

ORDINANCE NO. 32-2014

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING THE ELK GROVE MUNICIPAL CODE FOR THREE PROJECTS (CAPITAL RESERVE, POPPY KEYS EAST, ZONING CODE UPDATE 3)

WHEREAS, the Planning Department of the City of Elk Grove received an application on March 17, 2014 from Pappas Arizona, LP (the "Applicant") requesting a General Plan Amendment, Rezone, Tentative Subdivision Map, and Design Review for Tentative Subdivision Map layout (the "Capital Reserve Project"); and

WHEREAS, the Planning Department of the City of Elk Grove received an application on September 6, 2013 from R&B (the "Applicant") requesting a General Plan Amendment, Specific Plan Amendment, Rezone, Tentative Subdivision Map, Abandonment of Excess Right-of-Way, and Design Review for Tentative Subdivision Map layout (the "Poppy Keys East Project"); and

WHEREAS, staff identified a series of amendments to the Elk Grove Municipal Code that need to be made, preparing them as the Zoning Code Update 3 Project; and

WHEREAS, the City Council previously considered the three above referenced projects under the California Environmental Quality Act (CEQA), finding as follows:

1. On December 10, 2014, the City Council adopted Resolution No. 2014-283, certifying a Subsequent Environmental Impact Report (SEIR) for the Capital Reserve Project (EG-14-008);
2. On December 10, 2014, the City Council adopted Resolution No. 2014-285, finding the Poppy Keys East Project (EG-13-052) exempt from the California Environmental Quality Act (CEQA) State CEQA Guidelines Section 15182 and Government Code Section 65457;
3. On August 27, 2014, the City Council adopted Resolution No. 2014-195, finding Zoning Code Update 3 exempt from CEQA pursuant to State CEQA Guidelines Section 15183(b)(3).

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 amend the Elk Grove Zoning Map to implement the goals, policies, and action items of the General Plan as it pertains to the three projects listed above.

Section 2: Findings – Capital Reserve

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: Development of this site with residential uses was previously analyzed under the 2014 General Plan Housing Element Update project Environmental Impact Report (EIR). That analysis considered the entire site being developed at a density of at least 21.0 dwelling units per acre. While the site was not included in the final list of sites for General Plan amendment and rezoning under the Housing Element project, the EIR was certified and provides a basis for analysis of the proposed Project. Pursuant to CEQA and the CEQA guidelines, City staff prepared a Draft Subsequent Environmental Impact Report (Draft SEIR) for the Project. The Draft SEIR analyzed potentially significant impacts in the following area:

- Cultural Resources

The Notice of Preparation (NOP) for the Draft SEIR, which initiated the environmental review process for the Project, was distributed to Responsible Agencies, interested parties, and the public on August 18, 2014. The 30-day NOP comment period was from August 22, 2014 through September 22, 2014.

The Notice of Availability (NOA) for the Draft SEIR was released October 3, 2014. The 45-day comment period ran from October 3, 2014 through November 17, 2014. The comment period allowed Responsible Agencies, interested parties, and the public to submit comments in regards to the adequacy of the Draft EIR. The NOA specified that comments regarding the Draft EIR would be accepted in writing to the Planning Department or at a public meeting, which was held October 30, 2014. No public comments were received at the meeting.

While the majority of potential environmental impacts associated with implementation of the Project would be less than significant or would be reduced to less than significant after imposing the mitigation measure identified in the DSEIR, one significant and unavoidable impact was identified relative to cultural resources. Specifically, the Project site represents the site of the original location of the town of Elk Grove. The site currently consists of buildings associated with the Howard Kirby Ranch and the Tribble Brothers Nursery. The analysis presented in the Draft SEIR concludes that while the existing structures on the Project site are not considered significant historical resources, the Project site itself does meet the criteria for a historic site. This would be a cumulatively considerable contribution to the cumulative impact on historic resources within the City and is therefore a significant and unavoidable impact.

The Draft SEIR also includes analysis for three alternatives to the Project. These are:

- Alternative 1 – No Project Alternative
- Alternative 2 – All Residential Alternative
- Alternative 3 – High-Density Residential Alternative

Alternative 1 is the environmentally superior alternative because the significant impacts associated with the Project are related to development of the site changing the historic context of the site. However, CEQA requires that when the environmentally superior alternative is the No Project Alternative, that an EIR identify the environmentally superior alternative among the other alternatives (CEQA Guidelines Section 15126.6(e)(2)). Alternative 2 (All Residential Alternative) is, therefore, the environmentally superior alternative because it would result in fewer automobile trips than the Project, which would result in proportionally fewer greenhouse gas and criteria air emissions and traffic-related noise.

