

## 6. Administration and Implementation

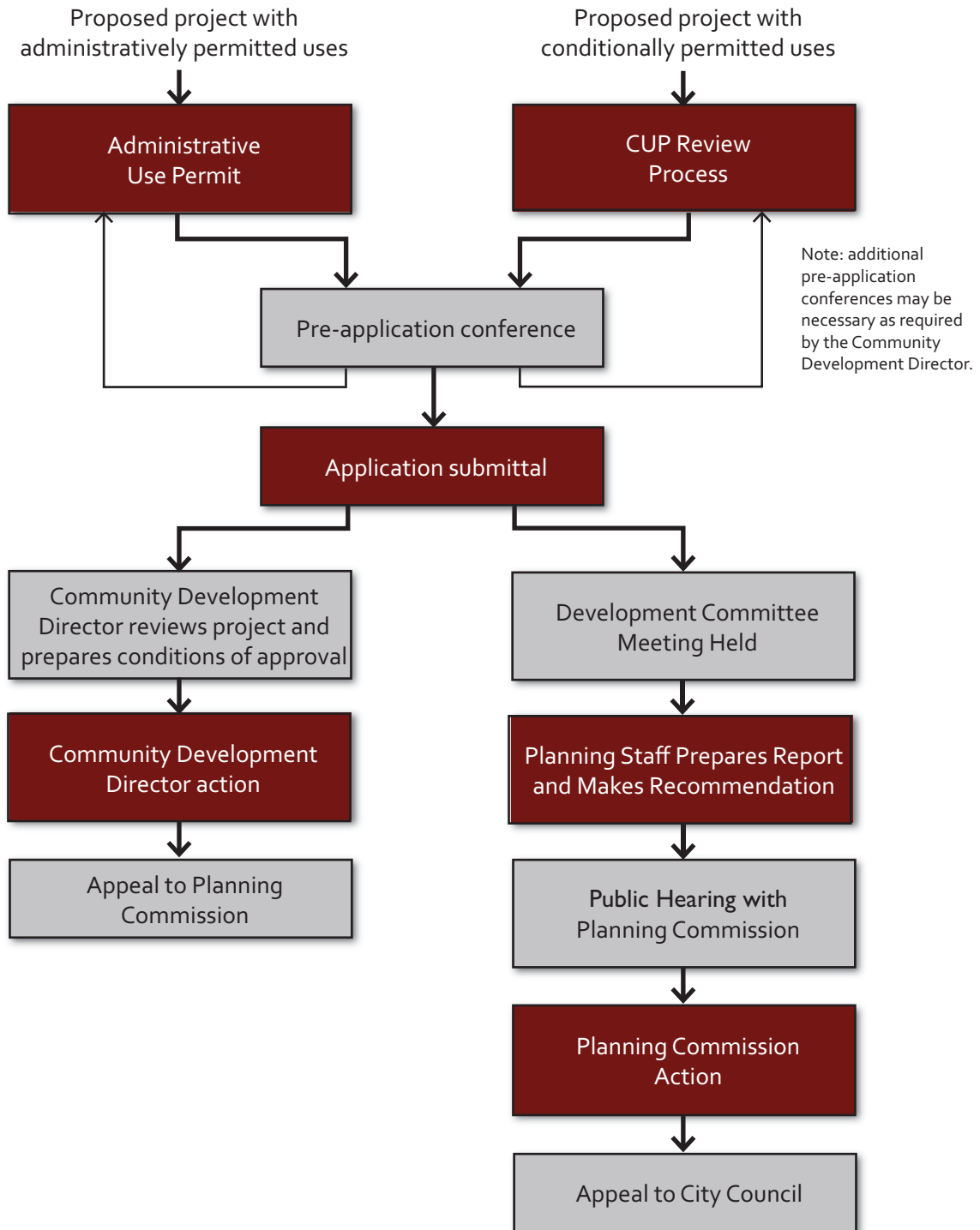
Projects proposed within the Moran Street Specific Plan project area may require the approval of discretionary entitlements or other implementation mechanisms during different phases of project buildout. This chapter outlines the procedures necessary to implement the provisions of the Specific Plan, and provides an overview of the mechanisms or actions that may be required throughout the process. In addition, Chapter 17.560 of the Westminster Zoning Ordinance provides procedures for preparing, processing, reviewing, adopting and amending the Specific Plan that apply to the Moran Street Specific Plan project area.

