

**ORDINANCE NO. 11-2019**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
AMENDING THE OLD TOWN SPECIAL PLANNING AREA AND REZONING  
CERTAIN PROPERTIES TO THE OLD TOWN SPECIAL PLANNING AREA**

**WHEREAS**, California Government Code Section 65300 requires the City adopt a comprehensive, long-term general plan for the physical development of the City; and

**WHEREAS**, Government Code Section 65860 requires that the city's zoning regulations be consistent with the General Plan and that in the event that zoning regulations become inconsistent with the general plan by reason of amendment to the General Plan, the zoning shall be amended so that it is consistent with the General Plan as amended; and

**WHEREAS**, the City is preparing a comprehensive update to its General Plan; and

**WHEREAS**, amendment to the City's Municipal Code, including its zoning regulations and zoning map, are necessary to provide consistency with the pending General Plan Update (referred to herein as the General Plan-Zoning Consistency Program); and

**WHEREAS**, the Old Town Elk Grove Special Planning Area (OTSPA) is part of the City's zoning regulations and incorporated by reference in EGMC Chapter 23.40 (Special Purpose Zoning Districts); and

**WHEREAS**, the specific properties identified by Assessor's Parcel Numbers 134-0050-035, -043, -049, -052, & -082; 134-0470-077 have been designated in the General Plan as Village Center Mixed Use and the current zoning of MP is inconsistent with this General Plan designation; and

**WHEREAS**, the City determined that the General Plan Update, including the General Plan-Zoning Consistency Program (also referred to herein as "Project") was a project requiring review pursuant to the California Environmental Quality Act (CEQA), Public Resources Code 21000 et seq. and that an Environmental Impact Report (EIR) shall be prepared to evaluate the potential environmental effects of the Project; and

**WHEREAS**, a Notice of Preparation was released for public and agency review and comment on June 23, 2017, for the General Plan Update Draft EIR, with the public review period starting June 23, 2017, and ending on July 24, 2017, and a public scoping meeting to receive comments on topics and issues which should be evaluated in the Draft EIR was held by the City on July 11, 2017; and

**WHEREAS**, upon receipt of the Notice of Preparation, the State Clearinghouse issued State Clearinghouse Number SCH#2017062058 for the Project; and

**WHEREAS**, the draft General Plan was released for public review on July 27, 2018, and was made available at City Hall, at the Elk Grove and Franklin Public Libraries, and on the City's website; and

**WHEREAS**, in accordance with Government Code Section 65352, the City referred the proposed draft General Plan to numerous agencies and entities and provided each with adequate time in which to comment on the draft General Plan; and

**WHEREAS**, the City distributed a Notice of Availability for the General Plan Update Draft EIR on July 27, 2018, which started a public review period, ending on September 26, 2018; and

**WHEREAS**, the Notice of Completion for the Draft EIR was also submitted to the State Clearinghouse for state agency review with Public Review Period starting July 27, 2018, and ending on September 26, 2018; and

**WHEREAS**, the City held a public meeting on September 13, 2018, to receive public comments on the Draft EIR and those comments were received and considered in the Final EIR; and

**WHEREAS**, the Draft EIR identified several significant and unavoidable environmental impacts of the General Plan. Approval of the General Plan therefore required the adoption of a Statement of Overriding Considerations by the City Council; and

**WHEREAS**, the Draft EIR identified several potentially significant impacts that will be reduced to insignificance with specific mitigation measures. Approval of the General Plan therefore required adoption of mitigation findings and a Mitigation Monitoring Program; and

**WHEREAS**, a Final EIR has been prepared, identifying an erratum of changes to the Draft EIR as a result of the public comments on the Project, the comments to the Draft EIR, and other revisions to the Project, as identified by the City; and

**WHEREAS**, the Draft and Final EIR, including the response to the public comments, reflects the City's independent judgment and analysis; and

**WHEREAS**, on January 17, 2019, the Planning Commission recommended to the City Council that the General Plan Update EIR should be certified and that Findings of Fact and Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program be adopted; and

**WHEREAS**, on February 27, 2019, the City Council considered the General Plan Update EIR and adopted a Resolution certifying the EIR and adopting Findings of Fact and Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program; and

**WHEREAS**, the Planning Commission held a duly-noticed public hearing on January 3, 2019 and February 7, 2019 as required by law to consider all of the information presented by staff and public testimony presented in writing and at the meeting and voted 4-0 (Spease abstain) to recommend approval to the City Council; and

**WHEREAS**, the City Council held a duly-noticed public hearing on March 13, 2019 as required by law to consider all of the information presented by staff and public testimony presented in writing and at the meeting.

