

ORDINANCE NO. 34-2003

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING THE ELK GROVE ZONING MAP FROM RD-5 TO BP (BUSINESS PROFESSIONAL), FOR THE BAYLESS REZONE PROJECT NO. EG-03-415, SUBJECT TO THE FINDINGS AND MMRP/CONDITIONS OF APPROVAL

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 Elk Grove Zoning Map as shown on attached Exhibit A, and the MMRP/Conditions of Approval as Exhibit B.

Section 2: Findings

CEQA

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

Evidence: An Initial Environmental Study was prepared 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 will have a significant adverse impact on the environment.

General Plan

- 2.2 Finding: The City shall not approve any proposed development project unless the following findings are made, based on substantial evidence in the record:
- a) There is a reasonable probability that the land use or action proposed will be consistent with the general plan proposal being considered or studied or which will be studied within a reasonable time.
 - b) The project is consistent with the latest version of the Draft Land Use Policy Map and any draft General Plan Elements which have been reviewed by the General Plan Advisory Committee as of the date on which the project is approved.
 - c) There is little or no probability of substantial detriment to or interference with the future adopted general plan if the proposed use or action is ultimately inconsistent with the plan.
 - d) The proposed use or action complies with all other applicable requirements of state law and local ordinances.

Evidence:

- a) The proposed rezone to BP (Business Professional) is consistent with the Draft General Plan Land Use Policy Map designation of Office/Multi-family.
- b) As stated above, the proposed rezone is consistent with the Draft General Plan Land Use Policy Map. The rezone is also consistent with the draft General Plan Elements in the General Plan.
- c) The rezone of the project site is consistent with the draft General Plan Land Use Policy Map and there is little probability that the rezone or future development would interfere with the future adopted General Plan.
- d) The requested rezone is consistent with state law and local ordinances as discussed by the following findings and evidence.

Rezone

- 2.3 Finding: The proposed rezone is in the public interest. (Section 65358(a) of the Government Code).

Evidence: The City has reviewed the proposed amendment to the Zoning Map. The applicant's proposal is consistent with the land use designation in the draft General Plan Land Use Policy Map. The proposed amendment is also consistent with the Plan's objectives of orderly and systematic development.

Section 3: Action

The City Council hereby amends the City of Elk Grove Zoning Map as shown on attached Exhibit A, and the MMRP/Conditions of Approval as Exhibit B.

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 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.

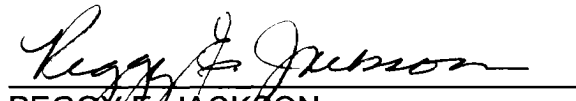
Section 6: Effective Date and Publication

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 17th day of September 2003.


SOPHIA SCHERMAN, MAYOR of the
CITY OF ELK GROVE

ATTEST:


PEGGY E. JACKSON,
CITY CLERK

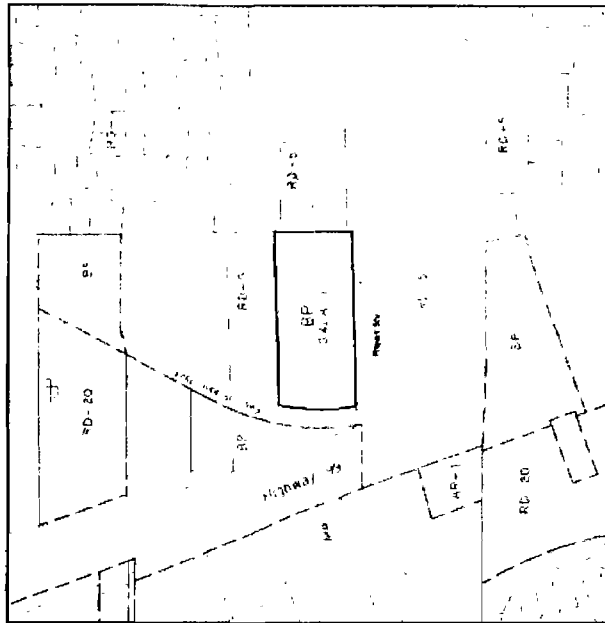
APPROVED AS TO FORM:


