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IMPLEMENTATION

The Colony Commerce Center East Specific Plan serves to implement the City's Policy Plan policies applicable to the project site and provide for orderly development of the project site. Tentative tract maps and parcel maps, once approved, shall establish the legal lots, public dedications, and easements within for the project.

8.1 Methods and Interpretation

Development within the Colony Commerce Center East Specific Plan shall be implemented through the City approval of tentative and final tract maps and parcel maps and through the Development Plan Review process as established in the City of Ontario Development Code.

The implementation process described herein provides the mechanisms for review and approval of development projects within the Colony Commerce Center East.

8.2 Applicability

All development proposals within the project shall be subject to the implementation procedures established herein. Whenever the provisions and development standards contained herein conflict with those contained in the City of Ontario Development Code, the provisions of the Specific Plan shall take precedence.

In instances where the Specific Plan is silent, the City of Ontario Development Code shall prevail.

8.3 Interpretation

Unless otherwise provided, any ambiguity concerning the content or application of the Specific Plan shall be resolved by the City of Ontario Planning Director, or his/her designee, in a manner consistent with the goals, policies, purpose and intent established in this Specific Plan.

8.4 Implementation of Design Guidelines

Adoption of the Specific Plan by the City includes adoption of the design guidelines contained herein, which shall be the design criteria by which development within the project shall be reviewed during Development Plan Review. The design guidelines are intended to be flexible in nature while establishing basic evaluation criteria for the review of development projects as part of Development Plan Review.

8.5 Development Review Process

8.5.1 Subdivision Maps

Approval of tentative subdivision maps may occur concurrently with the adoption of the Specific Plan. All tentative and final subdivision maps shall be reviewed and approved pursuant to applicable provisions of the City of Ontario Subdivision Ordinance and consistent with the applicable provisions of the Land Use, Infrastructure, Design Guidelines, and Development Regulations adopted as part of this Specific Plan.

8.5.2 Development Plan

All development projects within the confines of the Colony Commerce Center East Specific Plan shall be subject to the Development Plan Review process as established in the City's Development Code. Pursuant to these provisions, Development Plan Review constitutes a design review of project architecture, site plans, landscape plans, and grading plans.

Adoption of the Specific Plan by the City includes adoption of the design guidelines contained within the Specific Plan which provide direction for the design of development projects within Colony Commerce Center East. Where the Specific Plan development regulations and design guidelines are silent, the applicable development regulations and design guidelines contained within the City's Development Code shall apply.

The design guidelines are intended to be flexible in nature while establishing basic evaluation criteria for the review of development projects by the City.

8.5.3 Development Agreement

Approval of statutory Development Agreements, per individual property owner, authorized pursuant to California Government Code Sections 65864 et seq., is required as part of the approval of the Specific Plan and prior to approval of the first Final Map.

The Development Agreements shall include, but not be limited to, methods for financing, acquisition, and construction of infrastructure. The Colony Commerce Center East Development Agreement shall be fully executed prior to the issuance of the first building permits for the project.

8.6 Specific Plan Modifications and Amendments

8.6.1 Minor Modifications

The following constitute minor modifications to the Specific Plan, and do not require a Specific Plan Amendment and are subject to review and approval by

the Planning Director. The Planning Director shall have the discretion to refer any such request for modification to the Planning Commission or the City Council.

- » Change in utility and/or public service provider.
- » Collector roadway alignment when the change results in a center line shift of less than 250 feet.
- » An increase of up to ten percent (10%) in square footage of floor area subject to approval of the Planning Director and agreement of the property owner, provided the total square footage of floor area number for the entire Specific Plan area does not exceed that established by this Specific Plan.
- » Adjustment of a Planning Area boundary or acreage designated for a Planning Area provided the total acreage of the affected planning area does not increase by more than ten percent (10%).
- » Minor changes to landscape materials, wall materials, wall alignment, entry design, and streetscape design which are consistent with the conceptual design set forth in the design guidelines contained within the Specific Plan.
- » Minor changes to the design guidelines, which are intended to be conceptual in nature, and are intended to be flexible in implementation.
- » Minor changes of up to ten percent (10%) of any quantifiable development standard or design guideline subject to approval of the Planning Director.
- » Other modifications of a similar nature to those listed above, which are deemed minor by the Planning Director, which are in keeping with the purpose and intent of the approved Specific Plan and which are in conformance with the Policy Plan.

8.6.2 Specific Plan Amendments

Amendments to the Specific Plan may be requested by the applicant or the City pursuant to Section 65453(a) of the Government Code. Amendments shall be processed pursuant to the provisions of the Government Code for Specific Plan Amendments.

In the event that the proposed amendment requires supplemental environmental analysis pursuant to the California Environmental Quality Act (CEQA), the applicant(s) is/are responsible for preparing the necessary CEQA documentation.

8.7 Variances

Variances and Administrative Exceptions to the development regulations contained in the Specific 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 “Variances and Administrative Exceptions” of the City of Ontario Development Code.

8.8 Conditional Use Permits

Uses specified as conditionally permitted uses within Table 6.2 of Chapter 6, “Development Regulations,” of the Specific Plan shall be reviewed and approved by the City pursuant to the requirements of “Conditional Use Permits” of the Ontario Development Code.

8.9 Compliance with Mitigation Monitoring Plan

Certification of an Environmental Impact Report (EIR) shall be required prior to approval of the Specific Plan. Development within the project site shall comply with all approved mitigation measures as described in the Mitigation Monitoring Program included as part of the EIR.