**NOW, THEREFORE**, the City Council of the City of Elk Grove does hereby ordain as follows:

**Section 1: Purpose**

The purpose of this Ordinance is to rezone certain properties into the Old Town Special Planning Area and amend the Old Town Special Planning Area to include these properties for consistency with the General Plan.

**Section 2: Findings**

**California Environmental Quality Act (CEQA)**

**Finding:** The Environmental Impact Report has been prepared in accordance with the California Environmental Quality Act (CEQA) and it reflects the independent judgment and analysis of the City.

**Evidence:** Adoption of the General Plan Update requires an Environmental Impact Report (EIR).

The City prepared a Notice of Preparation (NOP) and circulated it to public agencies and interested parties (including the general public) on June 23, 2017, once a draft Vision and supporting principles and preferred land plan were identified by the City Council. The NOP provided an introduction to the Project. Comments on the scope of the EIR were requested by July 24, 2017, consistent with the requirements of the State CEQA Guidelines. Comments received on the NOP are included in the Draft EIR (Appendix B) and responses are provided in Chapter 1.

The Draft EIR has been prepared as a program EIR pursuant to CEQA Guidelines Section 15168. A Program EIR examines the environmental impacts of an overall area that may contain a series of subsequent projects. This type of EIR focuses on the changes in the environment that would result from implementation of the overall Project, including development of land uses and transportation systems identified in the Project, as well as other infrastructure required to serve the Project. The General Plan Update EIR will serve as the environmental review document for subsequent activities in the program. Consistent with CEQA Guidelines Section 15168(c), the City will review subsequent activities to determine whether the activity is within the scope of the Project covered by the Program EIR or whether an additional environmental document must be prepared.

The Draft EIR identified a range of potential impacts resulting from adoption of the General Plan. Some of these impacts are analyzed in comparison to existing plans and programs, including the existing General Plan. The impact areas come from the State's CEQA guidelines (the CEQA Checklist). Staff has also included pending changes to the CEQA Checklist, including the forthcoming revisions for Vehicle

Miles Traveled. This Draft EIR bridges the existing and forthcoming CEQA Checklist in order to provide coverage for future projects.

The EIR has identified the following environmental issue areas as having potentially significant environmental impacts from implementation of the Project:

- Aesthetics, Light, and Glare
- Agricultural Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology, Soils, Mineral Resources, and Paleontology
- Greenhouse Gas Emissions and Energy
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Noise
- Public Services and Recreation
- Public Utilities
- Transportation

Conclusions to the potential impacts are classified as either less than significant, less than significant after incorporation of mitigation measures, or significant and unavoidable. Significant and unavoidable impacts do not limit the City's ability to approve a project. Rather, given CEQA's role in providing disclosure of potential impacts, the City may approve a project with significant impacts that cannot be mitigated to a less than significant level. CEQA Guidelines Section 15093 states that "CEQA requires the [City] to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered 'acceptable.' When the [City] approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the [City] shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record." A statement of overriding considerations is necessary to approve the General Plan Update.

On July 27, 2018, concurrent with the public availability of the draft General Plan, the City released the Draft EIR. The Draft EIR was made available for public review and comment on the City's website, at City Hall, and at the Elk Grove and Franklin libraries for a period of 60 days. Public comments on the Draft EIR were due to the City on September 26, 2018. A total of 17 comment letters were received. Responses to these comments have been prepared by staff and are included in the Final EIR.