ANTHONY B. MANZANETTI,
CITY ATTORNEY

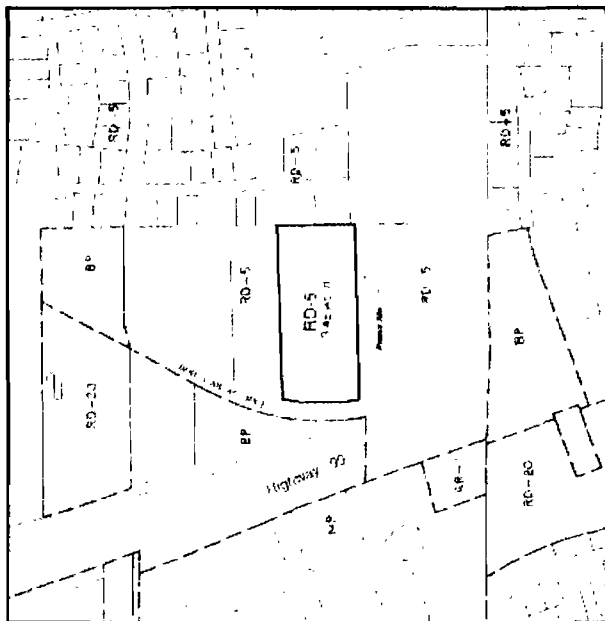
Effective Date: October 17, 2003

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

Exhibit A Bayless Rezone



Proposed Zoning



Existing Zoning

Rezone Exhibit

9355 East Stockton Blvd.

City of Elk Grove, California

Scale: 1" = 200' February, 2003

MACKEY & SONS
CIVIL ENGINEERS, INC.
10000 1st Ave. #200
Elk Grove, CA 95757

0 20' 40' feet

Exhibit B
To Rezone Ordinance for Bayless Rezone

MMRP/Conditions of Approval

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

<u>Conditions of Approval/Mitigation Measure</u>		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
1.	The development approved by this action is to Rezone 3.27 acres from RD-5 to Business Professional as described in the July 24 Planning Commission Report and associated Exhibits.	On-Going	Planning	
2.	This action does not relieve the applicant of the obligation to comply with all ordinances, statutes, regulations, and procedures.	On-Going	Planning	
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	Planning	
4.	If the future office buildings are constructed in substantial compliance with Attachment 5 approval of a design review by the Planning Commission is not needed. Any deviation from the building design will require approval from the Planning Commission.	Prior to Issuance of Building Permit	Planning	
5.	Grant the City of Elk Grove right-of-way on East Stockton Boulevard based on a 60-foot collector in accordance with the City of Elk Grove Improvement Standards and to the satisfaction of the Public Works.	Prior to approval of the rezone	Public Works	
6.	Dedicate a 12.5-foot public utility easement for underground and/or overhead facilities and appurtenances adjacent to public streets.	Prior to approval of the rezone	Public Works	
7.	Comply with, record, and pay fees for the Mitigation Monitoring and Reporting Program	Prior to Issuance of Grading Permit	Planning	

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

<u>Conditions of Approval/Mitigation Measure</u>	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
(MMRP). Until the MMRP has been recorded and the estimated MMRP fee of \$1000 has been paid, no grading, building, sewer connection, water connection, or occupancy permit from the City or County will be approved.			
<p>8. Best Management Practices (BMPs) shall be used during site preparation and construction. These include, but are not limited to the following:</p> <p>The project applicant and/or prime contractor shall comply with SMAQMD Rule 403, which 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."</p> <ul style="list-style-type: none"> • 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. • Maintain construction equipment through regular and proper maintenance. 	Note on Improvement Plans	Planning and SMAQMD	

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

<u>Conditions of Approval/Mitigation Measure</u>		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
	<ul style="list-style-type: none"> • All material transported offsite shall be either sufficiently watered or securely covered to prevent public nuisance. • 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. (AQ MM-1) 			
9.	<p>Prior to 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. If active nests are present, consult with CDFG and/or USFW 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. (BR MM-3)</p>	Prior to any Site Disturbance	Planning	
10.	<p>All oak trees that are 6 inches dbh or larger, non-native trees that are 12 inches or larger, and/or all portions of adjacent off-site oak and non-native trees which have driplines that extend onto the project site shall be protected as follows:</p>	Construction Note and during Construction Activities	Planning Division	

