

ORDINANCE NO. 48-2002

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING THE CITY OF ELK GROVE ZONING MAP FROM AG-80 TO RD-4, RD-5,
AND "O" ON ASSESSOR PARCEL NUMBER 132-0050-041, 132-0050-046 and 132-
0050-047, MACHADO DAIRY PROJECT NO. EG-01-237**

The City Council of the City of Elk Grove does ordain as follows:

Section 1: Purpose and Authority

The purpose of this Ordinance is to amend the City of Elk Grove Zoning Map as shown on attached Exhibit A.

Section 2: Findings

Finding: The proposal will not have a significant adverse impact on the environment and a Mitigated Negative Declaration has been prepared and completed in accordance with the California Environmental Quality Act (CEQA).

Evidence: An Initial Environmental Study was prepared for the proposed project and mitigation measures have been developed that will reduce potential environmental impacts to less than significant levels. On the basis of the Mitigated Negative Declaration, comments received, and the whole record, there is no substantial evidence that the project will have a significant adverse impact on the environment.

Finding: The City shall not approve any proposed development project unless the following findings are made, based on substantial evidence in the record:

- (a) There is a reasonable probability that the land use or action proposed will be consistent with the general plan proposal being considered or studied or which will be studied within a reasonable time.
- (b) The project is consistent with the latest version of the Draft Land Use Policy Map and any draft General Plan Elements which have been reviewed by the General Plan Advisory Committee as of the date on which the project is approved.
- (c) There is little or no probability of substantial detriment to or interference with the future adopted general plan if the proposed use or action is ultimately inconsistent with the plan.
- (d) The proposed use or action complies with all other applicable requirements of state law and local ordinances.

Evidence:

- (a) The proposed Elk Grove General Plan has acknowledged the East Franklin Specific Plan as a key component of the Draft General Plan Land Use Map. As such, any project proposed must be consistent with the Specific Plan and thus consistent with the proposed General Plan. The Machado Dairy project has been reviewed and is consistent with the land use densities and design within the East Franklin Specific Plan and subsequently the Elk Grove General Plan.
- (b) As stated above, the Specific Plan and the latest version of the adopted Draft Land Use Policy Map are consistent with one another. Any changes to the Draft Land Use Policy Map would cause a change to the Specific Plan in order to maintain consistency. The proposed Machado Dairy project is consistent with the policies and guidelines of the East Franklin Specific Plan and conditions of approval have been recommended for the project that are consistent with the draft policies of the Elements of the General Plan.

CAQ-9 of the draft general plan requires the preservation of all trees with a trunk diameter of 24 inches or more. The Machado Dairy project includes the removal of a large number of non native trees that meet this criteria. Staff has conducted numerous site visits and reviewed the health and aesthetic appeal of the trees. The trees on site are a mix of mulberry, willow, black walnut and some valley oak trees. The majority of these trees have not been maintained or thinned. The trees line the property boundaries and would not aesthetically benefit the development. The GPAC has directed staff to review several polices, including CAQ-9. The project is required to mitigate for the loss of oak trees and other landmark trees. This mitigation would be consistent with the direction provided by the draft general plan and ensure that trees that aesthetically improve the development would be incorporated into the design or mitigated for.

- (c) The project is consistent with existing land use entitlements required for this project by the East Franklin Specific Plan and Elk Grove General Plan. The project does not include a vesting development agreement, and would not be exempt from any future policies or goals of the adopted Elk Grove General Plan. The new General Plan would designate certain properties for multi-family development within the East Franklin Specific Plan to support the Housing Element; however, this project is not listed or designated for that land use category in either the General Plan or the Specific Plan.
- (d) The proposed project is requesting no amendments to the East Franklin Specific Plan and is consistent with the policies and development standards as listed in the Plan. The requested Williamson Act Contract Cancellation, Rezone and Tentative Subdivision Maps are consistent with state law and local ordinances as discussed by the following findings and evidence.

