

RESOLUTION NO. 2011-59

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
DENYING A CONDITIONAL USE PERMIT FOR OLD TOWN LIQUOR (EG-11-007)
ASSESSOR'S PARCEL NUMBER 125-0112-019**

WHEREAS, the Planning Division of the City of Elk Grove received an application on November 23, 2010 requesting a Conditional Use Permit for the sale of alcohol at 9670 Elk Grove-Florin Road, Project No. EG-10-065 (the "Project"); and

WHEREAS, the proposed Project is located on real property in the incorporated portions of the City of Elk Grove more particularly described as Assessor's Parcel Number (APN) 125-0112-019; and

WHEREAS, the Planning Commission is the appropriate approving authority for a Conditional Use Permit; and

WHEREAS, the Planning Commission held a duly noticed public hearing on February 17, 2011 as required by law to consider all of the information presented by staff, information presented by the Project proponent, and public testimony presented in writing and at the meeting; and

WHEREAS, on February 17, 2011, the Planning Commission approved the Project; and

WHEREAS, the City Clerk received a Notice of Appeal on February 28, 2011, from Larry Szabo, requesting an appeal of the Planning Commission's approval of the Conditional Use Permit; and

WHEREAS, the City Council is the appropriate authority to hear and take action on an appeal of a Planning Commission decision; and

WHEREAS, the City determined that the Project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines §15303; and

WHEREAS, on April 13 2011, the City Council held a duly noticed public hearing as required by law to consider all of the information presented by staff, information presented by the project proponent, and public testimony presented in writing and at the meeting.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Elk Grove hereby denies the Old Town Liquor Conditional Use Permit (EG-11-007) based on the following findings:

California Environmental Quality Act (CEQA)

Finding: The subject project is exempt from the California Environmental Quality Act (CEQA).

Evidence: Pursuant to CEQA Guidelines Section 15270, projects which are disapproved are exempt from CEQA.

Conditional Use Permit

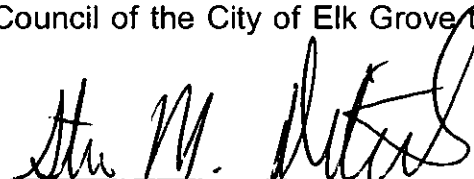
Finding: Conditional use permits are quasi-judicial and shall be granted only when the Planning Commission determines that the proposed use or activity complies with all of the following findings:

- a. The proposed use is consistent with the General Plan and all applicable provisions of this Title; and
- b. The establishment, maintenance or operation of the use applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the neighborhood of such use, or the general welfare of the City.

The above findings cannot be made for this project, and thus the conditional use permit is properly denied.

Evidence: The proposed project is not compatible with surrounding residential land uses. The use will diminish the comfort and general welfare of persons residing in the neighborhoods of such uses. The land use conflicts and compatibility issues would be detrimental to the health, safety, peace, comfort, or general welfare of persons residing in the neighborhoods and area of the project.

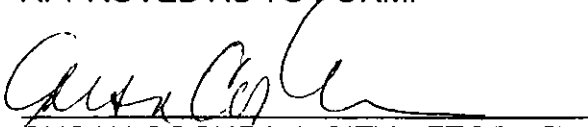
PASSED AND ADOPTED by the City Council of the City of Elk Grove this 13th day of April 2011.


STEVEN M. DETRICK, MAYOR of the
CITY OF ELK GROVE

ATTEST:


JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:


SUSAN COCHRAN, CITY ATTORNEY

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2011-59**

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

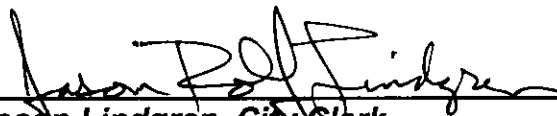
I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on April 13, 2011 by the following vote:

AYES : **COUNCILMEMBERS:** *Detrick, Cooper, Davis*

NOES: **COUNCILMEMBERS:** *Scherman*

ABSTAIN : **COUNCILMEMBERS:** *Hume*

ABSENT: **COUNCILMEMBERS:** *None*



**Jason Lindgren, City Clerk
City of Elk Grove, California**