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

<u>Conditions of Approval/Mitigation Measure</u>	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
<ol style="list-style-type: none"> 1) A circle with a radius measurement from the trunk of the tree to the tip of its longest limb shall constitute the dripline protection area of each tree. Limbs must not be cut back in order to change the dripline. The area beneath the dripline is a critical portion of the root zone and defines the minimum protected area of each tree. Removing limbs that make up the dripline does not change the protected area. 2) Any protected trees on the site that require pruning shall be pruned by a certified arborist prior to the start of construction work. Branch and limb pruning shall be limited to that which has been deemed necessary by a certified arborist in order to correct a safety hazard, structural defect, crown cleaning or arborist recommended pruning in the tree. Pruning due to canopy encroachment by buildings shall be limited to the minimum amount needed to safely accommodate the structure. All pruning shall be in accordance with American National Standards Institute (ANSI) A300 pruning standards and the International Society of Arboriculture (ISA) "Tree Pruning Guidelines." 3) All oak trees on site shall be pruned, as per arborist recommendations, prior to starting any site improvements. Any pruning of an oak tree shall be supervised by a certified arborist. 4) Temporary protective fencing (i.e. chain link or similar protective barrier) shall be installed at least one foot outside the driplines of the protected trees prior to initiating construction in order to avoid damage to the tree canopies 			

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

<u>Conditions of Approval/Mitigation Measure</u>	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
<p>and root systems.</p> <p>5) No signs, ropes, cables (except those which may be installed by a certified arborist to provide limb support) or any other items shall be attached to the trees. Small metallic numbering tags for the purpose of preparing tree reports and inventories shall be allowed.</p> <p>6) No vehicles, construction equipment, mobile home/office, supplies, materials or facilities shall be driven, parked, stockpiled or located within the driplines of protected trees.</p> <p>7) No grading (grade cuts or fills) shall be allowed with the driplines of protected trees.</p> <p>8) Drainage patterns on the site shall not be modified so that water collects or stands within, or is diverted across, the dripline of any protected tree.</p> <p>9) No trenching shall be allowed within the driplines of protected trees. If it is absolutely necessary to install underground utilities within the dripline of a protected tree, the utility line shall be bored and jacked under the supervision of a certified arborist.</p> <p>10) The construction of impervious surfaces within the driplines of protected trees shall be stringently minimized. When it is absolutely necessary, a piped aeration system per City standard detail shall be installed under the supervision of a certified arborist.</p> <p>11) No sprinkler or irrigation system shall be installed in such a manner that it sprays water or requires trenching within the driplines of protected trees. An above-ground drip irrigation system is recommended.</p>			

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

<u>Conditions of Approval/Mitigation Measure</u>	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
12) Landscaping beneath oak trees may include non-plant materials such as bark mulch, wood chips, boulders, etc. The only plant species that shall be planted within the driplines of oak trees are those which are tolerant of the natural semi-arid environs of the trees. Limited drip irrigation approximately twice per summer is recommended for the understory plants.(MM 4)			
11. The following trees shall be retained and incorporated into any future development of the site. Removal of any of these trees will require approval of a tree permit, an arborist report indicating the reason for removal and a replacement plan for on site replacement. <ul style="list-style-type: none"> • #30 – Valley Oak 13"dbh • #31 – Valley Oak 29"dbh • #32 – Valley Oak 26"dbh • #33 – Valley Oak 12"dbh • #35 – Valley Oak 38"dbh • #36 – Valley Oak 20"dbh • #37 – Valley Oak 9"dbh • #38 – Valley Oak 35"dbh • #39 – Valley Oak 42"dbh • #40 – Valley Oak 42"dbh 	Prior to Issuance of Grading or Improvement Plans.	Planning Division	
12. If any qualifying tree is removed due to future construction, a Replacement Planting Plan shall be prepared by a certified arborist or landscape architect to mitigate for the loss of native trees larger than 6-inch dbh and all non-native trees larger than 12-inch dbh that are proposed for removal or that would be adversely affected by the project. The Plan shall comply with the City Code and General Plan policies and be submitted to the City for review. The current policies require	Prior to Grading or Improvement Plans or Final Map(s)	Planning Division	

