

ORDINANCE NO. 34-2002

**AN ORDINANCE OF THE CITY OF ELK GROVE
AMENDING THE CITY OF ELK GROVE ZONING MAP FROM
AR-5 AGRICULTURAL RESIDENTIAL TO SC SHOPPING CENTER ZONE ON
ASSESSOR PARCEL NUMBER 116-0041-002, 116-0041-009, 116-0041-010 and
116-0041-011 FOR A PROJECT KNOWN AS MARKET PLACE 99 PHASE 2,
SUBJECT TO THE CONDITIONS OF APPROVAL/MMRP
PROJECT NO. EG-00-036**

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 to assign a change to the zoning of the parcels specified within the attached exhibit.

Section 2: Findings

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

Evidence: A Mitigated Negative Declaration/Initial Study was prepared specifically 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 would have a significant adverse impact on the environment.

2. Finding: The proposed Rezone request will implement and be consistent with goals and policies of the General Plan of the City of Elk Grove.

Evidence: The Rezone of AR-5 to SC is consistent with the allowed zoning prescribed in the General Plan of the City of Elk Grove within the Commercial Land Use designation.

Section 3: Action

The City Council hereby amends the Zoning Map of the City of Elk Grove for Assessor's Parcel Numbers 116-0041-002, 116-0041-009, 116-0041-010 and 116-0041-011, as shown on the attached exhibit, and subject to the Conditions of Approval/MMRP (Exhibit A).

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.

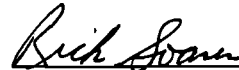
Section 5: Severability

If any such provision of section of this Ordinance is determined to be unenforceable, invalid, or unlawful, such determination shall not affect the enforceability of the remaining provisions of this Ordinance.

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 16th day of October 2002.



