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IMPLEMENTATION

The Plan serves to implement the City's General Plan policies applicable to the Plan Area and provide for its orderly development. This chapter outlines the actions and methods to implement the Plan. Tentative tract maps and parcel maps, once recorded, shall establish the legal lots, public dedications, and easements within the Plan Area.

8.1) Methods

Development within the Plan Area will be implemented through the City approval of entitlements, including but not limited to, tentative and final tract maps and parcel maps and through the Development Plan Review process as established in the City of Madera Municipal Code.

The implementation process described herein provides the mechanisms for review and approval of development projects within the Plan Area.

8.2) Applicability

All development proposals within the Plan Area will be subject to the implementation procedures established herein and as described by *Table 8.1, Planning Permits and Actions*. Whenever the provisions and development standards contained herein conflict with those contained in the City of Madera Municipal Code, the provisions (standards and guidelines) of the Plan shall take precedence. In instances where the Plan is silent, the City of Madera Municipal Code shall apply.

8.3) Interpretation

Unless otherwise provided, any ambiguity concerning the content or application of the Plan shall be resolved by the City of Madera Planning Director, or designee, in a manner consistent with the goals, policies, purpose and intent established in this Plan. Any disagreement thereof can be appealed to the Planning Commission and City Council; or the Planning Director can refer the item directly to the City Council for interpretation.

8.4) Implementation of Design Guidelines

Adoption of the Plan by the City includes design guidelines, which shall be the design criteria by which development within the Plan Area is to be reviewed during the Plan's entitlement and development process. The design guidelines are advisory and intended to be flexible in nature while establishing basic evaluation criteria for the review of development projects as part of Development Plan Review and are in no way prescriptive.

8.5) Annexation and Rezoning

Annexation of the Plan Area into the City of Madera corporate boundaries is required. The Madera County Local Agency Formation Commission (LAFCO) shall review the Plan annexation application, including applicable property tax sharing agreement and map for consistency with their annexation procedures and policies. Rezoning of the Plan Area shall be consistent with the land use districts.

The Plan Area may be annexed into the City of Madera in a single phase.

8.6) Williamson Act Contracts

A portion of the Plan Area (parcels 0331-700-01, 0331-700-09, and 0331-700-05) are subject to an active Williamson Act contract. For development to occur, the contract will need to be cancelled or expire through the non-renewal process. Contract cancellation involves a comprehensive review and approval process, and the payment of fees by the landowner.

8.7) Development Review Process

8.7.1) Parcel and Subdivision Maps

Approval of tentative parcel and subdivision maps may occur concurrently with or subsequent to the adoption of the Plan. All tentative and final parcel and subdivision maps shall be reviewed and approved pursuant to applicable provisions of the City of Madera Subdivision Ordinance and consistent with the applicable provisions of the Land Use, Design Guidelines, and Development Regulations adopted as part of this Plan. This procedure is also depicted on *Table 8.1*. Additional lots may be added if overall map can be deemed to be in substantial compliance with original approved tentative map pursuant to subdivision map act.

8.7.2) Development Plan

All permitted uses proposed within the confines of the Plan Area shall be subject to the Development Plan Review process as established by this Chapter. Pursuant to these provisions, Development Plan Review constitutes a design review of architecture, site plans, and landscape plans, all of which shall be considered ministerial and not subject to additional CEQA analysis, with the implementation of the mitigation measures from the EIR. This procedure is also depicted on *Table 8.1*.

The development regulations and design guidelines contained within the Plan provide direction for the design of development projects within The Villages at Almond Grove. Where the Plan development regulations and design guidelines are silent, the applicable development regulations and design guidelines contained within the City's Municipal Code shall apply.

This procedure is also depicted on Table 8.1. Before approving a proposed development plan, the Director shall determine that the proposed activity:

1. Is in compliance with all applicable provisions of this Specific Plan, and any applicable City Municipal Code, City General Plan, all rules and regulations applicable to the proposed development; and
2. That facilities and improvements, vehicular and pedestrian ingress, egress, and internal circulation, location of structures, walls, landscaping are so arranged that traffic congestion is avoided, that pedestrian and vehicular safety are protected; and
3. That proposed lighting is so arranged as to deflect the light away from adjoining properties or public streets.
4. That approvals are consistent with this Specific Plan relating to traffic safety, street dedications and street improvements.

The design guidelines are advisory and intended to be flexible in nature while establishing basic evaluation criteria for the review of development projects by the City and are in no way prescriptive.

The development plan does not expire.