General Plan Consistency – Rezoning

Finding: The proposed Rezone is consistent with the General Plan goals, policies, and implementation programs.

Evidence: The proposed Rezone is consistent with the proposed General Plan land use map, which would designate the Project site as Commercial, Medium Density Residential, Public Open Space/Recreation, and Private Streets, as provided in General Plan Policy LU-3. Additionally, the proposed Rezone does not alter the allowed intensity or density of development beyond that contemplated in the General Plan.

Section 3: Findings – Poppy Keys East

California Environmental Quality Act (CEQA)

Finding: The proposed Project is consistent with the previously approved Laguna Ridge Specific Plan project (EG-00-062) for which an Environmental Impact Report has been previously certified. Pursuant to Section 15182 (Residential Projects Pursuant to a Specific Plan) of Title 14 of the California Code of Regulations (California Environmental Quality Act (CEQA) Guidelines) and Government Code Section 65457, no further environmental review is required.

Evidence: The Laguna Ridge Specific Plan was approved and an Environmental Impact Report (EIR) (SCH 2000082139) certified by the City Council on June 16, 2004. In conjunction with the certification of the LRSP EIR, a Mitigation Monitoring and Reporting Program (MMRP) was adopted for the Specific Plan. The Project site was included in the analysis under the EIR.

State CEQA Guidelines (Title 14 of the California Code of Regulations) identifies a specific exemption for projects such as this proposal. Section 15182 of the Guidelines (Residential Projects Pursuant to a Specific Plan) exempts residential subdivision

projects that are consistent with an underlying specific plan for which an EIR has been certified. As identified in this staff report, the density, design, and infrastructure plan of the proposed subdivision is consistent with the adopted Specific Plan in that the level and intensity of the proposed development and the location of the development is consistent with the LRSP. No special circumstances or potential new impacts related to the project has been identified that would necessitate further environmental review beyond the impacts and issues already disclosed and analyzed in the LRSP EIR. The LRSP EIR adequately addressed environmental issues related to the development of the entire Specific Plan area, including the subject property. In addition, the Project is statutorily exempt pursuant to California Government Code Section 65457 because the Project is consistent with a specific plan for which an environmental impact report has been certified and is therefore exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code.

A condition of approval for the proposed Project is the recordation of the LRSP EIR MMRP on the property.

Consequently, pursuant to the State CEQA Guidelines, no further environmental review is required for this project.

General Plan Consistency – Rezoning

Finding: The proposed Zoning Amendment is consistent with the General Plan's goals, policies, and implementation programs.

Evidence: The proposed rezone consists of amending the City of Elk Grove Zoning Map by eliminating the RD-10 and RD-20 land use designations, and add a new designation of RD-5. The rezone is consistent with the proposed General Plan and LRSP land use designations that are proposed under the concurrent General Plan Amendment and Specific Plan Amendment. The Project implements the General Plan's policies and goals for orderly development that is supported by public infrastructure and services. The proposed rezoning meets all applicable development standards established in Elk Grove Municipal Code Title 23 Zoning.

Section 4: Findings – Zoning Code Update 3

California Environmental Quality Act (CEQA)

Finding: The proposed amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to the California Code of Regulations, Title 14, Chapter 3 (State CEQA Guidelines).

Evidence: The approval of these amendments does not approve any development project. The proposed General Plan amendments correct the zoning consistency table based upon prior Zoning Code edits include retitling two districts and eliminating one district. It also adds a specific reference to a zone consistent with an existing footnote. The proposed General Plan Map Amendments (1) reflect encumbrances by preservation easements and (2) provide a consistent General Plan designation across

an existing integrated development, providing for uniform development regulations. The proposed rezonings are being completed for consistency with the General Plan land use map and no specific development is being proposed. Subsequent development is subject to discretionary design review and/or use permit.

Each of these components, individually and cumulatively, does not result in the possibility of creating significant or cumulative effects on the environment. Future development under the proposed regulations would be subject to CEQA at that time, as those actions would be classified as "projects" under CEQA. Therefore, these changes are not subject to CEQA under the General Rule and no further environmental review is necessary.

General Plan Consistency – Rezoning

Finding: The proposed amendments to the Elk Grove Zoning Map are consistent with the General Plan goals, policies, and implementation programs.

Evidence: The proposed amendments to the Elk Grove Zoning Map are consistent with and implement General Plan Land Use Policy LU-3.

Section 5: Action – Capital Reserve

The Zoning Map for the City of Elk Grove is hereby amended for the Capital Reserve Project as provided in Exhibit A, incorporated herein by this reference.

Section 6: Action – Poppy Keys East

The Zoning Map for the City of Elk Grove is hereby amended for the Poppy Keys East Project as provided in Exhibit B, incorporated herein by this reference.

