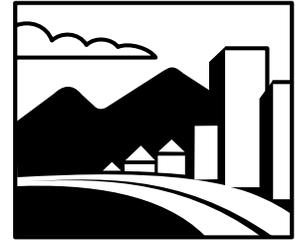
(b) An action or proceeding alleging that a public agency has approved a project pursuant to a specific plan without having previously certified a supplemental environmental impact report for the specific plan, where required by subdivision (a), shall be commenced within 30 days of the public agency's decision to carry out or approve the project.

(c) This section does not supersede but provides an alternative procedure to Section 21080.7 of the Public Resources code.

(Added by Stats. 1984, Ch. 1009.)

Appendix C

Local Specific Plan Guidelines



Many local jurisdictions have adopted written specific plan guidelines. These guidelines establish the ground rules for preparing and adopting a specific plan within a particular jurisdiction. The guidelines are effective at keeping specific plans consistent with the local general plan by establishing minimum content requirements and by specifying a common format for all plans that will be adopted by a community. They also provide developers with a written summary of what a specific plan is and how it is used in that jurisdiction.

Guidelines act to facilitate the preparation and adoption of specific plans by standardizing the local procedure for evaluating and considering such plans. Standardizing the specific plan format through local guidelines also helps planners and other staff members familiarize themselves with new plans. This, in turn, reduces the potential for errors to occur during the administration of the plan.

The Office of Planning and Research encourages cities and counties which will be considering several specific plans in the future or that regularly use specific plans to implement their general plans to adopt their own specific plan guidelines. The following outline provides one example of what local guidelines might contain.

SPECIFIC PLAN GUIDELINES

1. Introduction: What is a Specific Plan?
 - a. Explains what specific plans are and how they are used in the community
 - b. Discusses the relationship between specific plans and the local general plan's objectives, policies, and implementation measures
 - c. Enumerates local policies, regulations or programs that directly relate to specific plans
2. Plan Content
 - a. Reviews the state-mandated issues per §65451, including projected land uses, infrastructure identification, and implementation and financing programs
 - b. Reviews locally-required issues that must be addressed in each specific plan
 - c. Specifies the types of criteria (e.g., policy statements, regulations), standards, text and diagrams that must be included in each specific plan
3. Local Procedures
 - a. Enumerates the required submittals (i.e., legal description, maps, application form, environmental assessment information, etc.) and submittal specifications (i.e., maps sizes, etc.)
 - b. Enumerates locally-required studies or reports (i.e., economic impact study, market analysis, archeological survey, geologic report, etc.)
 - c. Describes the staff review procedure, including pre-filing conference (if applicable) and the initial staff review of the application
 - d. Defines the roles of the staff and the developer in planning and the related environmental review (i.e., who does what, how many copies of each document must be submitted for review, when does staff review the developer's work, etc.)
 - e. Reviews the CEQA/environmental review process and local CEQA guideline requirements, if any
 - f. Describes the hearing/public meeting process (i.e., public notice requirements, roles of the planning commission, advisory committee, and legislative body, projected number of hearings, etc.)
 - g. Enumerates the criteria by which the planning commission and legislative body will evaluate the proposed specific plan
 - h. Specifies the required method of plan adoption (i.e., by resolution, ordinance, or both)
 - i. Enumerates the required planning and processing fees
4. Plan Format
 - a. Presents an outline of how the specific plan is to be organized (e.g. the chapters containing policies, regulations, and other topics)
 - b. Establishes standards for the design and content of the plan's diagrams/maps
 - c. Establishes standards for the design and size of the plan and diagrams (i.e., loose-leaf, bound, type-written, size specifications, etc.)
 - d. Provides examples of acceptable format
5. Application Forms (attachments to the local guidelines)
 - a. Specific plan application form (contents based on local needs)
 - b. Environmental analysis form
 - c. Related application forms (i.e., rezoning, subdivision map, etc.)
 - d. List of fees

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<http://www.calapa.org>

California Environmental Resources Evaluation System (CERES), California Resources Agency:
<http://ceres.ca.gov>

Land Use Planning Information Network (LUPIN), California Resources Agency:
<http://ceres.ca.gov/planning/>