Other development proposals/planning permits within the Specific Plan shall be processed as follows:

Table 8.1 Planning Permits and Actions

Proposed Activity	Permit or Action Required	Type of Decision	Regulatory Source
Use-Only Proposals			
Establishment of a (P) Permitted use, not associated with new construction.	N/A – By-right	Ministerial	No planning/ discretionary review
Establishment of a (C) Conditional use	Conditional Use Permit	Discretionary Quasi-Judicial	§ 10-3.13 “Use Permits” of the Madera Municipal Code
Establishment of a Temporary use	Zoning Administrator Permit	Discretionary Quasi-Judicial	§ 10-3.417 “Zoning Administrator” of the Madera Municipal Code
Establishment of use which is not listed in the Specific Plan	Community Development Director’s Determination	Ministerial	SP Section 6.3

Table 8.1, Continued

Proposed Activity	Permit or Action Required	Type of Decision	Regulatory Source
Development Proposals			
Development of by-right use	Development Plan	Ministerial	SP Section 8.7
Request for relief from property development standards due to unique conditions in conjunction w/a Development Plan not considered a Minor Modification as described in this Specific Plan (SP 8.8.1)	Variance	Discretionary Quasi-Judicial	§ 10-3.14 "Variances" of the Madera Municipal Code
Minor Modifications that do not require a Specific Plan Amendment:			
<ul style="list-style-type: none"> Change in the provision of public infrastructure and facilities that do not impact the level of service utility and/or public service provide or affect the development capacity of the Plan Area. (City Engineer) 	Community Development Director's/ City Engineer Determination	Ministerial	SP Section 8.8.1
<ul style="list-style-type: none"> Change in roadway alignments or width based on economic and traffic considerations. (City Engineer) 	Community Development Director's/ City Engineer Determination	Ministerial	SP Section 8.8.1
<ul style="list-style-type: none"> Minor adjustment of land use boundaries or acreage, transfers of dwelling units and non-residential square footage within Neighborhoods (Tables 4.2, 4.3 and 4.4), and conversions from one land use designation to another. 	Community Development Director's/ City Engineer Determination	Ministerial	SP Section 8.8.1

Table 8.1, Continued

Proposed Activity	Permit or Action Required	Type of Decision	Regulatory Source
<ul style="list-style-type: none"> Minor changes or deviations to improve the feasibility of the design guidelines, which are intended to be advisory, and provide flexibility in implementation if it is determined that such changes or deviations achieve the design intent of the adopted Specific Plan. 	Community Development Director's/ City Engineer Determination	Ministerial	SP Section 8.8.1
<ul style="list-style-type: none"> Minor changes of up to ten percent (10%) of any quantifiable development standard or design guideline. 	Community Development Director's/ City Engineer Determination	Ministerial	SP Section 8.8.1
<ul style="list-style-type: none"> Other modifications of a similar nature to those listed above, which are deemed minor by the Community Development Director or his/her designee, which are in keeping with the purpose and intent of the approved Specific Plan and are in conformance with the General Plan. 	Community Development Director's/ City Engineer Determination	Ministerial	SP Section 8.8.1
<ul style="list-style-type: none"> Innovative development proposal which does not comply with the provisions of any district within this Specific Plan 	Conditional Use Permit	Discretionary Quasi-Judicial	§ 10-3.13 "Use Permits" of the Madera Municipal Code

Table 8.1, Continued

Proposed Activity	Permit or Action Required	Type of Decision	Regulatory Source
Other Proposals or Actions			
Minor changes to approved plans, consistent with original findings and conditions	Community Development Director’s Determination (see Minor Modification)	Ministerial	SP Section 8.8.1
Change to discretionary permit or change to approved plans that would affect findings or conditions	Amended Discretionary Permit (Conditional Use Permit, Variance)	Discretionary Quasi-Judicial	§ 10-3.417 “Zoning Administrator” of the Madera Municipal Code
Change of the Specific Plan land use district for a site not identified in the minor modification process	Specific Plan Amendment	Discretionary Legislative	SP Section 8.8.2 § 65453(a) of the Government Code; § 10-3.15 “Amendments” of the Madera Municipal Code
Large, multi-phase project which needs certainty regarding regulations over time in exchange for public benefits	Development Agreement	Discretionary Legislative	SP Section 8.7.3 Government Code § 65864 et seq.; § 10-3.17 “Development Agreements” of the Madera Municipal Code
Tentative Tract Map	Tentative Subdivision Map	Discretionary Legislative	SP Section 8.7.1 § 10-2.40 “Subdivision Maps (Five or More Parcels)” of the Madera Municipal Code

