

ORDINANCE NO. 09-2019

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
REZONING THE EAST FRANKLIN 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 East Franklin Specific Plan was first adopted by Sacramento County in 2000 and became a City Specific Plan upon incorporation; and

WHEREAS, most of the East Franklin Specific Plan area is developed, with major improvements contemplated in the Specific Plan having been completed; and

WHEREAS, as part of the City's General Plan-Zoning Consistency Program, the City has reviewed the status of the East Franklin Specific Plan and identified that repeal of the plan and rezoning of the area into an overlay district for purposes of maintaining development standards is appropriate; 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 adoption of a Statement of Overriding Considerations by the City Council prior to approval of the General; 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 the East Franklin Area in conjunction with the repeal of the East Franklin Specific 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

General Plan

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

Evidence: The City has determined that the East Franklin Specific Plan is no longer necessary and that it is in the best interest of the City to rezone the area to the appropriate base zoning districts. The text of the City's Municipal Code has been amended to incorporate the necessary development standards to support the area. Regulations relative to land use designations have been incorporated into the General Plan. These changes eliminate the need for the East Franklin Specific Plan.

The proposed rezoning of the East Franklin Area to the corresponding base zoning districts and corresponding overlay district is consistent with the General Plan Land Use Map. The densities and intensities are consistent with the corresponding General Plan Land Use Designations.

Section 3: Action – Rezoning

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

Section 4: Action – Amendment to Elk Grove Municipal Code Chapter 22.40

The listing of the East Franklin Specific Plan is hereby removed from Elk Grove Municipal Code Section 23.40.010.B (Designation), as provided in Ordinance No. 06-2019.

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 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 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: **09-2019**
INTRODUCED: March 13, 2019
ADOPTED: March 27, 2019
EFFECTIVE: April 26, 2019



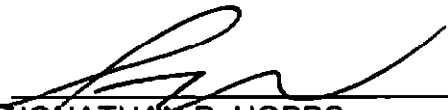
STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:



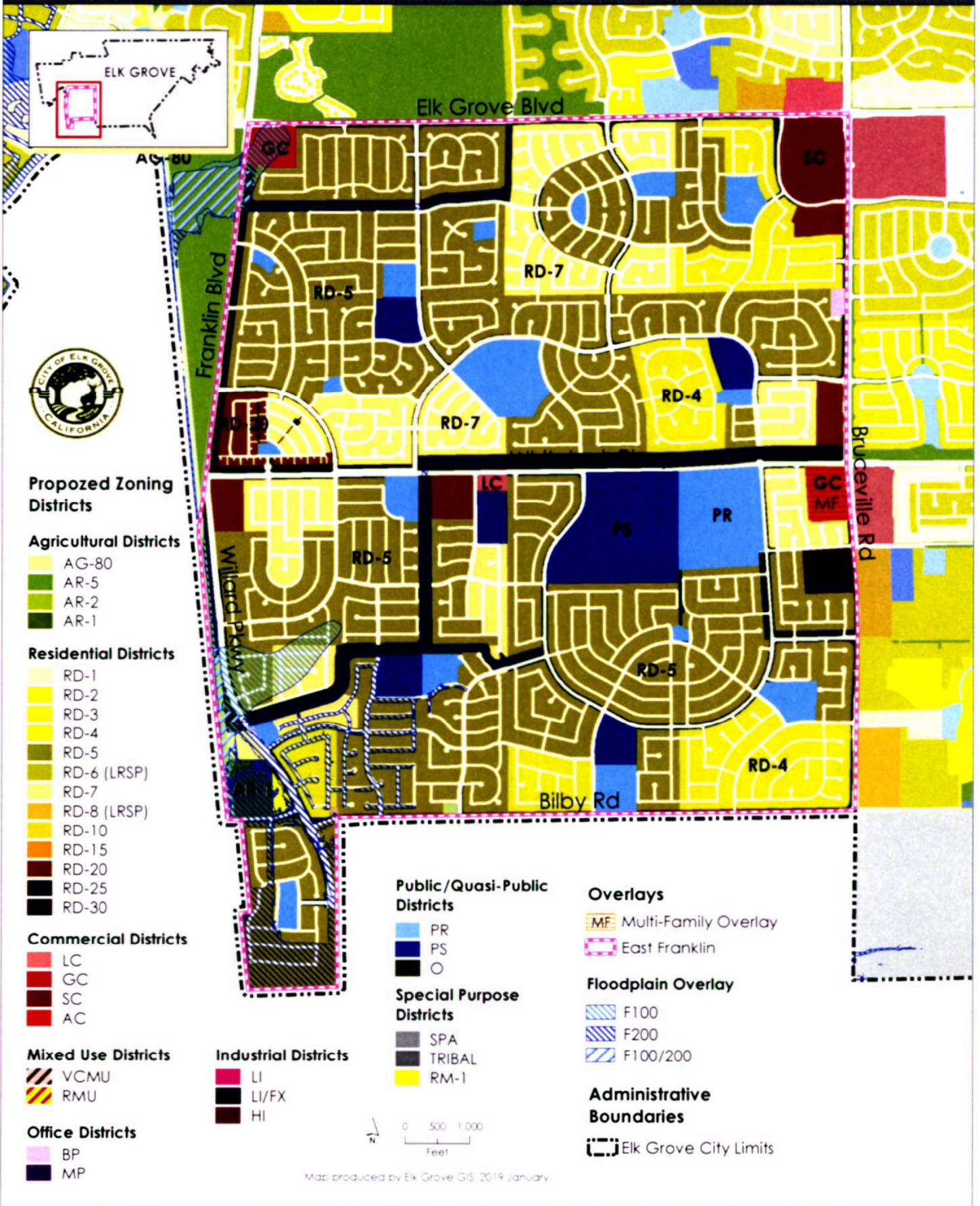
JASON LINDGREN, CITY CLERK



JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: April 1, 2019

East Franklin Specific Plan Area Rezone



**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 09-2019**

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:

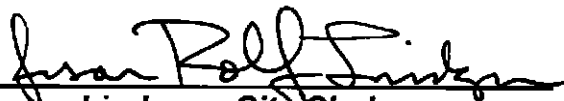
AYES : **COUNCILMEMBERS:** ***Ly, Hume, Nguyen***

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