8.10 Project Phasing

Phasing of development within the Specific Plan shall meet the following objectives:

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

8.11 Infrastructure Phasing

Backbone infrastructure within the Colony Commerce Center East shall be installed by the project developer in accordance with this Specific Plan and the approved project Development Agreement or as approved by the City.

Grading and installation of infrastructure to serve Colony Commerce Center East is anticipated to be completed in two phases – Planning Area 1 and Planning Area 2 (Phase 1), then Planning Area 3 (Phase 2). These phases may be developed as subphases and may occur either sequentially or concurrently with one another.

8.12 Appeals

Appeals from any determination of the City Planning Director, Zoning Administrator or the Planning Commission, may be made by the applicant or any other aggrieved party by filing an application on forms provided by the City of Ontario 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 Ontario Development Code.

8.13 Project Financing

The financing of construction, operation, and maintenance of public improvements and facilities (the “facilities”), and public services shall include funding through a combination of financing mechanisms. Final determination as to the facilities to be constructed and as to maintenance responsibilities, whether publicly or privately maintained, shall be made prior to recordation of final maps.

In order to implement the project, financing options including, but not limited to, the following shall be considered:

8.13.1 Facilities and Services

- » Private capital investment for the construction of facilities.
- » 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 a variety of public facilities and the provision of public services.

8.13.2 Operation and Maintenance

- » By individual private property owner.
- » By private Property Owners Association.
- » By Community Facilities District (CFD) established pursuant to the Mello-Roos Community Facilities District Act of 1982, or other special district. City Council approval is a prerequisite for the implementation of any and all special district-financing mechanisms. The use of the Mello-Roos Community Facilities District Act of 1982 (the “Act”) to finance public facilities and services shall be at the City’s sole discretion. Moreover, the use of the Act shall be consistent with the City’s adopted goals and policies concerning the use of the Act.

8.14 Maintenance Plan

The public and private improvements constructed within Colony Commerce Center East shall be maintained through a combination of public and private entities as described in Table 8.1, “Maintenance Responsibilities.”

8.14.1 Public Maintenance

- » All Master Plan streets, and sidewalks serving the Planning Areas shall be dedicated as public streets to the City of Ontario.
- » Landscape improvements within the public right-of-way of Master Plan streets and public street lights within Colony Commerce Center East shall be maintained through a landscape and lighting district or other community financed district established by the City.
- » All on-site water, sewer, and storm drains within the public streets or easements dedicated to the City shall be constructed by the developer and, upon acceptance, shall be maintained by the City.
- » Off-site infrastructure improvements such as water, sewer and storm drain facilities shall be maintained by the City. Permanent on-site water quality basins, trenches, swales and biotreatment filters required by San Bernardino County MS4 Permit and Water Quality Management Plan and constructed within Colony Commerce Center East shall be maintained by the Property Owner’s Association in accordance with Table 8.1.

8.14.2 Property Owners Association

A Property Owners Association (POA) shall be established for the maintenance of common area landscape improvements and private roadways within areas of Colony Commerce Center East. Improvements to be maintained by the POA include:

- » Designated private drives, alleys, and adjacent landscaping.
- » Designated private streets and landscaping. During the course of maintenance of public utilities within public streets, private streets, private drive aisles, or alleys, the City will restore the streets to City standards for trench backfill, pavement repair, and hardscape or landscape, as applicable and to the original quality. Restoration of any enhancements above and beyond City standards, including but not limited to architectural paving, hardscape and landscape enhancements shall be the responsibility of the POA or other entity maintaining those enhancements.
- » Courts, parkways and landscaping within the industrial areas.
- » Parkway of Interior Local Streets including sidewalks, landscaping and street lights.
- » Maintenance of interior local street landscaping and associated architectural monument elements required to restore these areas to their condition as originally installed.
- » Internal slopes fronting streets and slope areas.
- » All internal open spaces, and common areas.
- » NPDES facilities within private streets and/or common areas.
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- » Any monument signs indentifying the Colony Commerce Center East specific plan site.

Table 8.1 Maintenance Responsibilities

| | City and/ or CFD | Private Owners Association | Utility Entity |
|--|---------------------|----------------------------------|-------------------|
| Master plan roadways (Archibald and Merrill Avenues) | ● | | |
| Interior (collector) public streets - curb-to-curb (primary entry streets, secondary entry streets) | ● | | |
| Interior private streets or drives (3) | | ● | |
| Traffic control signs | ● | | |
| Parkways and neighborhood edges of master plan roadways | ● | | |
| Off-site and on-site public water, sewer, and storm drain improvements (excluding laterals)(1) | ● | | |
| Community Trail (Cucamonga Creek) | ● | | |
| Front yard and all on-site landscaping and irrigation | | ● | |
| Private interior yard walls | | ● | |
| Project theme wall or fence | | ● | |
| Interior project graffiti removal | | ● | |
| Neighborhood edge on all non-master plan roadways(3) | | ● | |
| Parkways of all interior project streets (including landscaping, medians, and sidewalks)(2)(3) | | ● | |
| Monument signs within tract entry | | ● | |
| Electricity and natural gas | | | ● |
| Communications systems | | | ● |
| Police and Fire | ● | | |
| Fiber optic conduit (in Ontario Ranch streets) | ● | | |
| Fiber optic conduit (in-tract streets) | ● | | |
| NPDES facilities on private property | | ● | |

(1) Only those facilities in public roads or easements

(2) Only those facilities on private property

(3) Outside public right-of-way