

ORDINANCE NO. 17-2015

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING THE CITY OF ELK GROVE ZONING MAP FROM
AGRICULTURAL-RESIDENTIAL 5-ACRE MINIMUM (AR-5) TO
AGRICULTURAL-RESIDENTIAL 2-ACRE MINIMUM (AR-2)
FOR THE HALFWAY ROAD PARCEL MAP PROJECT (EG-14-034)
ASSESSOR PARCEL NUMBER 123-0160-001**

WHEREAS, the Planning Department of the City of Elk Grove received an application on October 24, 2014 from Kenneth Development (the "Applicant") requesting a Rezone and Tentative Parcel Map (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 Parcel Number (APN): 123-0160-001; and

WHEREAS, the Applicant is requesting to Rezone the site from Agricultural Residential 5-Acre Minimum (AR-5) to Agricultural Residential 2-Acre Minimum (AR-2); and

WHEREAS, the Project qualifies as a project under the California Environmental Quality Act (CEQA), Public Resource Code §21000-§21189.3, but is exempt; and

WHEREAS, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning) of Title 14 of the California Code of Regulations (State CEQA Guidelines) provides an exemption from CEQA for projects which are consistent with a Community Plan, General Plan or Zoning for which an Environmental Impact Report (EIR) has been certified and "shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site"; and

WHEREAS, an EIR was certified by the City Council for the adoption of the City of Elk Grove General Plan. The proposed Rezone and Tentative Parcel Map are consistent with the General Plan. Therefore, the proposed project qualifies for the exemption under CEQA Guideline Section 15183, as the proposed Rezone is consistent with the General Plan, for which an EIR was certified; and

WHEREAS, the proposed Project is consistent with the project described in the previously certified EIR and no potential new impacts related to the properties or Project have been identified that would necessitate further environmental review beyond the impacts and issues already disclosed and analyzed in the General Plan EIR; and

WHEREAS, based on staff's review of the Project, no special circumstances exist that would create a reasonable possibility that granting a Rezone and Tentative Parcel Map for this Project will have a significant effect on the environment beyond what was previously analyzed and disclosed; and

WHEREAS, the Planning Department considered the Project request pursuant to the Elk Grove General Plan, Title 23 of the Elk Grove Municipal Code (Zoning Code), and all other applicable State and local regulations; and

WHEREAS, the Planning Commission held a duly noticed public hearing on July 16, 2015, as required by law to consider all of the information presented by staff, information presented by the Applicant, and public testimony at the meeting and voted 5-0 to recommend approval of the Project to the City Council; and

NOW, THEREFORE, the City Council of the City of Elk Grove does hereby ordain as follows:

Section 1: Purpose

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

Section 2: Enactment of New Zoning

The City Council hereby amends the City of Elk Grove Zoning Map for APN: 123-0160-001 as shown on attached Exhibit A, incorporated herein by this reference, based upon the following findings:

California Environmental Quality Act (CEQA)

Finding: The project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline Section 15183 of Title 14 of the California Code of Regulations.

Evidence: CEQA Guideline Section 15183 provide that projects which are consistent with a Community Plan, General Plan or Zoning for which an EIR has been certified "shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site." An EIR was certified by the City Council for the adoption of the City of Elk Grove General Plan. The proposed Rezone and Tentative Parcel Map are consistent with the General Plan. Therefore, the proposed project qualifies for the exemption under CEQA Guideline Section 15183, because the proposed Rezone and Tentative Parcel Map are consistent with the General Plan, for which an EIR was certified.

Rezone

Finding: The proposed zoning amendment is consistent with the General Plan goals, policies, and implementation programs.

Evidence: The Applicant's proposal is consistent with the allowed density ranges and uses in the Elk Grove General Plan and General Plan Land Use Map. The proposed Project 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: 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 4: 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 5: Savings Clause

The provisions of this ordinance shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take affect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and affect to all intents and purposes as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by said Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

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 fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) 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).