Table 8.1, Continued

Proposed Activity	Permit or Action Required	Type of Decision	Regulatory Source
Revision to tentative tract map that is in substantial conformance of tract map	Minor Amendment to Tentative Map (substantial compliance)	Ministerial	SP Section 8.7.1 § 10-2.402.9 "Amendments to Approved Tentative Maps" of the Madera Municipal Code except as noted in the above SP Section 8.7.1 and excluding subsection A(3)
Parcel Map	Tentative Parcel Map	Discretionary Quasi-Judicial	SP Section 8.7.1 § 10-2.50 "Subdivision Maps (Four or Less Parcels (or more as allowed by the Subdivision Map Act))" of the Madera Municipal Code

8.7.3) Development Agreement

Approval of statutory Development Agreements, is authorized pursuant to California Government Code Sections 65864 et seq. The Development Agreement will eliminate uncertainty in planning for and securing orderly development of the Plan Area, provide the certainty necessary for the developers to make significant investments in public infrastructure and other improvements, assure the timely installation of necessary improvements, provide public services appropriate to each stage of development, ensure the orderly build-out of the Plan Area consistent with market demand and provide significant permanent public benefits

In exchange for the permanent benefits to the City, the developers shall receive the assurance that they may proceed with developing the Plan Area in accordance with the existing land use ordinances, subject to the terms and conditions contained in the Agreement and to secure the benefits afforded the Developers by Government Code §65864. This procedure is also depicted on *Table 8.1*.

8.7.4) Residential Unit and Non-Residential Square Footage Transfers

The Plan provides development flexibility by permitting the transfer of the accounting of dwelling units and commercial/office square footage between like land use areas over the life of the Plan. Unused dwelling units or commercial/office square footage allocation in one land use area may be transferred into other like residential, or mixed-use or industrial planning area, respectively; provided, however, that the unit count and square footage don't exceed the overall Plan total.

Specifically, transfers of residential and non-residential units are permitted between neighborhoods as well as within development phases in the Plan Area as long as the overall number of units does not exceed the total Plan entitlement identified in this Plan (see *Table 4.1*). Additionally, the area density resulting from the unit transfers shall not exceed the maximum allowable density for each residential or nonresidential land use specified by the Plan land use districts.

Residential Unit transfers must be identified as part of the application package for a tentative parcel map, tentative subdivision map, Development Plan Review or Conditional Use Permit, whichever application type is applicable based on proposed development type. These Residential Unit Transfers are subject to the approval of the Community Development Director or his/her designee. The request for a unit transfer must identify the total number of units being adjusted, including a summary of the entire Plan Area (original adopted Plan allocations and proposed unit allocations).

Non-Residential Square Footage transfers must be identified as part of the application package submitted for a Development Plan Review or Conditional Use Permit; whichever application type is applicable based on proposed development type. A request for transfer of square footage is subject to the approval of the Community Development Director or his/her designee. The request for transfer of square footage must identify the total square footage being transferred, including a summary of the entire Plan Area (original adopted Plan allocations and proposed allocations).

In all cases, any alteration in development density must be in compliance with Airport Land Use Compatibility Plan guidelines. In addition, all property owners (of property where density is being transferred both to and from) must provide written agreement allowing the unit or square footage transfer as part of the applicable application packet. This procedure is also depicted on *Table 8.1*.

8.8) Plan Modifications and Amendments

8.8.1) Minor Modifications

This section sets forth the criteria and procedures governing minor modifications to the Plan including boundary and acreage adjustments, transfers of dwelling units and non-residential square footage within the Plan Area (*Tables 4.2, 4.3, 4.4 and 4.5*). These procedures are also depicted in *Table 8.1, Planning Permits and Actions*. Allowance of minor modifications provide flexibility in the development of the Plan Area. Flexibility is necessitated by refinements of the acreages in subsequent designs utilizing more detailed mapping and engineering. Precise land use area boundaries will be established by the recordation of each final parcel or subdivision map.

Any proposed minor revision to the Plan may, at the sole discretion of the Community Development Director or his/her designee, may be referred to the Planning Commission and City Council for action. Determination and actions by the Planning Director or his/her designee may be appealed to the Planning Commission.

The following constitute minor modifications to the Plan, do not require a specific plan amendment and are subject to review and approval by the Community Development Director or his/her designee so long as the maximum number of residential units or the maximum non-residential building square footage is not exceeded. If the Community Development Director or his/her designee determines that a proposed minor modification does not meet the below criteria, a Plan amendment shall be required.