The Final EIR also includes an erratum of changes to the Draft EIR as a result of the public comments on the Project, the comments to the Draft EIR, and other revisions

to the Project as identified by the City (the Planning Commission, staff). The Final EIR indicates that the modifications to the Project are minor in nature and do not cause any change in significant impacts that were analyzed in the Draft EIR

## **Rezoning**

**Finding:** The proposed zoning map amendment is consistent with the General Plan goals, policies, and implementation programs.

**Evidence:** Rezoning of the subject properties is necessary for consistency with the General Plan. The General Plan Land Use Map identifies the sites as Village Center Mixed Use, while the existing Zoning is MP. According to the General Plan-Zoning Consistency Table provided in the General Plan, the MP zone does not implement this designation and a rezoning is required. The City has determined that the appropriate rezoning is to the OTSPA, based upon the proximity of the site to the existing OTSPA, the historic nature of the properties, and the manner in which the existing OTSPA accommodates mixed use developments.

## **Special Planning Area Amendment**

**Finding:** The proposed special planning area is consistent with the goals, policies, and objectives of the General Plan.

**Evidence:** The proposed revisions to the OTSPA maintain consistency with the General Plan land use map by supporting the rezone of the subject properties to the OTSPA. The appropriate rezoning is to the OTSPA, based upon the proximity of the site to the existing OTSPA, the historic nature of the properties, and the manner in which the existing OTSPA accommodates mixed use developments. The revisions consist of updates to the map exhibits to show the location of the properties and clarifying the applicability of the development standards found in the OTSPA.

**Finding:** That the proposed special planning area meets the requirements set forth in this title.

**Evidence:** The revised OTSPA contains all of the components required in EGMC Section 23.16.100.D, including a list of permitted uses, development standards, other design requirements, and reasons for the establishment of the OTSPA.

**Finding:** That the proposed special planning area is needed because the project is not possible under the existing zoning requirements.

**Evidence:** The OTSPA was established to address unique issues with the site relative to the historic nature and conditions of Old Town Elk Grove, reflect the unique development pattern relative to other development in the City, and provide for mixed use development opportunities consistent with the historic development pattern. The proposed revisions further these objectives.

### Section 3: Action – Rezoning

The City of Elk Grove Zoning Map is amended as provided in Exhibit A, incorporated herein by this reference.

### Section 4: Action – Amendment to the Old Town Special Planning Area

The Old Town Special Planning Area is amended as provided in Exhibit B, incorporated herein by this reference.

### Section 5: No Mandatory Duty of Care.

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

### Section 6: Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

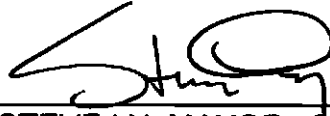
### Section 7: Savings Clause

The provisions of this ordinance shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and effect to all intents and purposes as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by said Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

### Section 8: Effective Date and Publication

This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).