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

<u>Conditions of Approval/Mitigation Measure</u>	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
<p>that every inch lost will be mitigated by an inch planted or money placed in a tree mitigation bank. The Plan shall include the following elements:</p> <ol style="list-style-type: none"> 1) Species, size and location of all replacement plantings; 2) Method of irrigation; 3) The City of Elk Grove Standard Tree Planting Detail L-1, including the 10-foot depth boring hole to provide for adequate drainage; 4) Planting, irrigation and maintenance schedules; 5) Identify the maintenance entity and include their written agreement to provide care and irrigation of the trees for a 3-year establishment period, and to replace any of the replacement oak trees which do not survive that period; 6) The minimum spacing for replacement oak trees shall be 20 feet on center; 7) Replacement oak trees shall not be planted within 15 feet of the driplines of existing oak trees to be retained on-site, or within 15 feet of a building foundation or swimming pool excavation; <p>If any trees are proposed for removal, the following tree replacement formula is to be used:</p> <p>One 15-gallon oak/heritage = 1 inch dbh One 24-inch box oak/heritage = 2 inches dbh One 36-inch box oak/heritage = 3 inches dbh</p> <ol style="list-style-type: none"> 8) No vehicles, construction equipment, mobile home/office, supplies, materials or facilities shall be driven, parked, stockpiled or located within the driplines of oak trees; 9) No grading (grade cuts or fills) shall be allowed within the driplines of the oak trees; 			

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

<u>Conditions of Approval/Mitigation Measure</u>	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
<p>10) Drainage patterns on the site shall not be modified so that water collects or stands within, or is diverted across, the dripline of any oak tree;</p> <p>11) No trenching shall be allowed within the dripline of oak trees. If it is absolutely necessary to install underground utilities within the dripline of an oak tree, the utility line shall be bored or jacked under the supervision of a certified arborist;</p> <p>12) The construction of impervious surfaces within the driplines of oak trees shall be stringently minimized. When it is absolutely necessary, a piped aeration system per City standard detail shall be installed under the supervision of a certified arborist;</p> <p>13) No sprinkler or irrigation system shall be installed in such a manner that sprays water or requires trenching within the driplines of oak trees. An above ground drip irrigation system is recommended;</p> <p>14) Landscaping beneath oak trees may include non-plant materials such as bark mulch, wood chips, boulders, etc. The only plant species that shall be planted within the driplines of oak trees are those that are tolerant of the natural, semi-arid environs of the trees. Limited drip irrigation approximately twice per summer is recommended for the understory plants.(MM 5)</p>			
<p>13 The applicant shall submit a photometric/lighting plan which shows the type of exterior lighting fixtures (i.e. street lights, wall mounted, decorative lighting, etc.). No spillover light or glare onto adjoining property is permitted.</p> <p>No unshielded streetlights, façade lights, reflectors,</p>	<p>Prior to issuance of a building permit</p>	<p>Planning</p>	

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

<u>Conditions of Approval/Mitigation Measure</u>		<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>	<u>Verification (date and Signature)</u>
	spotlights, etc. shall be located in a manner that shines toward or are directly visible from adjacent properties or streets. (MM 1)			

General Compliance Items for Grading and Improvement Plans and Building Permit

1. 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)
2. Prior to issuance of any building permits for the project, the project shall conform to the specific provisions of the City of Elk Grove Water Conservation Ordinance (formerly Chapter 14.10 of the Sacramento County Code) to the satisfaction of the City's Landscape/Oak Tree Coordinator. (Water Supply)
3. Developing this property may require the payment of additional sewer impact fees. Applicant should contact the Fee Quote Desk at 876-6100 for sewer impact fee information.
4. Secure approval of a civil engineered site improvement plan for all proposed on-site and off-site improvements.
5. 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.
6. A permit release letter from the Elk Grove Community Services District Fire Department (EGCSDFD) shall be required prior to the Elk Grove Building Department issuing any construction permits.
7. This development is required to provide a fire flow from public water system capable of delivering a minimum of 1,000 gpm at 20 psi in residential areas. Hydrants shall be spaced a maximum of 500 feet apart in residential areas. 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.
8. Dead-end streets in excess of 150-feet require approved emergency vehicle turnarounds.
9. Addresses for all lots shall be provided to the Fire Department within sixty (60) days of Fire Department signature of approval for development plans.
10. All required roadways, water mains, fire hydrants and fire flow shall be provided prior to the existence of any combustible construction or storage in this development. The roadways shall be constructed to a 20-foot minimum width with a minimum of three (3) inches of AC over six (6) inches of AB and shall have good drainage.
11. The installation of on-site or off-site fire protection equipment, including fire hydrants and water mains, shall meet the standards of the EGCSDFD and the water purveyor having jurisdiction.
12. The installation of roadway gates, addresses, landscaping, pipe bollards, fuel tanks, masonry sound walls, tree wells and/or traffic islands are subject to standards outlined by the EGCSDFD.
13. Traffic preemption devices of a typed approved by the Elk Grove Fire Department, shall be installed on all traffic signal devices erected or modified by this development. These devices shall be installed and functioning prior to any occupancy and at no cost to the Elk Grove Fire Department.
14. Required fire alarm systems (other than single family dwellings) shall be connected to a UL listed central station approved by the Sacramento Regional Fire/EMS Communications Center.
15. Prior to issuance of grading permit, calculate the 100-year flood run-off and demonstrate the means by which the 100-year run-off will be conveyed to the existing drainage system and that the existing drainage system has adequate capacity to handle the 100-year runoff. Use the