### Review Process

Proposed projects within Moran Street Specific Plan may apply for either Administrative Use Permit (AUP) for a permitted use that complies with intent and provisions of the Specific Plan, or a Conditional Use Permit (CUP) for a conditionally permitted use as identified in Table 4.3. Uses that are exempted from a land use permit requirements are listed in Chapter 17.110 of the Westminster Zoning Ordinance.

The AUP application may be acted upon by the Community Development Director, and the Conditional Use Permit (CUP) application must be acted upon by the Planning Commission. All new projects are required to conduct a pre-application conference with the Community Development Director, and also submit site plans, elevations, and landscape plans for approval through either the AUP or CUP processes. The flowchart in Figure 6.1 outlines the steps for each process:

**Figure 6.1 Review Process for Projects within the Moran Street Specific Plan**



### **Pre-Application Conference**

A pre-application conference with the Community Development Director or the Director's designee should be held before a proposed project can be submitted and accepted for processing. More than one such conference may be necessary.

### **Application Submittal**

Any new entitlement application within the project area is subject to the provisions of the Moran Street Specific Plan, in addition to the findings identified in Section 17.550.020, *Administrative and Conditional Use Permits*, of the Westminster Zoning Ordinance.

A Development Review application shall be submitted and processed for any project implementing (complying with) all the provisions of the Specific Plan. The Development Review application shall satisfy:

- 1) Policies, Standards and Guidelines of the Specific Plan;
- 2) Applicable provisions of Chapter 17.550 (Conditional Use Permit) regarding uses that are conditionally permitted;
- 3) Provisions of Title 16 of the Westminster Municipal Code if the subdivision of land or air space involves a tentative tract or parcel map.
- 4) Applicable provisions of the Westminster Zoning Ordinance where a topic is not covered here.

### **Administrative Amendments, Administrative Adjustments, and Specific Plan Amendments**

Approval of this Specific Plan indicates acceptance by the City Council of a general framework for community development. Part of that framework establishes specific development standards that constitute the zoning regulations for the Moran Street Specific Plan. It is anticipated that certain minor adjustments or modifications to the Specific Plan text, exhibits, and/or project may be necessary over the lifetime of the project. These modifications, should they occur, are divided into two categories: Administrative Amendments and Adjustments to the Specific Plan and Specific Plan Amendments.

## **Administrative Amendments**

Administrative Amendments allow for administrative approval and interpretation of minor modifications to the Specific Plan text, graphics, and/or project design that do not change the meaning or intent of the Specific Plan. The following are examples of issues that may be considered for Administrative Amendments:

- 1) Modification of design criteria such as paving treatments, architectural details, landscape treatments, sidewalks, fencing, lighting, and entry treatments.
- 2) Changes to the Conceptual Phasing Plan (pg. 6-8), provided infrastructure is available to serve the phase as determined by the City Engineer.
- 3) Modifications to Design Guidelines, such as variations of materials within the particular architectural style and minor variations in colors.
- 4) Revisions to graphics that do not substantially change the intent of the Moran Street Specific Plan.
- 5) Specific modifications of a similar nature to those listed above, which are deemed minor by the Director of Community Development, which are in keeping with the intent of the Specific Plan and which are in conformance with the General Plan.
- 6) Any other proposed changes that are determined by the Director of Community Development to be minor modifications.

## **Administrative Adjustments**

Through the Administrative Adjustment process, a project may be found to be consistent with the provisions of this Specific Plan and may be approved, conditionally approved or denied by the Director of Community Development without a public hearing. The Director of Community Development shall also have the discretion to refer any such request for an Administrative Adjustment to the Planning Commission. The following are examples of issues that may be considered for Administrative Adjustments:

- 1) Realignment or modifications of streets serving the project, lot lines, easement locations, and grading adjustments, if also approved by the City Engineer.
- 2) Minor changes to or substitutions of types of amenities provided so long as they are consistent with the overall intent of the Specific Plan.
- 3) Modifications to architecture, plotting, and unit size that have been previously reviewed and approved through the design review process.

## Specific Plan Amendments

If it is determined that a proposed project exceeds the flexibility, rules, and intent of the Specific Plan allowed through the Administrative Amendment or Administrative Adjustment process, an amendment to the Specific Plan would be necessary.