**ORDINANCE:** 11-2019  
**INTRODUCED:** March 13, 2019  
**ADOPTED:** March 27, 2019  
**EFFECTIVE:** April 26, 2019



STEVE LY, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

  
JASON LINDGREN, CITY CLERK  
JONATHAN P. HOBBS,  
CITY ATTORNEY

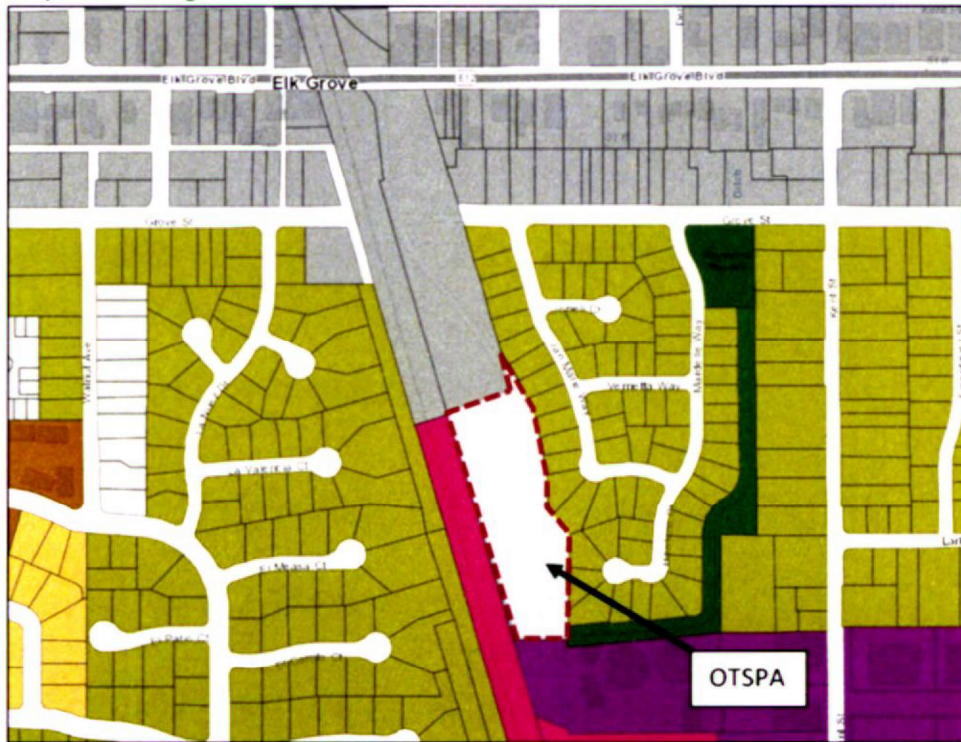
Date signed: April 1, 2019

# Exhibit A: Rezone Exhibit

## Existing Zoning



## Proposed Zoning





## Exhibit B: Revisions to the Old Town Special Planning Area

Proposed changes are shown in ~~strikeout~~ (for deleted text) and underline (for added text).

Figure 2, Land Use Zones, is amended to appear as follows:

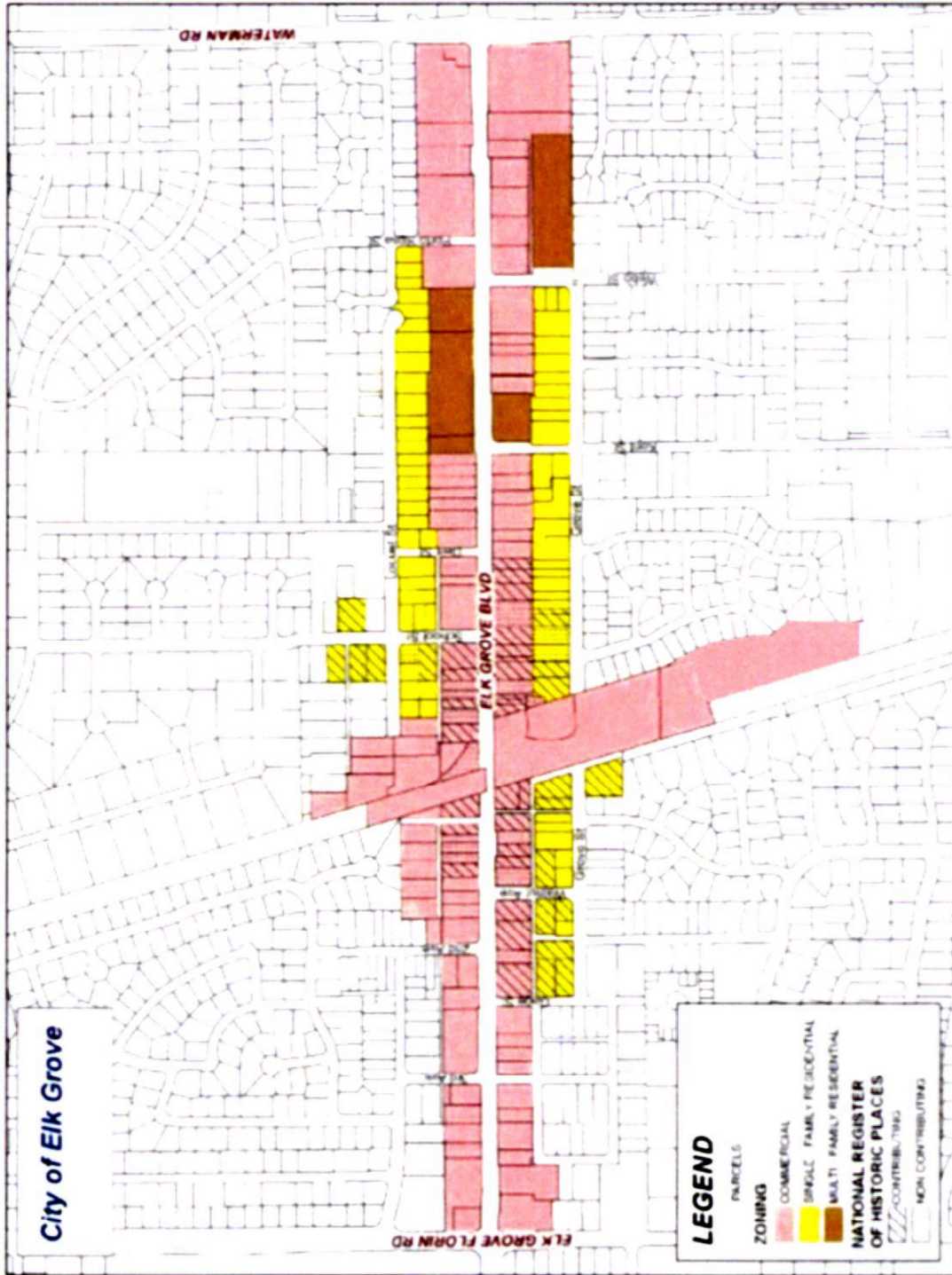


Table 3, Old Town SPA Building Setbacks, is amended to appear as follows:

**Table 3 – Old Town SPA Building Setbacks**

	<b>Non-Residential and Mixed Use</b>	<b>Single Family &amp; Duplex Residential</b>
Front Yard	≤ 7.5 <sup>1</sup>	Average of buildings on each side
Side yard – interior		
a. Historic Old Town <sup>2</sup>	0 <sup>3,4</sup>	5
b. West and East Old Town <sup>2</sup>	≤ 12 feet between buildings	5
Side yard – street side	≤ 7.5 <sup>5</sup>	12.5
Rear Yard	Average of rear yard setback provided for the buildings on each adjacent side	

**Notes:**

1. The front yard setback is equal to the distance between the back of the public right-of-way and the front face of the building wall or columns supporting a roof. Within the range of ≤ 7.5 feet, the front yard setback for individual projects shall result in a continuation of the street wall to the maximum extent feasible.