- » Change in utility and/or public service provider.
- » Change in the provision of public infrastructure and facilities that do not impact the level of service utility and/or public service provide or affect the development capacity of the Plan Area.
- » Change in roadway alignments or width based on economic and traffic considerations.
- » Minor adjustment of land use boundaries or acreage, transfers of dwelling units and non-residential square footage within Neighborhoods (*Tables 4.3, 4.4 and 4.5*).
- » Minor changes or deviations to improve the feasibility of the design guidelines, which are intended to be advisory, and provide flexibility in implementation if it is determined that such changes or deviations achieve the design intent of the adopted Plan.
- » Minor changes of up to ten percent (10%) of any quantifiable development standard or design guideline.
- » Other modifications of a similar nature to those listed above, which are deemed minor by the Community Development Director or his/her designee, which are in keeping with the purpose and intent of the approved Plan and are in conformance with the General Plan.

The Plan Land Use District Plan (*Exhibit 4.1*) and Neighborhood Land Use Summaries (*Tables 4.2, 4.3, 4.4, and 4.5*) will serve as the record-keeping devices for the documentation of acreage adjustments, dwelling unit and non-residential building square footage transfers, and land use district conversions.

An updated Land Use District Plan and Land Use Summary reflecting revisions must be submitted to the City of Madera with each final subdivision map to be processed, or at such time as any of the adjustment, transfer, conversion or other minor modifications are implemented. This will ensure neither the maximum number of residential units nor the maximum non-residential building square footage are exceeded and are documented without amendment of the Plan.

8.8.2) Plan Amendments

Amendments to the Plan may be requested by an applicant or the City pursuant to Section 65453(a) of the Government Code when the minor modification process is not applicable. Amendments shall be processed pursuant to the provisions of the Government Code for Plan Amendments and the City's Municipal Code. This procedure is also depicted on *Table 8.1*.

8.9) Variances

Variances and Administrative Exceptions to the development regulations contained in the Plan with respect to landscaping, screening, site area, site dimensions, yards and projects into yards, heights of structures, distances between buildings, open space and off-street parking and loading shall be reviewed pursuant to the City of Madera Municipal Code. This procedure is also depicted on *Table 8.1*.

8.10) Conditional Use Permits and Permitted Uses

Uses specified as conditionally permitted uses within *Table 6.2* of Chapter 6, "Development Regulations," of the Plan shall be reviewed and approved by the City pursuant to the requirements of "Conditional Use Permits" of the Madera Municipal Code. This procedure is also depicted on *Table 8.1*.

Uses specified as Permitted uses within *Table 6.2* of Chapter 6, of the Plan are by-right uses and shall not be required to obtain additional discretionary approvals to develop.

8.11) Compliance with Mitigation Monitoring Plan

Certification of the Environmental Impact Report (EIR) prepared for The Villages at Almond Grove shall be required prior to approval of the Plan. Development within the Plan Area shall comply with all approved mitigation measures as described in the Mitigation Monitoring Program included as part of the Specific Plan EIR, and/or subsequent CEQA analysis, etc.

8.12) Phasing

The primary intent of the phasing of the Plan Area is to ensure that complete and adequate public facilities and services are in place and available to the Plan Area as development occurs. While no specific sequencing is prescribed by the Villages at Almond Grove Plan, sub-areas of development within the Plan are permitted and shall meet the following objectives:

- » Orderly build-out of the Plan Area based on market and economic conditions.
- » Provision of adequate infrastructure and public facilities as determined and deemed necessary by the City concurrent with development of each sub-area.
- » Protection of public health, safety and welfare.

Not all planned development within a given phase may be completed prior to the initiation of the next phase. In cases where development within a new phase is to begin prior to the completion of a phase in progress, all infrastructure improvements shall be funded and designed for the phase in progress before any new phase may begin.

8.13) Appeals

Appeals from any determination of the City Community Development Director or his/her designee, Zoning Administrator or the Planning Commission, may be made by any interested parties by filing an application on forms provided by the City of Madera and accompanied by the appropriate filing fee within ten (10) days following the final date of action for which an appeal is made. Appeals shall be processed consistent with the provisions of “Appeals” of the City of Madera Municipal Code.

8.14) Plan Financing

The Madera General Plan requires the preparation of a Public Facilities Financing Plan (PFFP) for all proposals seeking to annex property into the City limits for the purpose of new development. Pursuant to General Plan Policy LU-14, the PFFP is required to articulate the following components: (1) infrastructure requirements, (2) public facilities requirements, (3) costs associated with such requirements, (4) financing mechanisms, and (5) the feasibility of the financial burden. The PFFP for the Villages at Almond Grove is provided in Appendix B.

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THE VILLAGES AT
ALMOND GROVE
SPECIFIC PLAN

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