Section 7: Action – Zoning Code Update 3

The Zoning Map of the City of Elk Grove is hereby amended for the Zoning Code Update 3 Project as provided in Exhibit C, incorporated herein by this reference.

Section 8: 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 9: 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 10: 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 affect 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 11: 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: **32-2014**
INTRODUCED: December 10, 2014
ADOPTED: January 14, 2015
EFFECTIVE: February 13, 2015




GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

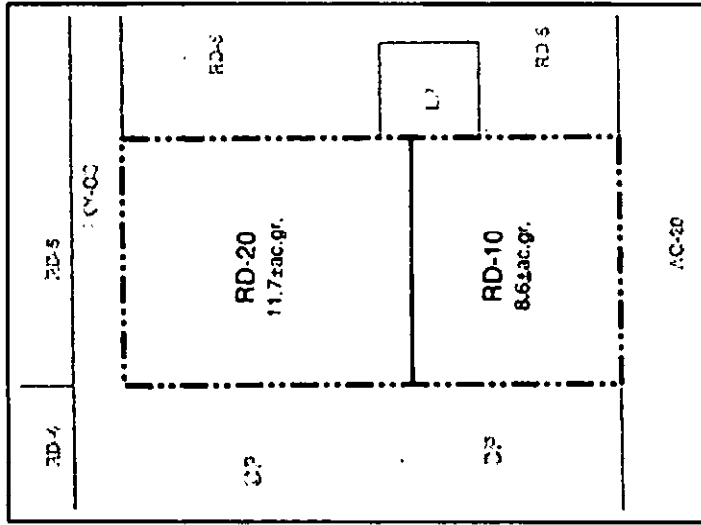
APPROVED AS TO FORM:



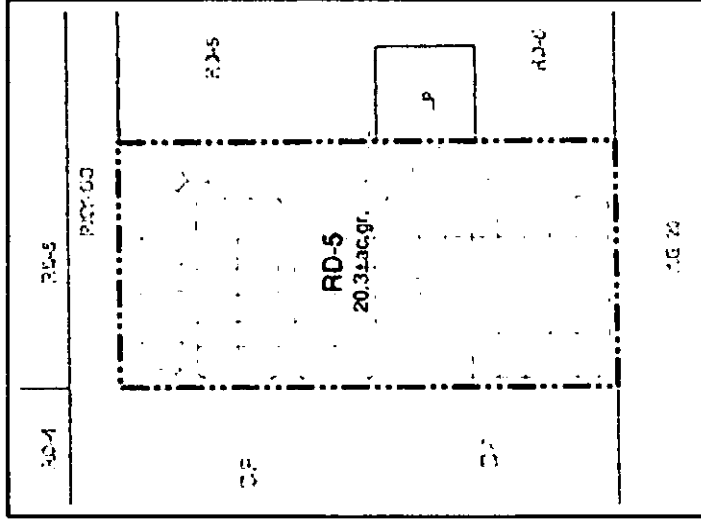
JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: January 22, 2015

Exhibit B
Poppy Keys East, APN: 132-0290-039



Existing

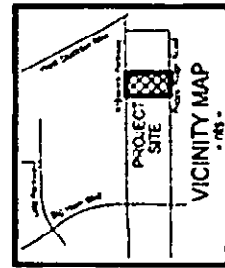
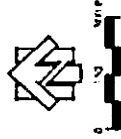


Proposed

**Specific Plan Amendment
 & Rezone Exhibit**

Poppy Keys East

Scale: 1"=500'
 Date: 10/23/14



**Exhibit C
Zoning Code Update 3**

The Zoning for the following properties shall be amended as follows:

Site	Site/APN	Existing Zoning	Proposed Zoning
1	119-1270-046	RD-20	O
2	119-0133-038	RD-5	O
3	119-0161-001, 014 & 015	RD-5	O
4	134-0050-047	HI	LI
5	134-0100-060*	HI	LI/HI
12	125-0010-003	RD-20	AC/O

* Portion, see figure below.

Location of Sites 1, 2



Location of Site 3



Location of, and Proposed Action for, Sites 4 & 5



Location of, and Proposed Zoning Action for, Site 12



**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 32-2014**

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 December 10, 2014 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on January 14, 2015 by the following vote:

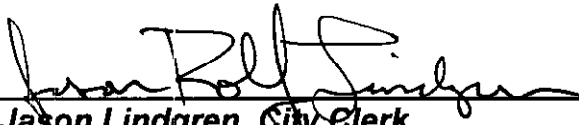
AYES : **COUNCILMEMBERS:** *Davis, Hume, Detrick, Ly, Suen*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN: **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *None*

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


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