

RESOLUTION NO. 2002-61

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE ADOPTING THE CATEGORICAL EXEMPTION AND MAKING FINDINGS AND APPROVING A CONDITIONAL USE PERMIT AND SPECIAL DEVELOPMENT PERMIT FOR THE TOSCO GAS STATION (CIRCLE K) PROJECT #EG-01-190 SUBJECT TO THE CONDITIONS OF APPROVAL

WHEREAS, Tosco Marketing Company (hereinafter referred to as Applicant) filed an application with the City of Elk Grove (hereinafter referred to as City) for a Conditional Use Permit and Special Development Permit. The Conditional Use Permit is to relocate an existing convenience store and construct a new 2,900 square foot store and expand the pumps from two to eight. The Special Development Permit is to reduce the required rear yard setback from 25 feet to 10 feet to preserve the existing oak trees located midway on the parcel. (Assessor's Parcel Numbers 134-005-009); and

WHEREAS, the project is exempt from the California Environmental Quality Act pursuant to Sections 15301 (Existing Facilities), 15302 (Replacement or Reconstruction), and 15303 (New Construction or Conversion of Small Structures); and

WHEREAS, a duly advertised public hearing notice; in accordance with Government Code Section 65090 et al., and a public hearing was conducted by the Planning Commission on February 28, 2002; and

WHEREAS, after careful consideration of all the written materials and testimony received, the Planning Commission recommended City Council approval of the project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ELK GROVE HEREBY RESOLVES AS FOLLOWS:

- A. Adopt the Categorical Exemption prepared for Circle K (Tosco) project and direct staff to file a Notice of Exemption.
- B. Approve the Conditional Use Permit and Special Development Permit as recommended by the Planning Commission, subject to the Conditions of Approval (see Exhibit A) and the following Findings:
 1. Finding: The establishment, maintenance or operation of the use, building, or structure applied for will not under the circumstances of the particular case be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County. (§110-30 of the City of Elk Grove Zoning Code)

Evidence: The proposed project will be consistent with the City's Zoning Code and General Plan. Furthermore, staff has identified no effects from the proposal that would result in a significant detrimental impact on adjoining or neighboring properties if the conditions, as recommended by staff, are adopted.

2. **Finding:** The subject site relative to other potential sites is more likely to reduce the danger from fire and explosion and to provide for the free flow of traffic to reduce the danger of traffic accidents arising from ingress and egress from automobile service station sites. (§340-22 of the City of Elk Grove Zoning Code)

Evidence: The subject site is located in an area designated for commercial development and renovation of the existing convenience store and gas-dispensing facility will not adversely affect the surrounding area.

3. **Finding:** The location of the convenience store within 10 feet of the southeastern property line is to preserve the three mature oak trees on site even though the required rear yard setback should be 25 feet.

Evidence: To preserve the three mature oak trees located midway on the parcel would place the building 10 feet from the property line instead of the required 25-foot setback standard established for commercial development.

4. **Finding:** The overall architectural character of the service station is aesthetically enhanced by the deviation of the pump island canopy from the design clearance height and the allowable roof structure height, and the total service station design is aesthetically compatible and complementary of the surrounding structures. (§340-43 of the City of Elk Grove)

Evidence: §340-43 of the City's Zoning Code establishes the maximum design clearance height at 14'-6", and the allowable roof structure height at 2'-6". The applicant is proposing a pump island canopy with a design clearance height of 14-feet and an allowable roof structure height of 7-feet (approximately). The overall architectural character of the service station is aesthetically enhanced by this deviation due to the resulting roof style to maintain an adequately proportioned roof line.

5. **Finding:** The proposed project complies with the development requirements for convenience stores recommended by the Sacramento County Sheriff's Department as listed in §315-15 of the City of Elk Grove Zoning Code and the City of Elk Grove Police Department conditions of approval.

Evidence: All of the requirements of §315-15 and the City of Elk Grove Police Department can be met because they are included as project conditions of approval.