Specific Plan Amendments become necessary when events such as changes in the market that could not have been reasonably foreseen (new residential housing types or other features) and therefore necessitate significant changes to the specific plan provisions. Any modifications to the Specific Plan shall occur in accordance with the City's Specific Plan Amendment process (Chapter 17.560 of the Zoning Code) and are required to be reviewed for approval by the Planning Commission and the City Council. In all cases, Specific Plan Amendments must be found to be in conformance with the objectives and intent of the Moran Street Specific Plan.

## Non-Conforming Uses

The Moran Street Specific Plan area site is currently comprised of a mix of commercial and industrial development. Existing uses that do not comply with the provisions of this Specific Plan will be considered non-conforming. To contribute to the improvement of living conditions and economic vitality in this area, and to ensure that land uses are consistent with the goals, policies, and programs of the General Plan, the conditions and period under which nonconforming uses may continue is limited. Nonconforming uses shall be subject to the provisions of Section 17.610 of the Westminster Municipal Code, for the continuation or modification of, or additions and alterations of nonconforming uses and structures.

## Interpretation

In case of uncertainty or ambiguity to the meaning or intent of any provision of this Specific Plan, the Community Development Director (or the Director's designee) has the authority to interpret the intent of the provision. The Community Development Director has the authority to make interpretations and approve modifications to this Specific Plan. If it is determined that a proposed project exceeds the flexibility, rules, and intent of the Specific Plan allowed through the Administrative Amendment process, an amendment to the Specific Plan would be necessary.

The Director's determination shall be rendered within 15 working days of a request for interpretation. The Community Development Director may, at his/her discretion, refer interpretations to the Planning Commission for consideration and action. Such a referral shall be accompanied by an analysis of issues related to the interpretation. All interpretations made by the Community Development Director may be appealed to the Planning Commission, and subsequently the City Council, in accordance with the appeal procedures set forth in Section 17.64 of the City of Westminster Municipal Code.

## Severability

If any section, subsection, sentence, clause, or phrase of this Specific Plan, or future amendments or additions hereto, is for any reason held to be invalid or unconstitutional by the decision of any court, such decision shall not affect the validity of the remaining portions of the plan.

## Environmental Review

The California Environmental Quality Act (CEQA) was adopted to maintain the quality of California's environment. Its purpose is to inform decision makers, staff, and the public about the potential environmental impacts of development. Compliance with CEQA Statutes (Public Resources Code, Section 21000) and the CEQA Guidelines (California Code of Regulations, Title 14, Section 15000) requires that a project be evaluated for potential impacts before being approved. Adoption of a specific plan is a project subject to CEQA. CEQA Statute states "that the public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen the significant environmental effects of such projects." The purpose of an environmental impact report (EIR) is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided. (CEQA Statute § 21002, 12002.1).

Where a phased project is undertaken and where the project may have significant environmental effect, the Lead Agency shall prepare a program EIR for the ultimate project (CEQA Guidelines § 15165). A program EIR has been prepared for the Moran Street Specific Plan under a separate cover.

Once an EIR has been certified and the specific plan adopted, any development project, including any subdivision, or zone change that is undertaken to implement and is consistent with the specific plan is exempt from the requirements of CEQA, as long as subsequent projects are (1) within the scope of the program approved earlier, and (2) the program EIR adequately describes the activity for the purposes of CEQA (CEQA Guidelines § 15168).

Additional CEQA compliance is required if, after the adoption of the specific plan, one or more of the following events occurs: (a) Substantial changes are proposed

in the project which require major revisions to the EIR; (b) Substantial changes to the circumstances under which the project is being undertaken which require major revisions to the EIR; or (c) New information, which was not known and could not have been known at the time the EIR was certified, becomes available. If any of these events occur certification of a subsequent EIR, supplemental EIR, addendum to the EIR, or adoption of a negative declaration, is required depending on the environmental impacts identified.

