

6.0 IMPLEMENTATION

This chapter summarizes the development process for implementation of the West Ontario Commerce Center Specific Plan and provides for the orderly development of the Specific Plan area.

6.1 APPLICABILITY

The provisions, guidelines, and regulations contained within this Specific Plan provide the standards for land uses and development within the West Ontario Commerce Center. The Specific Plan supersedes the applicable development standards and regulations of the City of Ontario unless stated otherwise in this document. Whenever the provisions and development standards of the West Ontario Commerce Center Specific Plan conflict with those of the City of Ontario Development Code, the provisions of the Specific Plan shall take precedence. Where the Specific Plan is silent, the City of Ontario Development Code shall apply.

Definitions of Terms

The terms used within the West Ontario Commerce Center Specific Plan shall be the same as defined by the Ontario Development Code, unless otherwise noted.

6.2 SEVERABILITY

The West Ontario Commerce Center Specific Plan serves as the implementation tool for the City's Policy Plan (General Plan). In the event that any provision of this Specific Plan or its application to any person or circumstance is held to be invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed separate, distinct and independent, and shall not affect the validity of the remaining provisions of this Specific Plan or applications thereof, which can be implemented without the invalid provision or application.

6.3 INTERPRETATION

If an issue, condition, or situation occurs that is not sufficiently covered or provided for in this Specific Plan, those that are applicable for the most similar issue, condition, or situation shall be used. Unless otherwise provided, any ambiguity concerning the content or application of the Specific Plan shall be resolved by the Planning Director of the City of Ontario in a manner consistent with the goals, policies, objectives, and intent established in the West Ontario Commerce Center Specific Plan.

6.4 CONSISTENCY WITH OTHER PLANS AND REGULATIONS

Consistency with the Ontario Plan

No land use, activity, or facility shall be permitted that is inconsistent with the objectives, policies, general land uses, and programs of The Ontario Plan.

Consistency with Airport Land Use Compatibility Plans

Projects located within the West Ontario Commerce Center are subject to the restrictions and provisions of the Airport Land Use Compatibility Plans prepared for the Ontario International Airport and the Chino Airport.

California Building Code

Projects located within the West Ontario Commerce Center must comply with the State of California Building Code as adopted and implemented by the City.

CEQA

The City of Ontario is defined as the lead agency under the California Environmental Quality Act (CEQA) based upon its authority to approve the West Ontario Commerce Center Specific Plan. Concurrent with approval of this Specific Plan, the City Council will be required to certify the associated Environmental Impact Report (EIR), including a Mitigation Monitoring and Reporting Program to ensure that all approved EIR mitigation measures are implemented. The Planning Director shall be responsible for confirming that all applicable mitigation measures have been implemented in accordance with approved plans.

6.5 SPECIFIC PLAN REVISIONS

It is recognized that modifications to the text or exhibits of this Specific Plan may be warranted in the future to accommodate unforeseen conditions or events. Revisions shall be processed in a manner prescribed by the City of Ontario Planning Department pursuant to the provisions in this section.

Minor Modifications to the Specific Plan

Minor modifications to the West Ontario Commerce Center Specific Plan are processed administratively without the submission of a formal Specific Plan Amendment application and do not require a public hearing or review by the Planning Commission. The Planning Director of the City of Ontario shall have the authority to review and make a determination of approval, approval with conditions, or denial of a request for minor modification to the Specific Plan. The Director may, at his/her discretion, refer any such request to the Planning Commission or the City Council.

Minor modifications are defined as:

- ❖ Expansions or reductions to a Planning Area boundary or acreage, provided that the total acreage within each affected Planning Area is not modified by more than 20 percent.
- ❖ An increase in maximum building area for both single- and multi-tenant buildings of up to 20 percent, provided that the maximum square footage for the Planning Area established by this Specific Plan is not exceeded.

- ❖ A modification of up to 20 percent of the minimum lot area, minimum lot dimensions, or setback requirements for the Planning Area, if compatible with the surrounding land uses and consistent with overall design character of the West Ontario Commerce Center.
- ❖ Additions, deletions, or modifications to Table 4.1 Allowable Uses, which lists the permitted and conditionally permitted uses in the Planning Area.
- ❖ Minor modification of conceptual design criteria for architectural features and materials, landscape treatments, lighting, signage, and sustainable design strategies.
- ❖ Revisions to roadway alignment when the change results in centerline shift of less than 250 feet.
- ❖ Revisions to infrastructure facility sizing and precise location of dry utilities, water, sewer, and storm drainage improvements subject to approval of the City Engineer.
- ❖ Changes to the Phasing Plan, provided infrastructure is available to serve the phase as determined by the City Engineer.
- ❖ Revisions to exhibits in the Specific Plan that do not substantially change its intent or character.
- ❖ Modifications of a similar nature to those listed above, which are deemed minor by the Planning Director and conform to the purpose and intent of this Specific Plan and the Ontario Plan.