2. See Figure 22 for boundaries of "Historic Old Town" and "West & East Old Town".

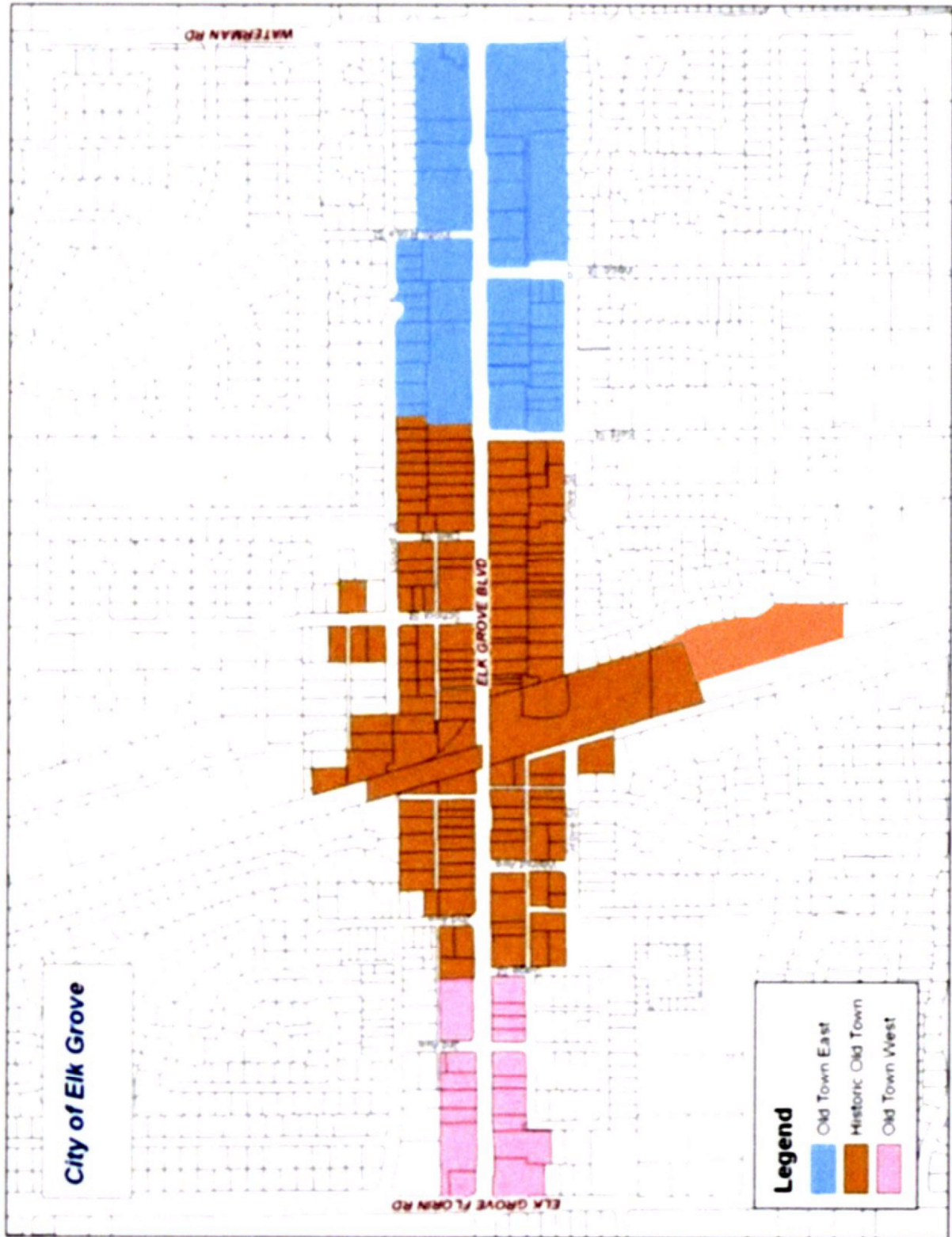
3. Pedestrian corridors ~~meeting the standards of the~~ in compliance with the Americans with Disability Act (ADA) and California Building Code (CBC) are encouraged to be provided shall be provided between Elk Grove Boulevard or other buildings or public rights-of-way and any off-street parking that is located behind buildings.

4. Vehicle alleys on Elk Grove Boulevard may be permitted if needed for access to off-street parking located behind buildings as approved by Public Works. Both pedestrian and vehicle alleys shall be on private property with an easement granted to the City.

5. Interior side yard setbacks are intended to reinforce historic development patterns. All new development must also comply with all applicable Building, Fire, and related codes in the design of structures.

6. All projects must provide the minimum visibility easement as defined by the Elk Grove Improvement Standards.

Figure 22, Architecture Districts, is amended to appear as follows:



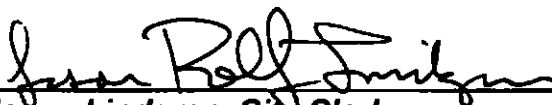
**CERTIFICATION  
ELK GROVE CITY COUNCIL ORDINANCE NO. 11-2019**

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

***I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing ordinance, published and posted in compliance with State law, was duly introduced on March 13, 2019 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on March 27, 2019 by the following vote:***

**AYES :                    COUNCILMEMBERS:    *Ly, Hume, Nguyen***  
**NOES:                    COUNCILMEMBERS:    *None***  
**ABSTAIN:                COUNCILMEMBERS:    *None***  
**ABSENT:                 COUNCILMEMBERS:    *Detrick, Suen***

***A summary of the ordinance was published pursuant to GC 36933(c) (1).***

  
**Jason Lindgren, City Clerk  
City of Elk Grove, California**