

ORDINANCE NO. 26-2003

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING ORDINANCE
SZC-97-0054, EXHIBIT B, CONDITION (b)4.J., LAGUNA VILLAGE,
PROJECT NO. EG-03-392**

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 Ordinance SZC-97-0054, Exhibit B, Condition (b)4.j. as shown on attached Exhibit A.

Section 2: Findings

CEQA

Finding: The Ordinance Amendment request will not have a significant effect on the environment because all potentially significant effects have been analyzed adequately in an earlier Environmental Impact Report pursuant to applicable standards and have been avoided or mitigated pursuant to that earlier Environmental Impact Report, including revisions or mitigation measures that are imposed upon the proposed project and the setting conditions have not changed since the initial adoption of the document.

Evidence: An Environmental Impact Report/Mitigation Monitoring Reporting Program (EIR/MMRP) was adopted by the County Board of Supervisors on December 17, 1997. The previously adopted EIR/MMRP reduced all potentially significant impacts to less than significant or no impacts with revisions or mitigation measures. The setting conditions for the project have not changed since the initial adoption of the environmental document.

General Plan

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 Land Use Map has identified the site to be commercial. An Ordinance Amendment to remove a square footage limitation and the requirement to provide a mix of uses would be consistent with the General Plan proposal being considered or studied or which will be studied within a reasonable time. The applicant is not requesting a rezone of any type that would be inconsistent with the General Plan.
- (b) The latest version of the adopted Draft Land Use Policy Map shows the site as being commercial, which is consistent with the current site conditions and the request to eliminate portion of a condition in the ordinance. The use of retail or office uses on the site would be permitted and would not conflict with any draft General Plan Element which has been reviewed.
- (c) The project is consistent with existing land use entitlements and the Elk Grove General Plan. The request would not be detrimental or interfere with the future adopted General Plan. As previously mentioned, the request is consistent with the General Plan. The property is not being rezoned and is already included on the Draft Land Use Policy Map as being commercial.
- (d) The request does not include any amendments or modifications to the Zoning Code. The request is consistent with any applicable state law and local ordinances as discussed by the findings and evidence.

Ordinance Amendment

Finding: The proposed amendment is consistent with the Elk Grove General Plan Designation.

Evidence: Although the proposed change is not what was written in the original Ordinance conditions, the site and the overall demand and conditions of the office market has changed since 1997. The market demands of the site are more retail oriented, with only a few office uses. The demand for office space has been slow within the Elk Grove area and office tenants generally prefer to be located in more office park type settings. Office park areas are being built along areas of Highway 99 and I-5 which will allow for office tenants when the demand for the Elk Grove area increases. The proposed change will not conflict with the General Plan or Zoning Code. The designation of the site on the Draft General Plan Policy Map is commercial and the zoning of the property is to remain Limited Commercial.

Section 3: Action

The City Council hereby approves the amendment to Ordinance SZC-97-0054, Exhibit B, Condition (b)4.j. as shown on attached Exhibit A, based on the findings contained in this Ordinance and the attached condition of approval Exhibit B.

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 20th day of August 2003.



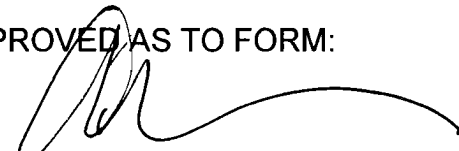
SOPHIA SCHERMAN, MAYOR of the
CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



ANTHONY B. MANZANETTI,
CITY ATTORNEY

Effective Date: September 19, 2003

AYES: Scherman, Soares, Cooper, Leary
NOES: None
ABSTAIN: None
ABSENT: Briggs

EXHIBIT "B"

(a) Street improvements and drainage facilities shall be of the type and shall be constructed and installed as specified below.

1. Dedicate right-of-way and install public Street improvements on Laguna Boulevard, Franklin Boulevard and Tegan Road to the satisfaction of the Public Works Agency. Tegan Road shall be constructed to a 50-foot right-of-way standard. The Laguna Boulevard and Franklin Boulevard rights-of-way, and all driveway locations shall be to the satisfaction of the Public Works Department.