6. **Finding:** The proposed modification of the convenience store/automobile service station and its site are consistent with the purposes and requirements of Chapter 40, Title III of the City of Elk Grove Zoning Code, of the General Plan, of any element thereof, of any community plan, or of any other pertinent ordinance, plan or program adopted by the City Council. (§340-12 of the City of Elk Grove Zoning Code)

Evidence: The proposed project will be consistent with the City's General Plan, Community Plan, Zoning Code, and all other pertinent ordinances, plans, or programs adopted by the City Council.

7. **Finding:** The design of the service station along with the conditions placed upon the Use Permit and the Special Development Permit will reduce any adverse effects the station may have on the abutting property that is zoned Agricultural-Residential. (§340-23 of the City of Elk Grove Zoning Code)

Evidence: The Zoning Code provides discretionary authority to the local governing body to determine if a project and its related conditions will reduce any adverse effects to the residents.

PASSED AND ADOPTED by the City Council of the City of Elk Grove on this 10th day of April 2002.


MICHAEL P. LEARY, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:


PEGGY JACKSON
CITY CLERK


TONY MANZANETTI,
CITY ATTORNEY

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

FINAL CONDITIONS OF APPROVAL

For

Tosco Marketing Company (Circle K):**Conditional Use Permit and Special Development Permit****To expand and relocate an existing Convenience Store/Automobile Service Station****EG-01-190****(APN: 134-0550-009)****General Conditions**

1. This Conditional Use Permit allows the existing Circle K gas station to expand the number of fuel dispensers from two to eight. The project shall be constructed consistent with the site plan, building elevations, canopy elevations, floor plan, landscape plan, signage and trellis diagram (documents dated June 5, 2001 and sheet SN-1).
2. The Special Development Permit is to allow the convenience store to be relocated within 10 feet of the rear property line to preserve the three existing oak trees.
3. The conditional use permit and special development permit are valid for a period of three years. If the applicant does not obtain a building permit to construct EG-190 shall become null and void (expires 2-28-05).
4. 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.
5. If the operation of the convenience store/automobile service station is discontinued for any reason for a continuous period in excess of one hundred eighty (180) days, such discontinuance of operation shall be grounds for revocation or modification of the conditional use permit as provided by §110-10 of the City of Elk Grove Zoning Code. Upon the revocation of the conditional use permit, the applicant shall remove all buildings, pumps, pump islands, signs, underground storage tanks, fences, walls and all other structures and instruments related to the automobile service station and shall return the property to substantially the condition it was in prior to the construction of the automobile service station thereon.
6. The convenience store/automobile service station is prohibited from having gasoline truck deliveries during 6:30 a.m. to 9:00 a.m. and 3:30 p.m. to 6:00 p.m. (to reduce traffic impacts during peak traffic times).
7. The conditional use permit shall be posted on the premises for public display when issued (condition is required by §340-13(c) of the City's Zoning Code.)
8. All provisions of the Automobile Service Station (Chapter 40) shall apply to this project.
9. Whenever the operations of an automobile service station is discontinued for any reason for a period of time exceeding one hundred eighty (180) days, the Project Planning Commission on its own motion may hold a hearing for modifying or revoking any conditional use permit pursuant to the procedures set forth in Section 110-10.

10. The applicant/developer shall comply with all departmental conditions placed on the project.

Prior to Issuance of Improvement Plans/Building Permits

11. Prior to issuance of a building permit, the applicant shall comply with a certified arborist's tree mitigation to preserve the three oak trees (before, during, and after construction).
12. Prior to issuance of a building permit, the applicant shall submit a photometric and proposed lighting plan for the Circle K project to the satisfaction of the Planning Department to ensure no spillover light and glare onto adjoining properties.
13. Prior to issuance of a building permit, provide drainage easements and install facilities pursuant to the City of Elk Grove Floodplain Management Ordinance, Sacramento County Water Agency Code, and City of Elk Grove Improvement Standards, including any fee required by the Sacramento County Water Agency Code.
14. Prior to issuance of a building permit, offsite drainage improvements and easements shall be provided pursuant to the City of Elk Grove Floodplain Management Ordinance, and the City of Elk Grove Improvement Standards.
15. Prior to issuance of a building permit, onsite source and treatment control measures are required for this project in accordance with the latest version of the Guidance Manual of On-site Storm Water Quality Control Measures. In all cases, source control measures on the improvement plans will include provision of a permanent storm drain message "No Dumping – Flows to Creek" or other approved message at each inlet. Other on-site specific commercial activities referenced in the Guidance Manual. The final design of the proposed on-site source and treatment controls will be approved by the City of Elk Grove Department of Water Resources.
16. Prior to issuance of a building permit, the applicant shall need to obtain a permit from the Department of Environmental Health for a public water supply.