## Implementation

Implementation of the Moran Street Specific Plan will require communication between the City and property owners to allow for redevelopment of existing land uses. Because several of the parcels in the project boundary are owned by different property owners who may have different plans for the future use of each individual site within the Specific Plan area, it is likely that development will occur in phases. To accommodate these factors, the following actions must be taken to facilitate implementation of the Specific Plan objectives:

- 1) Continue to encourage and collaborate with private property interests to implement the concepts and objectives of the Specific Plan.
- 2) Encourage property assembly between multiple property owners to facilitate larger-scale development and building footprints which are less likely to be achieved if parcels are developed independently.
- 3) Develop a strategy to complete curb, gutter and sidewalk improvements along the west side of Moran Street to improve pedestrian access and linkages within the project site and to the residential uses in the surrounding area.
- 4) Determine the nature and extent of the City's participation in new streetscape improvements and/or property assembly.
- 5) Establish a trip budget tracking system to insure that maximum trip count is observed as the Specific Plan builds out.
- 6) Condition projects within the Moran Street Specific Plan project areas to comply with the mitigation measures specified in the Environmental Impact Report.
- 7) Coordinate with Caltrans on all plans, activities, and projects that may affect CMP facilities.
- 8) Explore the possibility of creating a Business Improvement District (BID) for the upkeep, improvement, and enhancement of Moran Street and the surrounding area. The BID could also be used to facilitate activities in the Specific Plan project area that would benefit the community as a whole.
- 9) Explore opportunities to relocate OCFA Fire Station No. 66 to another location in the vicinity to maximize development potential in the Moran Street area and minimize conflicts with pedestrians and the station's ability to maintain adequate response times.

- 10) Evaluate the need for a Parking Management Plan (PMP) for the Moran Street Project area. The PMP could evaluate the demand for, and effectiveness of, paid parking, metered parking, surface parking and parking structures in addition to the application of shared parking practices.
- 11) Develop a strategy to underground existing above ground utilities located within the project area.
- 12) Create regulations or guidelines (as appropriate) to manage outdoor retail displays and kiosks. Mechanisms can be developed to address outdoor vendor licensing, inspections and permitting.

## Public and Private Improvements

Public and private improvements constructed within the Moran Street Specific Plan will be maintained through a combination of public and private entities, as described below. If roadways internal to the project remain under private ownership, then those roadways will be privately maintained by one or more of the owner associations.

- 1) All streets within the specific plan area that are dedicated as public streets to the City will be maintained by the City.
- 2) Landscape improvements within the public street rights-of-way and all public streetlights will be installed by the developer and maintained through a landscape and lighting district or some other special maintenance district established by the City.
- 3) Infrastructure improvements such as water, sewer, and storm drain facilities shall be the responsibility of the property owner.
- 4) On-site storm drains should connect to the existing public storm drain system at Bishop Place and Magnolia Avenue. This would require the construction of storm drain facilities under Bishop Place from the Specific Plan project area to Magnolia Avenue.
- 5) Off-site infrastructure improvements such as water, sewer, and storm drain facilities shall be constructed by the developer and maintained by the designated utility provider.

## Conceptual Phasing Plan

It is anticipated that redevelopment along the west side of Moran Street (primarily north of Plaza Way) will constitute the initial phase of redevelopment within the Specific Plan project area. The central area of the site (Planning Area A - Asian Garden Mall) will likely be the second phase, and the remaining commercial uses (Planning Areas C and D) will be the third phase as properties in this area slowly



change ownership over time. It is anticipated that completion of the latter two phases may take place as market forces dictate.

Right-of-way improvements along Moran Street shall be constructed during the first phase of development proposed within the Specific Plan. The City may enter into a reimbursement agreement with the first phase developer or may construct portions of the improvements itself.

## **Specific Plan Cost Recovery**

Pursuant to California Government Code Section 65456, after adopting a specific plan, a City 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 do not exceed the cost of preparation, adoption, and administration of the specific plan. The fee charged shall be a prorated amount in accordance with the applicant's relative benefit derived from the specific plan.

The City may, at some point in the future, put mechanisms in place to recover costs for the preparation and implementation of the Moran Street Specific Plan. This may be done by collecting appropriate fees as development occurs in the project area, or by cost-sharing with individual property owners or developers.

## **Shared Parking and Parking Management**

Shared parking may be employed within the Specific Plan area to provide parking for non-residential uses. If off-site parking or implementation of shared parking mechanisms are proposed, they shall be consistent with the Alternative Parking Provisions of the Westminster Zoning Code (Chapter 17.320.025).

Covenants, Conditions, and Restrictions (CC&Rs) for the Specific Plan site should address the shared nature of parking for the overall project. Mechanisms shall be instituted in the residential CC&R's that clearly define shared parking relationships and how the parking will be managed throughout the project.