RICK SOARES, MAYOR of the
CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



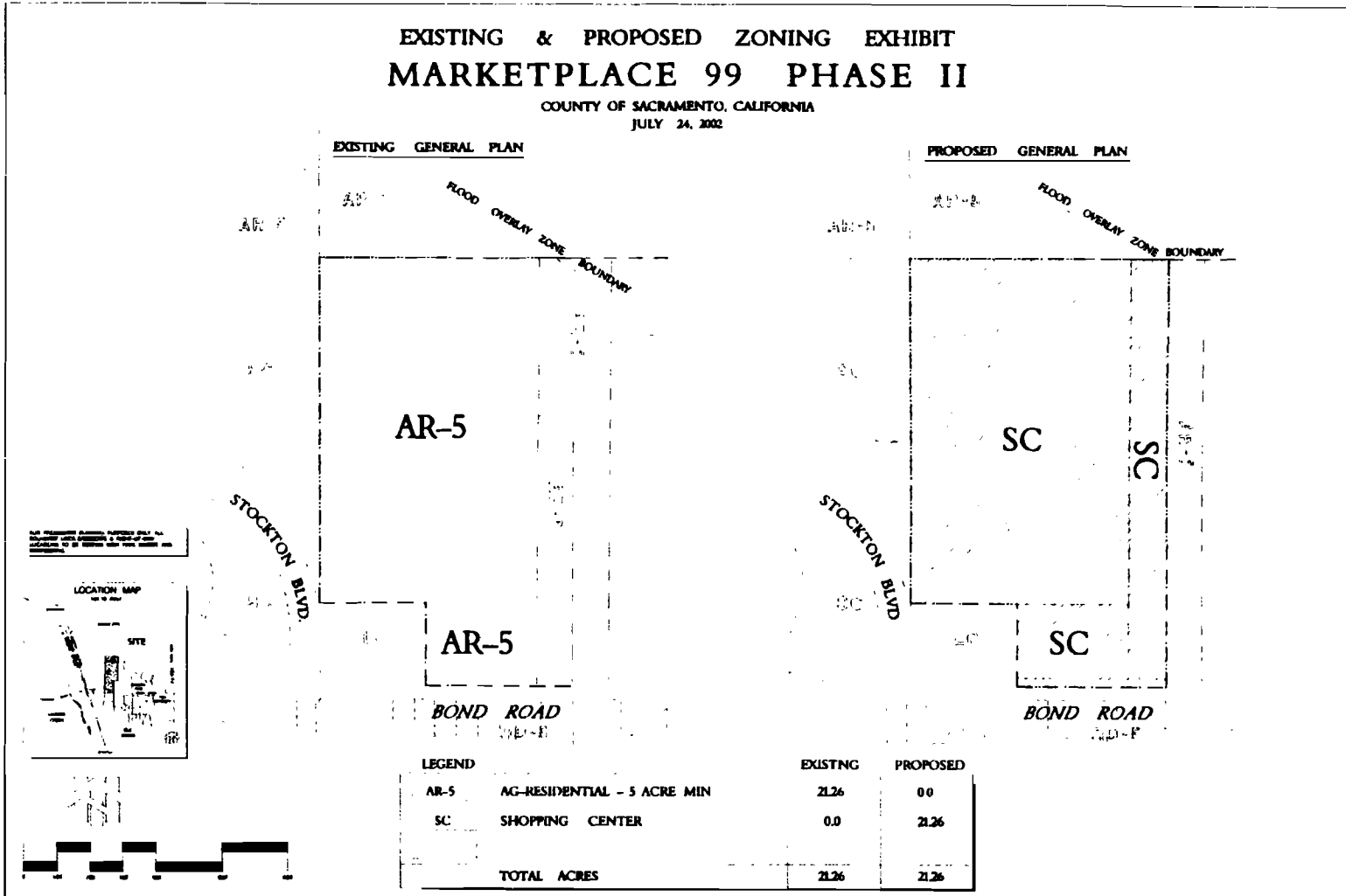
ANTHONY B. MANZANETTI,
CITY ATTORNEY

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

EFFECTIVE DATE: NOVEMBER 15, 2002

EXISTING & PROPOSED ZONING EXHIBIT MARKETPLACE 99 PHASE II

COUNTY OF SACRAMENTO, CALIFORNIA
JULY 24, 2002



Rezoning Exhibit

Exhibit A: Conditions of Approval/ Mitigation Monitoring and Reporting Program

	<u>Conditions of Approval/Mitigation Measures</u>	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
1.	The development approved by this action is for a General Plan Amendment and a Rezone. The General Plan Amendment would change the Low Density Residential to Commercial/Residential designation and the Rezone would change the AR-5 Agricultural Residential to SC Shopping Center.	Adoption of the Ordinance and Resolution of the City Council	City of Elk Grove	
2.	This action does not relieve the applicant of the obligation to comply with all ordinances, statutes, regulations, and procedures.	On-Going	City of Elk Grove	
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	City of Elk Grove	
4.	Prior to the commencement of any construction that would occur during the nesting/breeding season (February 1 through September 1), a field survey shall be conducted by a qualified biologist to determine if active nests of special-status birds such as white-tailed kite, burrowing owl, Swainson's hawk, or common bird species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code occur on the site. These surveys shall include all areas in or within 250 feet of the	Prior to any site disturbance, such as clearing, or the issuance of any permits for grading, building, or other site improvements, whichever occurs first.	City of Elk Grove Planning Division; California Department of Fish and Game.	

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	<p>construction zone, including the extent of the directly affected portion of the drainage ditch. In addition, nesting surveys for Swainson's hawks shall include all areas in or within 1 mile of the construction site in order to ascertain the specific long-term mitigation replacement ratios for loss of foraging habitat. If active nests are present, consult with CDFG and/or USFWS to determine the measures necessary to mitigate or avoid impacts to the species. Any required permits or approvals shall be obtained from CDFG and/or USFWS prior to disturbance of the site. Mitigation measures may include flagging the burrow to avoid disturbance, passive relocation, active relocation to move owls from the site, or other measures required by the biologist or CDFG.</p>			
5.	<p>Within 30 days prior to any construction activities outside of the breeding season (September 1 through January 31), a qualified biologist shall conduct a burrow survey to determine if burrowing owls are residing on the site, in order to ensure no owls are inadvertently buried during construction. If owls are observed on the site prior to ground-disturbance activities, measures such as flagging the burrow and avoiding disturbance, passive relocation, or active relocation to move owls from the site, as determined by a qualified biologist and as approved by the CDFG, shall be implemented. In addition, a qualified biologist shall monitor initial grading to ensure that no owls are harmed during the process. All surveys for burrowing owls shall be conducted according to CDFG protocol. This</p>			

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	<p>protocol requires, at a minimum, four field surveys of the entire site and areas within 500 feet of the site by walking transects close enough that the entire site is visible. The surveys should be at least three hours long, either from one hour before sunrise to two hours after or two hours before sunset to one hour after. Surveys shall not be conducted during inclement weather, when owls are typically less active and visible.</p>			
6.	<p>If any prehistoric, archaeological, paleontological, or historic artifacts, or other indications of archaeological resources are found once the project construction is underway, all work in the immediate vicinity must stop and the City shall be immediately notified. An archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards in prehistoric or historical archaeology, as appropriate, shall be retained to evaluate the finds and recommend appropriate mitigation measures.</p>	<p>During initial site development, grading or brush clearing.</p>	<p>Planning Division</p>	
7.	<p>Drainage improvement plans shall be constructed as approved by Water Resources. Drainage easements, pursuant to the Sacramento County Floodplain Management Ordinance, shall be dedicated and provided on the Final Subdivision Map, or dedicated by grant deed prior to the issuance of building permits. Drainage facilities shall be installed prior to the issuance of building permits pursuant to the City of Elk Grove Floodplain Management Ordinance, Sacramento County</p>	<p>Prior to Issuance of Improvement Plan</p>	<p>Water Resources Department</p>	