Specific Plan Amendments

Proposed changes to this Specific Plan that do meet the criteria for a Minor Modification shall be subject to a formal Specific Plan Amendment application process pursuant to Section 4.01.035 of the Ontario Development Code and California Government Code Section 65450, et seq.

In the event that the proposed amendment requires supplemental environmental analysis pursuant to the California Environmental Quality Act (CEQA), the applicant will adhere to the City's adopted procedures and CEQA Guidelines.

6.6 SUBDIVISION MAPS

Development within the West Ontario Commerce Center shall include the processing of tentative and final tract or parcel maps and/or lot line adjustments or mergers. All subdivision maps and lot mergers shall be reviewed and approved pursuant to Section 4.02.085 of the Ontario Development Code and all other applicable City codes and regulations, California Government Code Section 66410 et seq. (Subdivision Map Act) as well as the provisions of this Specific Plan.

6.7 DEVELOPMENT AND LAND USE REVIEW PROCEDURES

Development and land use review procedures for development within the West Ontario Commerce Center shall be provided in this Specific Plan and in accordance with the Ontario Development Code.

Development Plan Review

All development projects proposed for the West Ontario Commerce Center are subject to Development Plan review pursuant to Section 4.02.025 of the Ontario Development Code. The review is intended to ensure compliance with the provisions of this Specific Plan, protect the integrity and character of the physical fabric of the City, and encourage high quality development.

Conditional Use Permit

A Conditional Use Permit is required for any use deemed “conditionally permitted” in Table 4.1 (Allowable Uses). An application for a Conditional Use Permit shall be processed pursuant to Section 4.02.015 of the Ontario Development Code.

Administrative Use Permit

An Administrative Use Permit is required for any use deemed “administratively permitted” on Table 4.1 (Allowable Uses). An application for an Administrative Use Permit shall be processed pursuant to Section 4.03.015 of the Ontario Development Code.

Appeals

Appeals of any decision of the Development Advisory Board, Zoning Administrator, Planning Director or the Planning Commission regarding implementation of this Specific Plan may be made by the applicant or any other aggrieved party pursuant to Division 2.04 of the Ontario Development Code.

6.8 DEVELOPMENT AGREEMENT

A statutory development agreement authorized pursuant to California Government Code Sections 65864 et seq. is a required component of this Specific Plan. The Development Agreement shall include, but not be limited to, methods for financing, acquisition, and construction of necessary infrastructure. The Development Agreement shall be fully executed prior to recordation of the first Final Map.

6.9 SPECIFIC PLAN PHASING

Implementation of this Specific Plan shall occur in two phases, as outlined in Chapter 3 (3.8: Infrastructure Phasing Plan):

- ❖ Phase 1: Construction of the storage, warehousing, and industrial uses in Planning Area 2
- ❖ Phase 2: Construction of the business park uses in Planning Area 1.

These phases may be developed as subphases and may occur either sequentially or concurrently with one another.

All development phasing shall meet the following objectives:

- ❖ The orderly build-out of the project based upon market and economic conditions;
- ❖ The provision of adequate parking, infrastructure, and public facilities concurrent with the development of each phase;
- ❖ The protection of the public health, safety, and welfare.

In approving a modification to the Phasing Plan, the Planning Director shall make the following findings:

- ❖ The modification is consistent with the Policy Plan (General Plan);
- ❖ The modification will not adversely affect the implementation of the Specific Plan;
- ❖ The modification will not be detrimental to public health, safety, and general welfare; and
- ❖ The modification will not delay the construction of the master plan improvements necessary to serve the development.

6.10 FINANCING OF PUBLIC IMPROVEMENTS

The financing of the construction, operation, and maintenance of public infrastructure improvements, facilities, and services within the Specific Plan area shall be provided through a combination of mechanisms. Final determination of the scope of improvements, maintenance responsibilities, and funding sources shall be specified in the approved Development Agreement and executed prior to recordation of the first final map.

