

ORDINANCE NO. 01-2024

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE FINDING NO FURTHER ENVIRONMENTAL REVIEW IS NECESSARY FOR THE 8651 BADER ROAD PROJECT PURSUANT TO CEQA GUIDELINES SECTION 15183 (PROJECTS CONSISTENT WITH A COMMUNITY PLAN, GENERAL PLAN, OR ZONING) AND APPROVING A REZONE FOR THE 8651 BADER ROAD PROJECT (PLNG 21-010) ASSESSOR PARCEL NUMBER 122-0240-008

WHEREAS, the Development Services Department of the City of Elk Grove (the “City”) received an application on February 1, 2021, from CWE, Inc. (the “Applicant”) requesting a Rezone and Tentative Parcel Map for the 8651 Bader Road Map Project (the “Project”); and

WHEREAS, the proposed Project is located on real property in the incorporated portions of the City more particularly described as APN 122-0240-008; and

WHEREAS, the Development Services Department considered the Project request pursuant to the Elk Grove General Plan; the Elk Grove Municipal Code (EGMC) Title 22 (Land Development) and Title 23 (Zoning Code); and all other applicable state and local regulations; and

WHEREAS, the Planning Commission held a duly-noticed public hearing on December 7, 2023, as required by law to consider all of the information presented by staff, information presented by the Applicant, and public testimony presented in writing and at the meeting, and voted 4-0-1 (O’con Absent) to recommend approval of the Project to the City Council; and

WHEREAS, the City Council held a duly-noticed public hearing on January 10, 2024 as required by law to consider all of the information presented by staff, information presented by the Applicant, 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 amend the City of Elk Grove zoning map as described in Exhibit A and shown in Exhibit B of this Ordinance.

Section 2: Findings

This Ordinance is adopted based upon the following findings:

California Environmental Quality Act (CEQA)

Finding: No further environmental review is required for the Project under CEQA pursuant to State CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

Evidence: CEQA requires analysis of agency approvals of discretionary “projects.” A “project,” under CEQA, is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment” (State CEQA Guidelines Section 15378). The proposed Project is a project under CEQA.

State CEQA Guidelines Section 15183, provides that projects which are consistent with the development density established by a Community Plan, General Plan, or Zoning for which an environmental impact report (EIR) has been certified “shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site.” An EIR was prepared and certified by the City Council as part of the Elk Grove General Plan (SCH# 2017062058). The Project is subject to the General Plan’s Mitigation Monitoring and Reporting Program (MMRP).

The proposed Project is consistent with the development density established by the General Plan EIR because the parcel map will result in new parcels two acres or more in size at a density consistent with the Rural Residential range of 0.1 to 0.5 units per acre. While there is no physical construction proposed with this Application, the rezone could result in the development of at least three new single-family residential units. Any new construction will comply with the development standards provided in EGMC Section 23.29.020, and Section 16.44 (land grading and erosion control). In addition, as indicated in the project description, construction of the proposed Project shall conform to the City’s adopted Climate Action Plan (CAP) for green building, EV ready, and construction monitoring. Compliance with these standards has been included in the conditions of approval for the Project.

A small portion on the northeast corner of Parcel 4 is located in the FEMA 100-year floodplain. Even though there is no physical construction proposed with this Application, any future development of habitable space will need to be elevated at least one foot above the 100-year flood elevation. The flood drainage easement on the map will not have any significant effects on the project as development is still allowed but will need to follow the FEMA regulations if any habitable space is located in the 100-year floodplain. In addition, this easement will restrict development within the floodplain, which will also provide avoidance measurements to protect the nearby wetlands.

The General Plan EIR relies on Vehicle Miles Traveled (VMT) as a measure of transportation improvements. Pursuant to the Transportation Analysis Guidelines, projects resulting in less than 10 dwelling units are exempt. As the Project could result in at least three new dwelling units, the Project proposal is below the threshold for requiring further VMT analysis. The Applicant submitted a biological and aquatic resource assessment that included a site visit on May 5, 2021, which determined that the site could potentially provide a nesting habitat for special status birds even though none were observed during the site visit. Therefore, site development will require a pre-construction survey conducted by a qualified biologist no more than 15 days prior to the proposed activities. In addition, the site contains one short reach of wetland swale along the northeast property line (near Parcel 4). The Applicant provided written correspondence from the Sacramento Division of U.S. Army Corps of Engineers that there is no federally listed species on the site and no critical habitats that will be impacted by the Project. In addition, the wetland swale does not pond water and only conveys minor flows during wet periods. The wetland is not a suitable habitat for vernal pool species.

The Applicant provided a Cultural Resources Analysis from Peak and Associates for the site, which was peer reviewed by the City and it concluded that the Cultural Resources Analysis is consistent with the General Plan goals related to the protection of cultural and tribal resources. The implementation of the applicable conditions of approval will address the potential for encountering undiscovered cultural resources and tribal cultural resources as it requires that if cultural resources or tribal cultural resources are discovered during grading or construction activities, work shall halt immediately within 50 feet of the discovery, the Planning Division shall be notified, and a professional archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards in archaeology shall be retained to determine the significance of the discovery.

No additional impacts to on-site resources have been identified beyond what was envisioned in the General Plan EIR. Therefore, no further environmental analysis is required as the proposed Rezone and Tentative Parcel Map are consistent with the General Plan and Elk Grove Municipal Code.

Rezone

Finding #1: The proposed zoning amendment (text or map) is consistent with the General Plan goals, policies, and implementation programs.