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	Water Agency Code, and Elk Grove Improvement Standards, including any fee required by the Sacramento County Water Agency Code.			
8.	Prior to issuance of grading permit, in order to mitigate erosion and sediment control problems, the project site shall comply with the City's Land Grading and Erosion Control Ordinance. Additionally, because the project size is more than five acres, a Notice of Intent (NOI) must be filed prior to construction to obtain coverage under the State's General Construction Activity Storm Water Permit. As a condition of the General Permit, a Storm Water Pollution Prevention Plan (SWPPP) must be developed for the project. Permits are issued by the State Water Resources Control Board, which can provide all information necessary to complete and file the necessary documents. Compliance with the General Permit is enforced in the Sacramento area by the Central Valley Regional Water Quality Control Board.	Prior to Issuance of Grading Permit	Water Resources Department	
9.	<p>Prior to issuance of grading permit, construction contracts for the project shall include the following measures to be monitored by the City and SMAQMD:</p> <p><u>Category 1: Reducing NO_x Emissions from Off-Road Diesel Powered Equipment:</u></p> <p>A. The prime contractor shall submit, to the City of Elk Grove Planning Department, a comprehensive inventory of all the heavy-duty off-road equipment (50</p>	Prior to Issuance of Grading Permit	SMAQMD and Planning Division	

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<p>or greater horsepower) that will be used an aggregate of 40 or more hours for the construction project. At a minimum, 20% of the heavy-duty off-road equipment included in the inventory shall be powered by CARB certified off-road engines, as follows:</p> <ul style="list-style-type: none"> • 175 hp – 750 hp 1996 and newer engines • 100 hp – 174 hp 1997 and newer engines • 50 hp – 99 hp 1998 and newer engines <p>Said off-road equipment may be owned and operated by the prime contractor and/or any subcontractor; or</p> <p>B. The prime contractor shall provide a plan, for approval by the City of Elk Grove Planning Department in consultation with SMAQMD, demonstrating that the heavy-duty off-road vehicles to be used in the construction project, and operated by either the prime contractor or any subcontractor, will provide a fleet-averaged NOx emission reduction of 10% compared to an unregulated/uncontrolled fleet. (Includes the use of emulsified fuel in noncertified engines, and other methods not requiring the use of post 1996-1998 engines.) and</p> <p><u>Category 2: Reducing NOx Emission from On-Road Diesel Powered Equipment:</u></p> <p>The prime contractor shall submit, to the Environmental Services Division, a comprehensive inventory of all heavy-duty on-road equipment (50 or greater horsepower) that will be used an aggregate of 40 or more hours for the</p>			

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<p>construction project. and</p> <p>Category 3: Enforcement Plan</p> <p>An enforcement plan shall be established to weekly evaluate project-related on-and off-road heavy-duty vehicle engine emission opacities, using standards as defined in California Code of Regulations, Title 13, Sections 2180-2194. An Environmental Coordinator, CARB-certified to perform Visible Emissions Evaluations (VEE), shall routinely evaluate project related off-road and heavy duty (>14,000 LB. GVWR) on-road equipment emissions for compliance with this requirement. The certified environmental coordinator may be a City inspector, a representative of the prime contractor, or an independent contractor. The Environmental Coordinator will maintain a current VEE rating for the duration of the project.</p> <p>For project-related heavy-duty on-road diesel vehicles, the coordinator shall routinely evaluate emissions of trucks at the project site. Operators of vehicles found to exceed opacity limits will be notified and the vehicle(s) repaired as soon as possible. The coordinator will maintain a log of such violations and routinely notify the SMAQMD.</p> <p>For project-related heavy-duty off-road diesel vehicles, the coordinator will routinely evaluate emissions of vehicles at the project site. Operators of vehicles found to exceed opacity limits will be notified and equipment will be repaired immediately. The coordinator will maintain a log of such violations and routinely notify the SMAQMD.</p>			

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<p>The project applicant shall place the following mitigation requirements in all construction contracts and shall require the use of Best Available Control Technologies (BACT), including but not limited to the requirements listed below. Proof of these contractor requirements shall be provided to the City prior to the issuance of grading permits.</p> <ul style="list-style-type: none"> • The project applicant and/or prime contractor shall comply with SMAQMD Rule 403 that requires taking reasonable precautions to prevent the emissions of fugitive dust, such as "using water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the construction of roadways, or the clearing of land" where possible and applying "asphalt, oil, water, or suitable chemicals on dirt roads, materials, stockpiles, and other surfaces which can give rise to airborne dust." • Clean earth-moving construction equipment with water once per day. • Reduce traffic speeds on all unpaved surfaces to 15 miles per hour or less. • Use low-emission on-site stationary equipment whenever possible. • Encourage construction employees to carpool to the work site. • Minimize idling time to 10 minutes. 			