Parking management will entail a combination of providing physical spaces for parking and managing those spaces so that they are properly allocated to and used by residents, visitors, and businesses. Parking management can help prevent situations such as permanent residents using guest parking spaces instead of the enclosed parking spaces allocated to them.

## Funding

Various techniques are available for financing the required improvements for The Moran Street Specific Plan project. A detailed financing plan should be prepared in order to successfully implement the improvements and programs proposed in the Specific Plan. Along with establishing specific goals and policies, the financing plan should analyze a series of methods to finance infrastructure and other improvements, recommend preferred alternatives, and develop a process for enacting financing methods. The appropriate mechanism for each particular improvement shall be tied to the phasing, established Conditions of Approval and site plan/design review approval. The following is a summary of possible methods that could be used to finance Specific Plan improvements.

## 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 (California Government Code Section 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. 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 with an associated development agreement would only be amended when corresponding changes are made to the agreement.

## Public Financing

Typically, financing of project improvements is based upon a combination of public and private methods. Public funds are used to finance community-wide public improvements such as urban arterial, major and collector streets, schools, parks, and other infrastructure elements. Private funds are generally used to finance facilities or infrastructure within the project boundaries that serve the commercial or residential uses proposed as part of the project development.

It is intended that public financing be used to fund infrastructure improvements through such mechanisms as Special Assessment Districts or Community Facilities Districts (CFDs). By using public conduit financing, no burden will be placed upon existing development within the City of Westminster to fund improvements in the Moran Street Specific Plan project area.

### MELLO-ROOS COMMUNITY FACILITIES DISTRICT (CFD)

A Mello-Roos Community Facilities District (CFD) may be created to fund infrastructure and other public improvements of a much broader type than those that can be funded by traditional Special Assessment Districts. Not only improvements that have direct benefit, but improvements that have general benefit such as schools, police stations, fire stations, and libraries can be constructed with proceeds from CFD bonds as well as streets, water lines, and other traditional types of public improvements.

Additionally, CFDs can be formed for the purpose of public facility maintenance. When a CFD is formed, bonds may be issued that are sold to private investors who purchase them for tax-free interest income. A CFD can be formed and either the property owners or registered voters (depending upon the type of CFD created) authorize bonds to be sold to generate capital for the initial infrastructure improvement costs. The money raised through the bond sale becomes the debt obligation of the CFD. That debt service on the bonds is repaid by the levy of a special tax on property within the CFD. Those bonds are sold to private investors who purchase them for tax-free interest income and the money raised through the bonds becomes a debt obligation of the CFD. The usual term for such bonds may run anywhere from 20 to 40 years.

### SPECIAL ASSESSMENT DISTRICT

A Special Assessment District is a type of benefit district that may be formed by the City to encompass a defined and limited geographic area. The City may form a Special Assessment District under one of several different statutory acts to construct public improvements such as streets, storm drains, sidewalks, streetlights, sewers, parks, landscape, and other similar capital facilities. The Special Assessment District can then issue bonds to finance those improvements and to levy a special assessment to pay debt service on those bonds.

A Special Assessment District may fund improvements within the entire Specific Plan area or within smaller Planning Areas in the Specific Plan where special improvements directly benefiting only certain property owners are constructed. Special Assessment Districts may only be used to pay for projects that are of specific and direct benefit to the property owner being assessed. The amount of the assessment must directly relate to the amount of benefit received by the property owner.

### TAX INCREMENT FINANCING

Tax increment is a method of financing available for redevelopment projects. When a property is located within a redevelopment area for which tax increment bonds are issued, a base property year is established by which the property tax levels are frozen at base year limits for distribution to the various public agencies entitled to receive property tax revenues. The spread between the subsequent additional tax revenues generated by increased property values due to redevelopment and the tax that would have been generated during the base year is the "tax increment" which can be used for redevelopment purpose to pay the debt service on the tax increment redevelopment bonds.

### LANDSCAPING AND LIGHTING DISTRICTS

Landscaping and Lighting Districts (LLD) may be used for installation, maintenance, and servicing of landscaping and lighting, through annual assessments on benefiting properties. LLDs also may provide for construction and maintenance of appurtenant features, including curbs, gutters, walls, sidewalks or paving, and irrigation or drainage facilities. They also may be used to fund and maintain parks above normal park standards maintained from general fund revenues.