

RESOLUTION NO. 2009-14

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE DENYING
A CONDITIONAL USE PERMIT FOR THE GURU NANAK DARBAR CHURCH
PROJECT NO. EG-08-015 ASSESSOR PARCEL NUMBER 127-0020-024**

WHEREAS, the Planning Division of the City of Elk Grove received an application on February 28, 2008 from Amar Mathfallu (the "Applicant") requesting a Conditional Use Permit for the Guru Nanak Darbar Church (the "Project"); and

WHEREAS, the proposed Project is located on real property in the incorporated portions of the City of Elk Grove at 9020 Campbell Road, more particularly described as APN 127-0020-024; and

WHEREAS, the development denied by this action is for a conditional use permit to allow a religious institution to operate within an existing single family residence; and

WHEREAS, the Planning Commission is the appropriate approving authority for a Conditional Use Permit; and

WHEREAS, on November 6, 2008, the Planning Commission held a duly noticed public hearing on the Project, as required by law, and considered all of the information presented by staff, all information presented by the project Applicant and proponent, all public testimony, and all written material presented by interested persons at or before the Planning Commission meeting; and

WHEREAS, on November 6, 2008, the Planning Commission denied the project; and

WHEREAS, the City Clerk received a Notice of Appeal on November 17, 2008, from Gil Albiani as the applicant's agent, requesting an appeal of the Planning Commission's denial of the Conditional Use Permit; and

WHEREAS, the City Council is the appropriate authority to hear and take action on an appeal of a Planning Commission decision; and

WHEREAS, pursuant to CEQA Guidelines §15270, CEQA does not apply to projects which a public agency disapproves; and

WHEREAS, on January 14, 2009, the City Council held a duly noticed public hearing as required by law to consider all of the information presented by staff, information presented by the project proponent, and public testimony presented in writing and at the meeting.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby denies the appeal and the Conditional Use Permit based on the following findings:

Findings

California Environmental Quality Act (CEQA)

Finding: This action is exempt from the California Environmental Quality Act ("CEQA").

Evidence: Pursuant to CEQA Guidelines Section 15270, projects which are disapproved are exempt from CEQA.

General Plan

Finding: The proposed Guru Nanak Darbar project is not consistent with the goals and policies of the Elk Grove General Plan.

Evidence: The General Plan designates this area of Elk Grove for rural residential development and uses and establishes the "Rural 'Sheldon' Area" as a policy area. Land Use Policy 18 states that land uses within the Sheldon area shall be consistent with the community's rural character. The proposed use of the residence is inconsistent with the General Plan in that increase in traffic, noise and activity in the area will detract from the existing character. Furthermore, the proposed use is allowed only with a conditional use permit. Because a conditional use permit is being denied, the proposed use would not be consistent with the Zoning Code or the General Plan.

Conditional Use Permit

Finding: Conditional use permits are quasi-judicial and shall be granted only when the Planning Commission determines that the proposed use or activity complies with all of the following findings.

- a. The proposed use is consistent with the General Plan and all applicable provisions of this Title.
- b. The establishment, maintenance or operation of the use applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood of such use, or the general welfare of the City.

The above findings cannot be made for this Project, and thus the conditional use permit is properly denied.

Evidence:

As noted above, the proposed Project is inconsistent with the General Plan. Additionally, for the reasons stated on the record at the Planning Commission hearing, the establishment, maintenance, or operation of the proposed Project will be detrimental to the health, safety, peace, comfort, and general welfare of persons residing in the neighborhood. For instance, this particular residence is located on a minimally improved road, which is less than standards and provides for no on-street parking. The use will cause an increase in traffic on the road and could create traffic hazards which may be detrimental to the safety, peace and comfort of the neighbors. The increase in

noise and activity at the project site may also impact the peace and comfort of the neighbors.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Elk Grove hereby recognizes and puts on notice all interested parties that judicial review of this decision is governed by California Code of Civil Procedure section 1094.6. Any action or lawsuit seeking judicial review of this decision must be commenced no later than ninety (90) days following the date of mailing of this decision, as indicated on the enclosed certificate of mailing. (See Cal. Code Civ. Proc. § 1094.6). The failure to commence an action or lawsuit seeking judicial review of this decision within that time period shall render this decision final and conclusive and will bar any further legal challenge to this decision. Other more restrictive timelines and legal limitations may apply.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 14th day of January, 2009.



PATRICK HUME, MAYOR of the
CITY OF ELK GROVE

ATTEST:



SUSAN J. BLACKSTON, CITY CLERK

APPROVED AS TO FORM:



SUSAN COCHRAN, CITY ATTORNEY

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2009-14**

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) **ss**
CITY OF ELK GROVE)

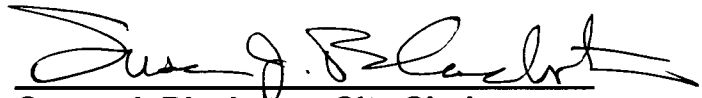
I, Susan J. Blackston, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on January 14, 2009 by the following vote:

AYES : COUNCILMEMBERS: *Hume, Scherman, Cooper, Davis, Detrick*

NOES: COUNCILMEMBERS: *None*

ABSTAIN : COUNCILMEMBERS: *None*

ABSENT: COUNCILMEMBERS: *None*



***Susan J. Blackston, City Clerk
City of Elk Grove, California***