(b) The additional conditions with which Owners shall comply, are as follows:

1. Zoning shall be in accordance with Exhibit "J", tentatively approved by the Board of Supervisors on December 3, 1997.
2. Permitted and conditionally permitted uses on the property shall be limited to those set forth in Attachment "F", which is attached hereto and incorporated herein as though set forth in full. Said limited uses shall be subject to all regulations and restrictions set forth in Sections 225-10 through 225-14 of Article 2 of the Sacramento County Zoning Code and any other ordinance(s) governing the described use.

An 'X' indicates the described use is permitted. A number indicates that the described use is permitted upon compliance with and maintenance of the special condition referenced by the corresponding number.

3. All driveways shall be a minimum 45 feet in width.
4. In conjunction with the issuance of building permits, final development plans shall be reviewed by the Planning Department during the plan check process to assure compliance with all ordinance requirements and the following:
 - a. Final development plans shall be in substantial compliance with Exhibits "K" (site plan), "L" (building elevations), "M" (color/material requirements) and "N" (wall/berm plan).
 - b. Prior to the issuance of building permits the Franklin-Laguna Community Planning Advisory Council shall formally review final development plans.
 - c. Incorporate existing trees into the project landscaping to the extent recommended by the retained certified arborist.

- d. Provide a letter from Elk Grove Police Department stating the plans have been designed to its safety specifications.
 - e. Structures located on the freestanding pads and freestanding sign(s) shall be architecturally compatible with the building elevations approved for the primary retail/office/child care center.
 - f. The overall project site shall be limited to two (2) freestanding signs.
 - g. Provide a minimum 10-foot wide landscape planter adjacent to the entire west property line. Within this planter, provide a dense evergreen screen tree buffer, planted with 24-inch box trees, that will sufficiently screen the commercial structures from the adjacent residential uses.
 - h. Provide clearly delineated pedestrian pathways throughout the project site, linking site access points with all internal structures.
 - i. The following street landscape corridor widths, with meandering sidewalks, shall be provided to the satisfaction of the Elk Grove Community Services District:
 - Laguna Boulevard: 30 feet
 - Franklin Boulevard: 25 feet or consistent with existing landscape corridor
 - Tegan Road: 25 feet
 - j. No single retail space shall exceed 16,000 square feet in area.
 - k. No loading docks shall be allowed.
 - l. All buildings constructed on the site shall be no greater than one story in height.
 - m. Only a daycare center or a one-story office building with ground level parking can be constructed on APN 119-0144-007.
5. All uses other than any fill-service restaurants or day care center shall operate from 6:00 a.m. to 11:00 p.m. Any full-service restaurant shall be allowed hours of operation between 6:00 a.m. and 11:00 p.m. Sunday through Thursday and 6:00 a.m. to 1:00 a.m. Friday and Saturday (no 24 hour operation). The day care center may start operations at 5:00 a.m.
6. No restaurants with drive-up windows shall be allowed on site.
7. A Transportation System Management (TSM) Plan shall be approved by the Planning Director that includes the following trip reduction measures:
- a. Designate at least 15% of the employee parking spaces for ridesharing vehicles. These spaces shall be located near building entrance(s), in shaded areas or in other preferential locations.
 - b. Designate an on-site transportation coordinator (OTC). The principal duties of the On-site Transportation Coordinator shall be as follows:
 - (1) Develop and maintain liaison with management and employees to help satisfy transportation needs.
 - (2) Coordinate and manage the various aspects of the TSM Plan. This requires periodic updating or monitoring of carpool and vanpool registration, parking

assignment and enforcement, and flextime work schedules.

(3) Provide employees with information and resource materials on the full range of transportation modes available, at least once per year. Employees shall be provided the following:

- information on how to form carpools or vanpools
- assistance with pooling information
- information on buspools
- information on park-and-ride locations
- bicycle commute and storage information

(4) Conduct an annual survey of employee transportation usage to determine work force commute characteristics. The result could be summarized and distributed to all interested parties. The OTC would use these results to evaluate the effectiveness of the transportation management plan and formulate new or revised strategies as required to further reduce overall project traffic generation.