Evidence: The Applicant is proposing to amend the zoning designation of the site from AR-5 to AR-2. The General Plan land use designation of Rural Residential (RR) will be retained. General Plan Consistency Matrix Table 3-1 indicates that the AR-2 zoning designation is consistent with the RR designation. The four new proposed parcel sizes, ranging from 2.3 to 3.6 acres, will be consistent with General Plan Rural Area Policy RA-1-1, which states that the City shall "ensure that new residential lots are no less than two acres in size." In addition, any new single-family home construction on the four parcels will be required to comply with the City's Climate Action Plan (CAP).

Section 3: Action

The City Council hereby approves the Rezone as described in Exhibit A and illustrated in Exhibit B, both attached and incorporated herein by this reference.

Section 4: 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 5: 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 6: 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 7: 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: **01-2024**
INTRODUCED: January 10, 2024
ADOPTED: January 24, 2024
EFFECTIVE: February 22, 2024


BOBBIE SINGH-ALLEN, MAYOR of the
CITY OF ELK GROVE

ATTEST:

JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:

JONATHAN P. HOBBS,
CITY ATTORNEY

DATE SIGNED: January 26, 2024

Exhibit A
8651 Bader Road Map Project (PLNG21-010)
Project Description

PROJECT DESCRIPTION

The 8651 Bader Road Map and Rezone Project consists of a Rezone to amend the zoning designation of ±10.47 gross acres from the Agricultural Residential-Minimum 5-acre (AR-5) designation to the Agricultural Residential-Minimum 2-acre (AR-2) designation and a Tentative Parcel Map (TPM) to subdivide one existing parcel into four parcels ranging in size from 2.3 to 3.6 acres. No new construction is proposed with this Project; however, any new home construction will be required to comply with the City's Climate Action Plan ("CAP") measures for new single-family dwelling construction.

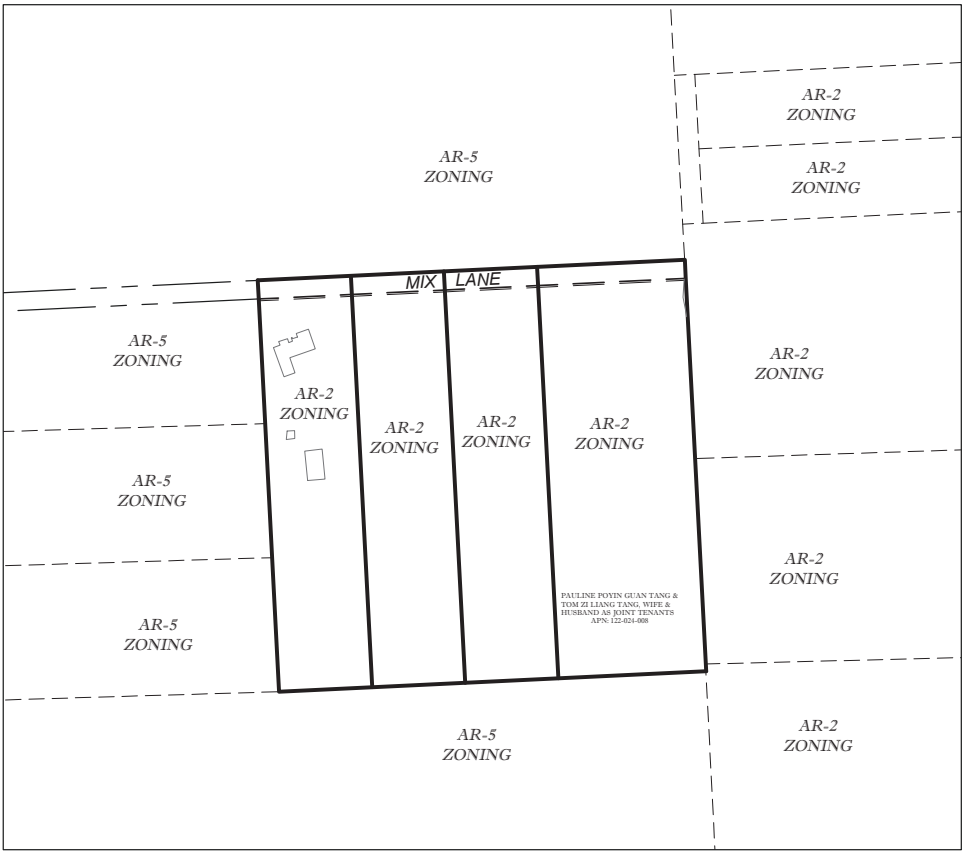
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EXHIBIT B
8651 Bader Road Map Project (PLNG21-010)
Rezone Exhibit

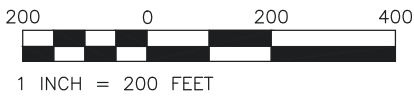
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EXISTING ZONING



PROPOSED ZONING



RFE ENGINEERING, INC
 Civil Engineers • Planners • Surveyors
 2260 Douglas Blvd., Suite 160, Roseville, CA 95661
 Ph: 916-772-7800 Fax: 916-772-7804
 www.RFEengineering.com

**REZONE
 EXHIBIT**

8651 BADER ROAD
 APN: 122-0240-008
 ELK GROVE, CALIFORNIA 95624

CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 01-2024

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 January 10, 2024, and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on January 24, 2024, by the following vote:

AYES: **COUNCILMEMBERS:** *Singh-Allen, Brewer, Robles, Spease, 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