Financing options may include, but are not limited to, the following:

- ❖ Private capital investment by the project developer, the property owner(s), or a Property Owners Association.
- ❖ Private capital investment by a consortium of property owners and/or developers of the project and/or surrounding area.
- ❖ Community Facilities District (CFD) established pursuant to the Mello-Roos Community Facilities District Act of 1982, or other special district, to provide funding for the construction of public facilities or the provision of public services. City Council approval is a prerequisite for use of special district financing mechanisms.
- ❖ Development Impact Fee (DIF) credits to be applied for infrastructure completed by the project developer.
- ❖ Enhanced Infrastructure Financing District to fund infrastructure development through tax increment financing pursuant to Senate Bill 628.
- ❖ Community Revitalization and Investment Authorities (CRIA) to fund infrastructure development through tax increment financing pursuant to Assembly Bill 2.

6.11 MAINTENANCE PLAN

Final determination of maintenance responsibilities for the public and private improvements constructed within the West Ontario Commerce Center shall be specified in the approved Development Agreement and executed prior to recordation of the first Final Map. However, it is anticipated that maintenance shall be generally shared by three entities as described below and outlined in Table 6.1 Maintenance Responsibilities.

City of Ontario, Community Facilities District, Other Special District

The establishment of a community facilities district, landscape and lighting district, or other special district to fund the maintenance of public facilities shall be at the City's discretion. It is anticipated that public maintenance shall include the following:

- ❖ Right-of-way for public streets within the Specific Plan area (Merrill Avenue, Carpenter Avenue, Hellman Avenue, and Eucalyptus Avenue) shall be dedicated to the City of Ontario per the provisions of this Specific Plan (Chapter 3: Development Plan) and as approved by the City Engineer.
- ❖ Landscape improvements and public streetlights within the public right-of-way shall be maintained through a landscape and lighting district or other special maintenance district established by the City.
- ❖ All water, sewer, and storm drainage facilities located on-site shall be constructed by the developer and dedicated through easements to the City for maintenance purposes. However, the Property Owners Association shall maintain any permanent on-site water quality basins, trenches, swales and biotreatment filters required by the San Bernardino County MS4 Permit and Water Quality Management Plan. A new sewer trunk line to be constructed on Carpenter Avenue adjacent to the site's southwestern boundary may occur prior to development of the West Ontario Commerce Center Specific Plan as a continuation of neighboring development projects such as the Colony Commerce Center Specific Plan.
- ❖ The City shall maintain all off-site infrastructure improvements such as water, sewer, and storm drainage facilities.
- ❖ The City shall maintain any NPDES facilities located within the curb-to-curb area of all public streets. Operation and maintenance requirements for all NPDES stormwater runoff source control and treatment control Best Management Practices shall be identified in the approved Water Quality Management Plan for the project.

Property Owners Association

A Property Owners Association (POA) shall be established for the maintenance of common areas, including such improvements as landscape areas and private parking and drive aisles within the West Ontario Commerce Center. It is anticipated that improvements to be maintained by the POA would include the following:

- ❖ Driveways, sidewalks, and landscaping;

- ❖ All internal open spaces, common areas, parking lots, and walkways;
- ❖ Parkways and landscaped setbacks (behind the curb) of public streets
- ❖ NPDES facilities within landscape setbacks and onsite common areas;
- ❖ Property identification signage and architectural elements located within the landscaped buffer; and
- ❖ Fencing and walls, including graffiti removal.

Table 6.1: Maintenance Responsibilities

Area of Responsibility	City or Special District	Property Owners Association	Utility
Master Planned Roadways: Merrill Avenue, Eucalyptus Avenue, and Hellman Avenue			
Curb-to-curb improvements	◆		
Behind the curb improvements - Landscaping within the public right-of-way (parkways) and sidewalks	◆		
Carpenter Avenue			
Curb-to-curb improvements	◆		
Behind the curb improvements - Landscaping within the public right-of-way (parkways) and sidewalks		◆	
Other Improvements			
Traffic signals and traffic control signs on public streets	◆		
Street lights in the public right-of-way	◆		
Cucamonga Creek Channel Multi-Purpose Trail (off-site)	◆		
Drive aisles		◆	
Off-street parking areas (on-site)		◆	
Screen walls and fences		◆	
Common open space		◆	
Landscaping within setback/landscape buffer areas		◆	
Monument signage		◆	
Walls and fences		◆	
Stormwater drainage/water quality control facilities within the curb-to-curb area of all public streets	◆		
Stormwater drainage/water quality control facilities behind the curb		◆	
Water, recycled water, and sewer infrastructure in the public right-of-way	◆		
Dry utilities: electricity, natural gas, communication systems			◆

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