(5) Ensure that best efforts are undertaken to reduce peak period employee commuter work trips to the site.

(6) Coordinate with Sacramento Rideshare to provide employees with carpool and vanpool matching services.

(7) Post informational materials in a conspicuous location, including introductory material on carpools, vanpools, buspools, how-to information on organizing pools; transit information for bus and light rail; and ridesharing matching information and resources.

c. Form an owner-tenant association (OTA) to facilitate implementation of the TSM. The OTA shall:

(1) Provide ongoing implementation of all TMP provisions.

(2) Provide guidance to the Transportation Coordinator, as to program needs and future plans.

(3) Provide funding to cover annual report fees and Transportation Coordinator function.

(4) Carry out annual report element of IMP and submit that information to the City Planning Department.

(5) Act as liaison between tenants and governmental agencies.

(6) Be a source from which commute alternative information can be obtained.

d. Prepare an Annual Report to be approved by the Planning Director. This annual report shall be carried out by the Transportation Coordinator as follows:

(1) Distribute to all tenants a commute survey with instructions, and collect and summarize the information on the Employer Commute Survey Summary form.

(2) Collect the completed Employer Commute Survey Summaries from each tenant and summarize that information on the TMP Annual Report Summary.

e. Type I bicycle lockers and Type II bicycle racks shall be provided for bicycle commuters. The number and location of the bicycle racks and lockers shall be consistent with the requirements of Zoning Code Section 330- 13 1(a).

8. To enhance Regional Transit service in the project, the existing bus stop along Laguna Boulevard shall be improved in conformance with City of Elk Grove Standard Drawings H-24 and H-24A. In lieu of this improvement a new bus stop may be constructed along the Laguna Boulevard or Franklin Boulevard frontages. A bus passenger shelter shall be included, if requested by RT. All work pertaining to bus stops shall be subject to approval by RT.

9. To reduce emissions of respirable particulate matter (PM10), all areas of active excavation, haul roads, and stockpiles of fine particulate matter shall be watered no less than twice daily. During hot or windy weather, additional watering shall be performed as necessary to minimize dust generation.

10. The design and construction of the project shall comply fully with the City's Land Grading and Erosion Control Ordinance. Source control measures on the improvement plans shall include provision of a permanent storm drain message,

"No Dumping - Flows to Creek" or other approved message at each storm drain inlet. Treatment control measures on either improvement and/or development plans shall include grass swales, filter strips, or other approved devices. The final design of the proposed source and treatment controls shall be approved by the Chief of Water Resources prior to the approval of improvement and/or development plans.

11. Subject to the review of a certified arborist, all healthy landmark trees shall be incorporated into the permanent landscaping of the project site. The certified arborist shall evaluate the landmark trees (19 inches DBH, or greater) within the project area and, based on their health and condition, determine the suitability of preserving each tree. Specific recommendations for pruning, irrigation, fertilization, and long-term care shall be provided for each tree. All recommendations shall be implemented as directed by the certified arborist.

If due to poor condition, a tree is determined unsuitable for preservation, the certified arborist shall provide a written statement describing the specific health and condition problem(s). This information shall be provided prior to the removal of any landmark trees from the property.

Those trees determined to be suitable for preservation shall be preserved and protected using the following measures:

a. Trees to be preserved shall be incorporated into the permanent landscaping of the property. The dimensions of the planters shall be sufficient to ensure long-term survival of the trees, and to protect the trees from vehicles. The final dimensions of the planters shall be determined by the

certified arborist.

- b. Physical disturbances (i.e., grading, filling, trenching, paving and equipment operation) within the tree driplines shall be minimized to ensure survival of the trees. The extent of disturbance within the driplines shall be determined by the certified arborist based on the health of the trees. No physical disturbances shall occur within five (5) feet of the root crown of any tree.
- c. All pruning shall be done by or under the direct supervision of a certified arborist, prior to the start of construction work.