The following are conditions as required by the SMAQMD:

17. Prior to issuance of a building permit, the applicant shall comply with Rule 403 – Fugitive Dust which requires that adequate steps be taken to prevent dust generated from construction activity from moving beyond the property lines.
18. Prior to issuance of a building permit, the applicant shall comply with Rule 448 – Gasoline Transfer into Stationary Storage Containers, and Rule 449 – Transfer of Gasoline into Vehicle Fuel Tanks. These Rules require the installation of appropriate vapor recovery systems for the underground tanks and the fuel dispensing nozzles.
19. Prior to issuance of a building permit, the applicant shall comply with Rule 457 – Methanol Compatible Tanks. This Rule requires at least one of the underground storage tanks be compatible with methanol.

Other Department Conditions

20. Prior to issuance of a building permit, the applicant shall comply with the Sheriff's Department's development requirements listed in §315-15 of the City's Zoning Code and the City of Elk Grove Police Department conditions listed in the letter dated September 18, 2001.

21. Prior to issuance of a building permit, the Department of Water Resources requires the applicant to destroy all abandoned wells on the project site in accordance with the requirements of the Sacramento County Environmental Health Division when public water is available. Clearly show all abandoned/destroyed wells on the improvements plans for the project. Prior to abandoning any existing agricultural wells, the applicant shall use water from agricultural wells for grading and construction.

22. Prior to approval of improvements plans, the applicant shall enter into a deferred water supply agreement with the Sacramento County Water Agency.

23. Prior to the issuance of any building permits for the project, the 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.

24. Prior to 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.

25. Prior to issuance of a building permit, the City of Elk Grove CSD Fire Department requires the applicant to provide one-hour fire rated construction for the commercial building located 10 feet from the rear property line.

26. Prior to issuance of a building permit, the City of Elk Grove CSD Fire Department requires the applicant to add a draft connection to the 5000 gallon fire service water tank for fire department connections.

The City of Elk Grove Transportation Department requires the following conditions:

27. Prior to issuance of a building permit, the applicant shall grant the City of Elk Grove right-of-way on Grant Line Road based on a 108' standard in accordance with the City of Elk Grove Improvement Standards and to the satisfaction of the Department of Transportation.

28. Prior to issuance of a building permit, the applicant shall grant the City of Elk Grove right-of-way on Wilton Road based on an 84' standard in accordance with the City of Elk Grove Improvement Standards and to the satisfaction of the Department of Transportation. Note: There is an offset centerline on Wilton Road. Please verify with the Department of Transportation for the exact location.

29. Prior to issuance of an improvement plan/permit, the applicant shall pay a cash-in-lieu fee for installation of the frontage improvements along Grant Line Road to the satisfaction of the Department of Transportation.

30. Prior to issuance of an improvement plan/permit, the applicant shall pay a cash-in-lieu fee for installation of the frontage improvements along Wilton Road to the satisfaction of the Department of Transportation.

31. Prior to issuance of an improvement plan/permit, the applicant shall dedicate additional right-of-way on Grant Line Road and Wilton Road for intersection widening per Standard Drawings 4-5 and 4-6 of the City of Elk Grove Improvement Standards and to the satisfaction of the Department of Transportation of the Public Works Agency. Note: An interim signalization project is scheduled for the intersection of Grant Line Road and Wilton Road. Please contact the Department of Transportation to coordinate on-site development.

32. Prior to issuance of a building permit, the applicant shall provide ingress and egress to the project site in accordance with the City of Elk Grove Improvement Standards and to the satisfaction of the Department of Transportation. Note: Driveway widths of 45 feet should be provided on Grant Line Road and Wilton Road.