Finding: The proposed rezone is in the public interest. (Section 65358(a) of the Government Code and the Plan Administration Element of the Elk Grove General Plan).

Evidence: The City has reviewed the proposed rezone, staff report, and has received public testimony at a duly noticed public hearing regarding the matter. The applicant's proposal is consistent with the allowed density ranges and uses in the East Franklin Specific Plan, Elk Grove General Plan and Draft General Plan Land Use Map. The proposed amendment is consistent with the Plan's objectives of orderly and systematic development and responds to opportunities and constraints in the local community area.

Section 3: Action

The City Council hereby amends the City of Elk Grove Zoning Map as shown on attached Exhibit A, subject to approval of the General Plan Amendment for this project and subject to the findings contained in this Ordinance.

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.

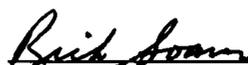
Section 5: Severability.

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: 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 15 days after its passage, a summary of the ordinance may be published at least five 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).

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 15TH day of January 2003.

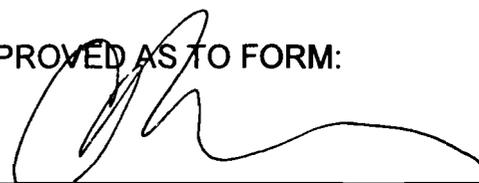


RICK SOARES, MAYOR of the
CITY OF ELK GROVE

ATTEST:



PEGGY Z JACKSON, CITY CLERK

APPROVED AS TO FORM:


