

ORDINANCE NO. 04-2016

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
AMENDING THE ZONING ORDINANCE FOR THE
SHELDON FARMS REZONE PROJECT (EG-05-963);
ASSESSOR PARCEL NUMBER 127-0090-079**

WHEREAS, the Development Services Department of the City of Elk Grove received an application on May 26, 2015 from Jeffrey Adkins (the Applicant), requesting a Zoning Amendment to modify previously-approved Conditions of Approval for EG-05-963 as part of a new proposed Project (EG-15-020); 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): 127-0090-079; 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 15301 (Existing Facilities) of Title 14 of the California Code of Regulations, (State CEQA Guidelines) provides an exemption from CEQA for projects characterized as existing facilities and meeting all conditions described; and

WHEREAS, based on staff's review of the Project, no special circumstances exist that would create a reasonable possibility that granting a Zoning Amendment to modify conditions of approval for this project will have a significant effect on the environment; and

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

WHEREAS, the Planning Commission held a duly noticed public hearing on February 4, 2016, 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 4-0 (Commissioner Maita recused) to recommend approval of the Project to the City Council; and

WHEREAS, the City Council held a duly noticed public hearing on February 24, 2016, as required by law to consider all of the information presented by staff, information presented by the Applicant, recommendation by the Planning Commission, and public testimony at the meeting and voted 4-0 (Mayor Davis absent) to approve the Project, including the introduction of this ordinance.

NOW, THEREFORE, BE IT RESOLVED THAT, 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 Zoning Ordinance, including the Conditions of Approval, for the Sheldon Farms Rezone Project (EG-05-963) as shown on the attached Exhibit A, incorporated herein by this reference.

Section 2: Findings

California Environmental Quality Act (CEQA)

Finding: The project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline Section 15301 of Title 14 of the California Code of Regulations.

Evidence: CEQA Guidelines Section 15301 applies to projects that consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures facilities, mechanical equipment, or topographical features, involving negligible or no expansion or use beyond that existing at the time of the lead agencies determination. The Project is exempt from CEQA pursuant to CEQA Guideline Section 15301 (Existing Facilities) of Title 14 of the California Code of Regulations. CEQA Guidelines Section 15301 applies to projects that consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures facilities, mechanical equipment, or topographical features, involving negligible or no expansion or use beyond that existing at the time of the lead agencies determination. The Project includes modifications to previous conditions of approval within an existing 1,650 square foot commercial building. No special circumstances exist that modifying the requested conditions would create a significant adverse effect on the environment. Therefore, the proposed Project qualifies for the exemption under CEQA Guidelines Section 15301 and no further environmental review is required.

Zoning Ordinance Amendment

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

Evidence: The Applicant's proposal modifies three (3) Conditions of Approval originally approved as part of EG-05-963. Specifically, these conditions deal with alcohol sales and hours of operation as part of an approved restaurant use. The modifications are consistent with all requirements of the LC – Limited Commercial Zoning District, which is an implementing zone within the Commercial General Plan Designation.

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 effect; 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: 04-2016
INTRODUCED: February 24, 2016
ADOPTED: March 9, 2016
EFFECTIVE: April 8, 2016



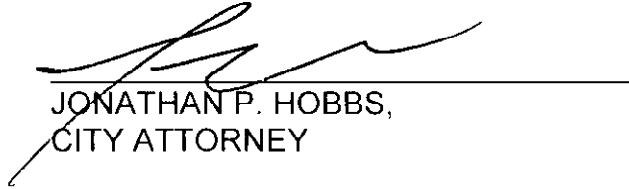
GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: March 24, 2016

EXHIBIT A

<u>Conditions of Approval / Mitigation Measure</u>	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
1. The action approved is for a Rezone of 10527 Sheldon Road from AR-2 to LC, as shown on the rezone exhibits included as Attachment A.	On-Going	Planning	
2. The Applicant or Successors in Interest (hereby referred to as 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	
3. This action does not relieve the Applicant of the obligation to comply with all ordinances, statutes, regulations, and procedures.	On-Going	Planning	
4. Any expansion or substantial change to the existing use on site is subject to further review and approval by the City of Elk Grove. Any such future development of the site is required to comply with all applicable design guidelines and development standards in effect at the time a development application is submitted to the Planning Department.	On-Going	Planning	
5. The following uses are prohibited on the Sheldon Farms market site: automotive sales, repairs, and services, alcoholic beverage sales , bars and nightclubs, business and support services, golf courses/country clubs, grocery stores, and retail accessory to primary use.	On-Going	Planning	

<u>Conditions of Approval / Mitigation Measure</u>	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
6. Restaurant uses are allowed upon approval of a Conditional Use Permit by the Planning Commission.	On-Going	Planning	
7. Alcoholic beverage sales shall only be allowed for the sale of wine included within a gift basket for on-site consumption as part of an approved restaurant use, pending approval of all applicable licenses from ABC.	On-Going	Planning	
8. The Applicant shall adhere to limited hours of operation, from 6 AM to 8 10 PM.	On-Going	Planning	
9. The Applicant shall not allow for large spotlighting or glaring lights to advertise the business.	On-Going	Planning	

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 04-2016**

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 February 24, 2016 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on March 9, 2016 by the following vote:


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