All tree preservation measures shall be incorporated into an arborist's report. This report shall be submitted to the Planning Division for review and approval prior to beginning construction. Any deviation from the above measures will be subject to the approval of the Planning Division

- 12. All real property comprising the project shall be included within the boundaries of a Landscape & Lighting Assessment District (as defined in the Streets and Highway Code of the State of California, beginning at Sect. 22500 et seq). Prior to the City of Elk Grove issuing building permits, all property owners within the boundaries of the project shall execute and deliver to the Elk Grove Community Services District a written petition consenting to the formation of such an assessment district or the annexation to an existing assessment district; and the levying of annual assessment to fund the maintenance, operations and the existing capital costs of parks, parkways, corridors, open space, medians, trail system and other recreational and aesthetic amenities.
- 13. Improve and dedicate, in fee title, landscape corridors on Franklin Boulevard and Laguna Boulevard to the Elk Grove Community Services District (landscape corridors must be identified as separate lots). Improvements to be maintained by the Elk Grove Community Services District will be made in accordance with plans and specifications acceptable to the EGCSO (i.e., meandering sidewalks, fencing or walls, low water consumption landscaping, etc.). If sidewalks have already been installed, a landscaping plan still needs to be approved by the EGCSO.
- 14. Comply with the Mitigation Monitoring and Reporting Program (MMRP) for this project as follows:
 - a. The project proponent/property owner shall comply with the MMRP for this project, including the payment of 100% of the Planning Division staff costs, and the costs of any technical consultant services incurred during implementation of the MMRP. The initial estimate of these costs is \$2,500.00. If the initial estimate of these costs exceeds the actual monitoring costs, the balance shall be refunded to the proponent/owner, and if the actual monitoring costs exceed the initial estimate, the proponent/owner shall be responsible for paying the additional amount.
 - b. Until the MMRP has been recorded and the estimated MMRP fee has been paid, no final parcel map or final subdivision map for the subject property shall be approved; and no encroachment, grading, building, sewer connection, water connection or occupancy permit from City of Elk Grove shall be approved.

<u>Conditions of Approval / Mitigation Measure</u>		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
1.	The development approved by this action is for an Ordinance Amendment to eliminate condition (b)4.j. from Exhibit B of County Control #95-CZB-XXB-0232 as described in the City Council report and associated Exhibits dated August 6, 2003.	On-Going	Planning Division	
2.	This action does not relieve the applicant of the obligation to comply with all ordinances, statutes, regulations, and procedures.	On-Going	Planning Division	
3.	The Applicant shall hold harmless the City, its Council Members, its Planning Commission, officers, agents, employees, and representatives from liability for any award, damages, costs and fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this permit. Applicant further agrees to provide a defense for the City in any such action.	On-Going	Planning Division	
4.	Provide calculation for the pipe capacity in conformance with the 1996 Hydrology Standards Volume II and City of Elk Grove Improvement Standards.	Improvement Plans	Public Works	
5.	Dedicate a 12.5 foot public utility easement for underground and or overhead facilities and appurtenances to public streets.	Prior to Occupancy	Public Works	

- a. Water supply will be provided by the Sacramento County Water Agency.
- b. Provide public water service to each building.
- c. Destroy all abandoned wells on the proposed project site in accordance with the requirements of the Sacramento County Environmental Health Division. Clearly show all abandoned/destroyed wells on the improvement plans for the project. Prior to abandoning any existing agricultural wells, applicant shall use water from agricultural wells for grading and construction.
- d. Prior to issuance of any building permits for the project, the project developer/owner shall pay Zone 40 development fees applicable at the time of building permit issuance in accordance with Sacramento County Water Agency Ordinance No. 18.
- e. Prior to the issuance of any building permits for the project, the project shall conform to the specific provisions of the City of Elk Grove Water Conservation Ordinance (formerly Chapter 14.10 of the Sacramento County Code) to the satisfaction of the City's Landscape/Oak Tree Coordinator.