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	<ul style="list-style-type: none"> • Maintain construction equipment through regular and proper maintenance. • All material transported offsite shall be either sufficiently watered or securely covered to prevent public nuisance. <p>During initial grading, earthmoving, or site preparation a 100-foot paved (or palliative-treated) apron shall be constructed, extending onto the construction site from the adjacent paved road(s) where vehicles and equipment egress.</p>			
10.	<p>Dedicate right-of-way for Bond Road to the satisfaction of Public Works, and install public street improvements pursuant to the Elk Grove City Improvement Standards. Minimum roadway widths and typical sections shall be as shown on the improvement plans, along with an exclusive right-turn lane into the project area from Bond Road.</p>	Prior to the issuance of improvement plans	Public Works	
11.	<p>Provide on-site 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.</p> <ul style="list-style-type: none"> ▪ Off-site drainage improvements and easements shall be provided pursuant to the City of Elk Grove Floodplain Management Ordinance, Sacramento 	Prior to issuance of improvement plans	Water Resources	

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	<p>County Water Agency Code, and City of Elk Grove Improvement Standards.</p> <ul style="list-style-type: none"> ▪ A supplemental drainage fee, in addition to fees identified in the Sacramento County Water Agency Code shall be paid. The fee shall be equal to the supplemental fee numerated in the Vineyard Spring Comprehensive Plan Financing Plan or established in a separate financial analysis. 			
12.	<p>Prior to issuance of building permits, the project developer/owner shall receive Development Plan Review by the Planning Director , in accordance with Zoning code Section 110 – 80, inclusive.</p>	<p>Prior to the Issuance of Building Permits</p>	<p>Planning Division</p>	
13.	<p>Prior to issuance of building permits, 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. (Water Supply)</p>	<p>Prior to the Issuance of Building Permits</p>	<p>Water Supply</p>	
14.	<p>Install a traffic control system to the satisfaction of the Public Works Department, at the intersection of Bond Road and Elk Crest. The signal system shall be synchronized with the signals located at East Stockton Blvd and Emerald Crest, in accordance with the traffic assessment conducted by Fehr and Peers.</p>	<p>Prior to any final inspection of the buildings</p>	<p>Public Works</p>	

General Information and Compliance Items:

The following items are noted for the applicant's information. These items are required by other local agencies, the City, state or federal agencies, and are not mitigation measures of the project.

- a. Permits and/or fees are required for the following reviews: civil plans, architectural plans, fire sprinkler plans and fire alarm plans. Additional permits and fees may apply depending upon the scope of the project. (Fire Department)
- b. This development is required to provide a fire flow from a public water system capable of delivering as a minimum 50 PSI static pressure and 1,000 gpm at 20 psi residual pressure. Hydrants shall be spaced a maximum of 500 feet apart. Buildings of certain types of construction, size and use may need additional fire flow or the application of mitigating efforts to meet fire flows above this minimum. (Fire Department)
- c. A permit release letter from the Elk Grove Community Services District Fire Department shall be required prior to any construction. (Fire Department)
- d. All required private roadways, water mains, fire hydrants and fire flow shall be provided. The roadways shall be constructed to a 40-foot minimum width with a minimum of 3 inches of AC over 6 inches of AB and shall have good drainage. (Fire Department)
- e. The installation of on-site or off-site fire protection equipment, including fire hydrants and water mains, shall meet the standards of the Elk Grove Community Services District Fire Department and the water purveyor having jurisdiction. (Fire Department)
- f. The installation of addresses, landscaping, tree wells and/or traffic islands are subject to the standards outlined by the Community Services District. (Fire Department)
- g. The project shall conform to the specific provisions of the Sacramento County Landscape Water Conservation Ordinance (Chapter 14.10 of the Sacramento County Code) to the satisfaction of the County Landscape/Oak Tree Coordinator. (Water Supply)
- h. Gas service may be available to this project if desired. The developer should contact PG&E's Service Planning Department at (916) 386-5067 as soon as possible to coordinate construction so as not to delay the project. (PG&E)
- i. Mitigate the potentially isolating impact of physical barriers such as soundwalls and landscaped corridors.
- j. On-site source and control measures are required for this project in accordance with the latest version of the City/County Guidance Manual (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 source and treatment control measure(s) should also be used in accordance with specific residential activities referenced in the Guidance Manual. Prior to development plan approval, 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. (Water Resources)