

RESOLUTION NO. 2013-127

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
APPROVING A CONDITIONAL USE PERMIT AND DETERMINATION OF PUBLIC
CONVENIENCE OR NECESSITY FOR LAGUNA 99 SHOPPING CENTER WAL-MART
MARKET (EG-13-024); ASSESSOR PARCEL NUMBER: 125-0010-040**

WHEREAS, the Planning Division of the City of Elk Grove received an application on April 18, 2013 from the Pelosi Law Group (the Applicant) requesting a Conditional Use Permit and Determination of Public Convenience or Necessity for off-site sale of beer, wine, and liquor for an existing store located at 8455 Elk Grove Boulevard; 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) 125-0010-040; and

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

WHEREAS, Section 15301 (Existing Facilities) of the California Code of Regulations, Title 14, Chapter 3 (State CEQA Guidelines) exempts projects that involve negligible or no expansion of an existing use; and

WHEREAS, based on staff's review of the Project, no special circumstances exist that would create a reasonable possibility that granting a Conditional Use Permit and Letter of Public Convenience or Necessity for this project will have a significant effect on the environment; and

WHEREAS, the Planning Commission considered the Applicant's request at a public hearing on June 20, 2013, and recommended the City Council approve the Project; and

WHEREAS, 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 Applicant, 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 finds the Project exempt from the provisions of CEQA under §15301 (Existing Facilities) of Title 14 of the California Code of Regulations based upon the following finding:

California Environmental Quality Act (CEQA)

Finding: The project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations, (State CEQA Guidelines) Section 15301, Class 1 (Existing Facilities).

Evidence: A Categorical Exemption Section 15301 (Existing Facilities) exempts projects that involve negligible or no expansion of an existing use. This project consists of the sale of alcoholic beverages within an existing development. Wal-Mart Neighborhood Market neither proposes to physically expand the existing facility, nor does their use represent a significant expansion of the site's current commercial use. Based on staff's review of the project, no special circumstances exist that would create a reasonable possibility that granting a CUP and PCN to sell alcohol from their existing store's location will have a significant effect on the environment. Therefore, the proposed project qualifies for the exemption under CEQA Guidelines Section 15301 and no further environmental review is required.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Council of the City of Elk Grove approves the Conditional Use Permit and Determination of Public Convenience or Necessity subject to the conditions of approval contained in Exhibit A, incorporated herein by this reference.

Conditional Use Permit

Finding: The proposed use is consistent with the General Plan and all applicable provisions of Zoning Code.

Evidence: The Elk Grove Zoning Code allows alcoholic beverage sales within the LC zone subject to the approval of a Conditional Use Permit. Staff has analyzed Wal-Mart's proposal and determined that it is consistent with the development provisions established in the Title 23, Zoning of the Elk Grove Municipal Code. Since Title 23 establishes land use provisions that enable the General Plan's policies to be achieved, this project can be found consistent with the goals, objectives and policies of the General Plan.

Finding: 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 general welfare of the City.

Evidence: As proposed, the Applicant's sale of alcohol within their existing establishment will not be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the neighborhood of Wal-Mart Neighborhood Market, or general welfare of the City. The closest playground (Colton Park/Elk Grove Rain Garden) and school (Elizabeth Pinkerton Middle School/Cosumnes Oaks High School) are located over a ½ mile away from the Project site and are not directly accessible from the Project site. The amount of alcohol sales at the store will be ancillary to the general merchandise and grocery sales. Alcohol will be displayed on shelves located away from the store entrance. Additionally, Wal-Mart will implement security measures at the store to ensure the safe sale of alcohol, including the use of security cameras and training the employees. Wal-Mart also requires employees to undergo extensive training and to participate fully in the store's strict operational policies regarding the sale of alcohol. The Police Department indicated that the addition of a Type 21 license at this location will most likely result in a re-distribution of existing sales in the area rather than an influx of new customers who

would normally shop outside of the area. Customers who already intended to purchase alcohol in association with other purchase are most likely to simply make that purchase at the store carrying all or most of their desired goods within their usual shopping area.

Letter of Public Convenience or Necessity

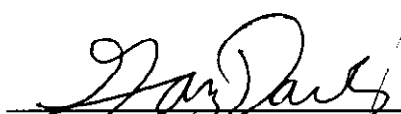
Finding: The proposed use is compatible with neighborhood character.

Evidence: The application was routed to the Elk Grove Police Department, the Code Enforcement Department, the Building Department, and City Business License staff. No violations against the property or Applicant were identified that would discourage the issuance of a Type 21 alcohol license for Wal-Mart. The Wal-Mart Market is located within a commercial area, and is near other commercial uses. Therefore, the sale of alcohol for off-site consumption at this location is compatible with the uses in the surrounding area.

Finding: The proposed use will be of benefit to the neighborhood.

Evidence: Because the location is convenient to motorists but not too close to the nearest adjacent residences, the sale of alcohol will increase convenience to shoppers, but not at the expense of interfering with the existing residential neighborhoods. Wal-Mart Markets typically carry a wide variety of distilled liquor, wine, beer, and malt-based wine coolers. Less than one percent of the store's floor space will be dedicated to alcoholic beverage sales display area (including refrigerated cases). By including the sale of alcohol beverages with the existing inventory, Wal-Mart will be providing a "one-stop" shop store for customers.

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 10th day of July 2013.




GARY DAVIS, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

EXHIBIT A

<u>Conditions of Approval</u>	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
On-Going			
1. The development approved by this action is for a Conditional Use Permit and Determination of Public Convenience or Necessity for off-site sale of beer, wine, and liquor. Deviations from the approved plans shall be reviewed by the City for substantial compliance and may require amendment by the appropriate hearing body.	On-Going	Planning	
2. The Applicant/Owner 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 laws, statutes, regulations, and procedures.	On-Going	Planning	
4. There shall be no single servings of beer or any other variation that would be considered conducive to alcohol abuse.	On-Going	Planning	

**CERTIFICATION
ELK GROVE CITY COUNCIL RESOLUTION NO. 2013-127**

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 July 10, 2013 by the following vote:

AYES : **COUNCILMEMBERS:** *Detrick, Hume, Trigg*

NOES: **COUNCILMEMBERS:** *Davis, Cooper*

ABSTAIN : **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *None*



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