ANTHONY B. MANZANETTI,
CITY ATTORNEY

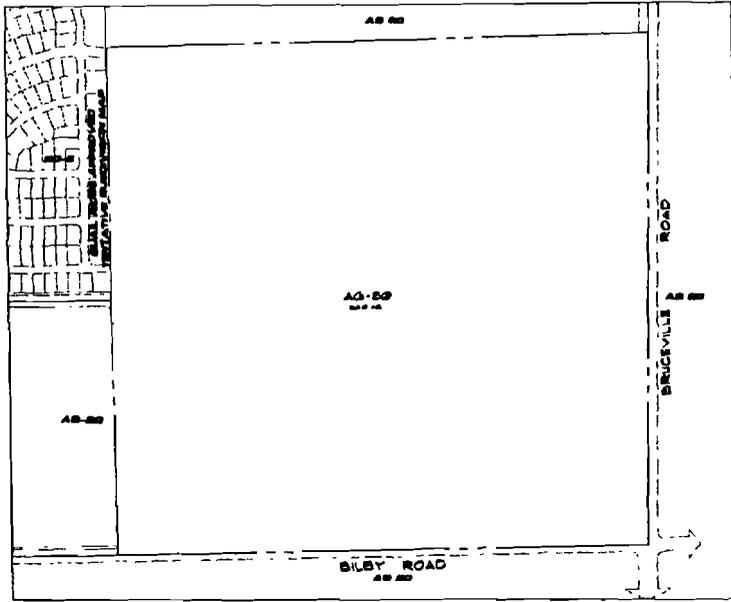
Effective Date: FEBRUARY 14, 2003

**AYES: Soares, Briggs, Cooper
Scherman, Leary**

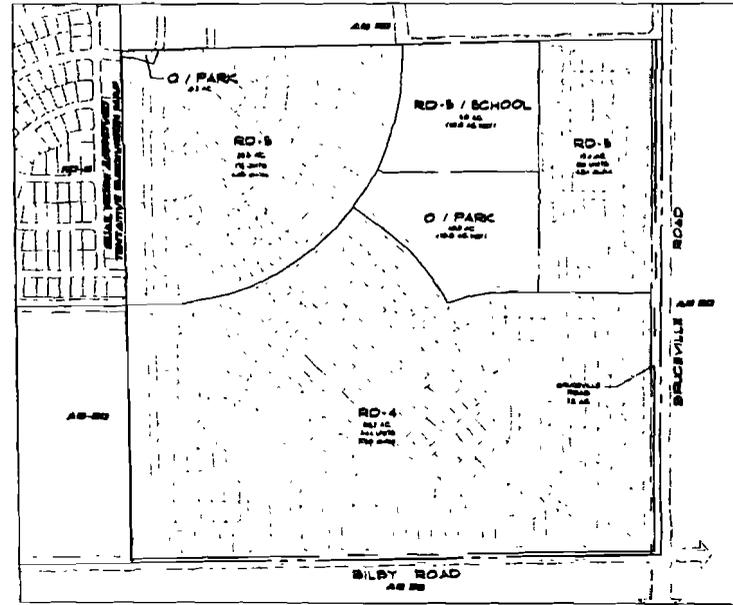
NOES: None

ABSTAIN: None

ABSENT: None



EXISTING ZONING



PROPOSED ZONING

GENERAL NOTES

OWNER:
 ANTHONY L. & BETH ANN MACHADO
 AND MARIE L. MACHADO TRUSTEE
 4820 BRUCEVILLE ROAD
 ELK GROVE CALIFORNIA 95758

APPLICANT:
 TONY GALLAGHER INC.
 3 PINELEAF COURT
 SACRAMENTO CA 95833

PLANNER:
 DONN C. REINER INC.
 8750 HOLADAY BOULEVARD SUITE 201
 SACRAMENTO CALIFORNIA 95826
 (916) 361-3495

ENGINEER:
 MACKAY & BOFFE CIVIL ENGINEERS
 1171 TRIBUTE ROAD SUITE E
 SACRAMENTO CA 95825
 (916) 379-8292

EXISTING USE:
 AGRICULTURAL/DAIRY

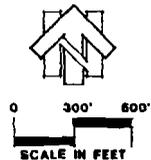
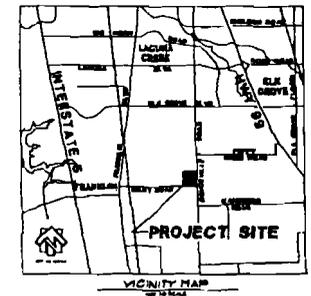
PROPOSED USE:
 SINGLE FAMILY RESIDENTIAL

EXISTING ZONING:
 AG-80

ASSESSOR PARCEL NUMBERS:
 APR 153-00950-041, 046, & 047

DESCRIPTION:
 THE SW 1/4 OF SECTION 10 T4N
 R2E E1/2S 17W

ZONING SUMMARY		EXISTING ZONING		PROPOSED ZONING			DIFFERENCE	
		AREA	UNITS	AREA	UNITS	DENSITY	AREA	UNITS
AG-80	AGRICULTURAL USES	166.0	1				(166.0)	(1)
RD-4	SINGLE FAMILY RESIDENTIAL (4 du/ac)	0.0		88.2	344	3.90 du/ac	88.2	344
RD-5	SINGLE FAMILY RESIDENTIAL (5 du/ac)	0.0		52.5	258	4.88 du/ac	52.5	258
RD-5 / SCHOOL	ELEMENTARY SCHOOL	0.0		11.0			11.0	
O / PARK	NEIGHBORHOOD PARK	0.0		10.8			10.8	
O / PARK	MINI PARK (PORTION)	0.0		0.2			0.2	
MAJOR ROADS	(BRUCEVILLE ROAD)	0.0		2.5			2.5	
		166.0 AC	0	166.0 AC	602		166.0	602



AMENDED

REZONE EXHIBIT

MACHADO DAIRY

CITY OF ELK GROVE, CA

FEBRUARY 10, 2002
 Revised 13-03-02

MACKAY & BOFFE
 CIVIL ENGINEERS, INC.
 SACRAMENTO, CALIFORNIA

DONN C. REINER, INC.
 CIVIL ENGINEERS, INC.
 SACRAMENTO, CALIFORNIA

EXHIBIT A