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

SACPRE methodology as contained in the 1996 Hydrology Standards Volume 2 to calculate the 100-year run-off.

16. Prior to issuance of grading permit, display the overland release points for the 100-year flood.
17. Prior to issuance of improvement plans, provide calculation for the pipe capacity in conformance with the 1996 Hydrology Standards Volume II and the City of Elk Grove Improvement Standards.
18. Prior to grading permit and/or deemed needed by Public Works, install on-site and off-site drainage facilities as required pursuant to the Sacramento County Floodplain Management Ordinance, and the City of Elk Grove Improvement Standards, including any fee required by the Sacramento County Water Agency.
19. Prior to approval of improvement plans, native and Landmark trees within land to be conveyed to EGCSO shall be protected and preserved according to standard Sacramento County tree preservation measures. Native and landmark trees to be removed shall be compensated on an inch per inch basis consistent with the City of Elk Grove tree mitigation measures. Prior to conveyance of land provide an arborist report assessing species, size, health and location of trees contained on subject properties and comply with findings of report to the satisfaction of the EGCSO. All costs incurred in complying with the arborist recommendations will be the responsibility of the project proponent.
20. The Internal circulation and access shall be subject to the review and approval of Public works and shown on improvement plans.
21. Driveway width shall be a minimum of 45 feet with truck access, and 35 feet without truck access and shown on improvement plans.
22. Driveway locations shall be subject to the review and approval by Public Works and shown on improvement plans.
23. Driveway throat depth shall be 45 feet, clear of parking spaces, measured from the back of sidewalk and shown on improvement plans.
24. Connection to the public sewer shall be required to the satisfaction of CSD-1 and shown on improvement plans.
25. Prior to approval of building permits, provide Business Owner's Association bylaws including but not limited to common area ownership, maintenance and joint access, for review and approval by Public Works.
26. Prior to approval of building permits, provide drainage easements to off-set project impacts, as necessary, at no cost of the City of Elk Grove pursuant to the Sacramento County Floodplain Management Ordinance, and the City of Elk Grove Improvement Standards, including any fee required by the Sacramento County Water Agency Code.
27. Prior to approval of building permits, incorporate stormwater quality measures in conformance with applicable County ordinances and standards, and state and federal law pursuant to Table 2-1 of the County of Sacramento "Guidance Manual for On-site Stormwater Quality Control Measures."
28. Prior to approval of building permits, provide a permanent concrete stamp or other permanently applied message to the satisfaction of City of Elk Grove (not including paint), which reads "No Dumping-Flows to Creek" or other approved message each storm drain inlet.
29. Prior to approval of building permits, the on-site septic system must be destroyed per a permit and all applicable procedures from Sacramento County Environmental Health.

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

30. Prior to approval of building permit, the on-site water well must be protected from surface contamination during development if the well is to be used as a water source. The water well must be destroyed per a permit and all applicable procedures from Sacramento County Environmental Health.
31. The owner, developer or successor in interest shall pay all applicable development fees at the time of building permit.
32. Prior to Certificate of Occupancy, the applicant shall contact Planning to ensure that all conditions for the project has been satisfied.