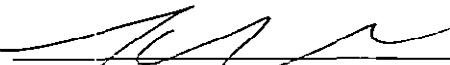
ORDINANCE: 17-2015
INTRODUCED: August 26, 2015
ADOPTED: September 9, 2015
EFFECTIVE: October 9, 2015



GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:

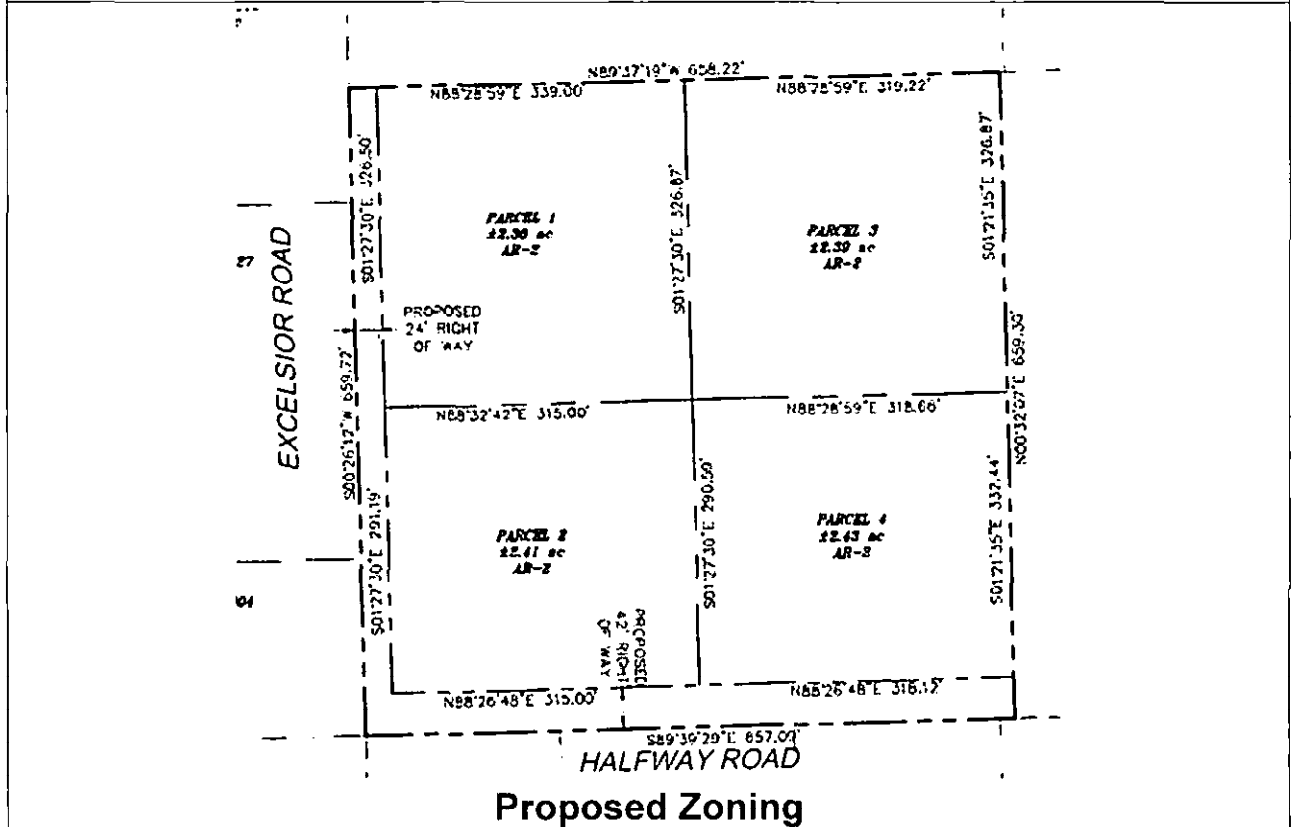
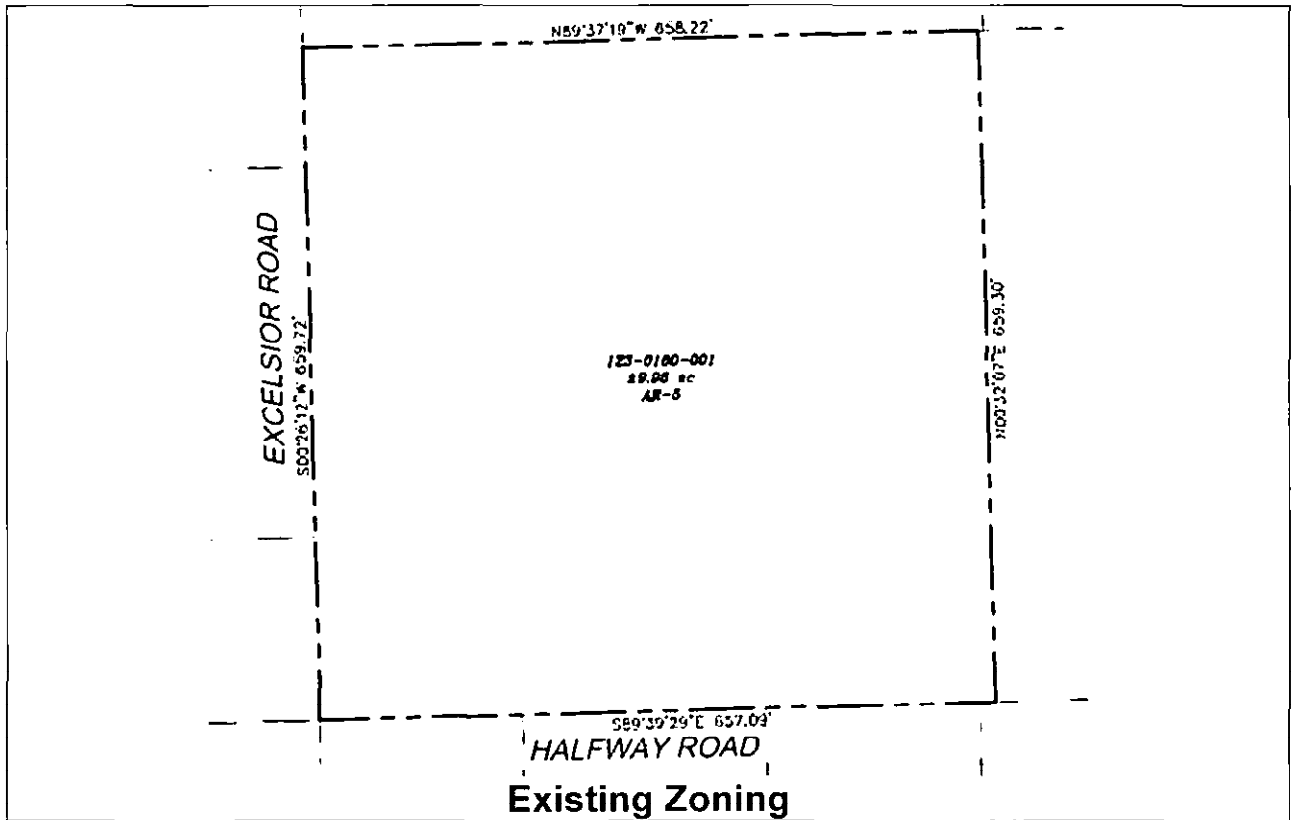

JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:


JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: September 24, 2015

EXHIBIT A



**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 17-2015**

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 ordinance, published and posted in compliance with State law, was duly introduced on August 26, 2015 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on September 9, 2015 by the following vote:

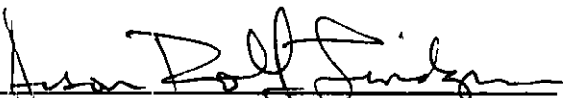
AYES : **COUNCILMEMBERS:** *Davis, Hume, Detrick, Ly, Suen*

NOES: **COUNCILMEMBERS:** None

ABSTAIN: **COUNCILMEMBERS:** None

ABSENT: **COUNCILMEMBERS:** None

A summary of the ordinance was published pursuant to GC 36933(c) (1).



Jason Lindgren, City Clerk
City of Elk Grove, California