

ORDINANCE NO. 13-2019

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
FINDING NO FURTHER ENVIRONMENTAL REVIEW IS REQUIRED PURSUANT TO
STATE CEQA GUIDELINES SECTIONS 15183 AND APPROVING A REZONE FOR
KITENZA MAP PROJECT (PLNG18-088):
ASSESSOR PARCEL NUMBER 123-0190-048**

WHEREAS, the Development Services Department of the City of Elk Grove (the "City") received an application on September 27, 2018, from Lokoko and Linda Kitenza (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 APN 123-0190-048, and

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

WHEREAS, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning) of the California Code of Regulations, Title 14 ("State CEQA Guidelines") states that no further environmental review is required under CEQA for projects where no subsequent EIR or Negative Declaration is required because no new significant effects and no new information of substantial importance have been identified by the lead agency (City); and

WHEREAS, based on staff's review of the Project, no further environmental review is required because the Project is consistent with the General Plan designation and policies and no special circumstances exist that would create a reasonable possibility that the Project will have a significant effect on the environment beyond what was previously analyzed as part of the General Plan Environmental Impact Report (EIR), and

WHEREAS, the Development Services Department considered the Project request pursuant to the Elk Grove General Plan; the Elk Grove Municipal Code (EGMC) Title 22 (Land Development) and Title 23 (Zoning Code); the Elk Grove Design Guidelines, and all other applicable State and local regulations; and

WHEREAS, the Planning Commission held a duly-noticed public hearing on March 21, 2019, 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, and voted 5-0 to recommend approval of the Project to the City Council; and

WHEREAS, the City Council held a duly-noticed public hearing on April 24, 2019, 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, 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 described in Exhibit A and Exhibit B, attached hereto and incorporated herein by reference.

Section 2: Findings

This Ordinance is adopted based upon the following findings.

California Environmental Quality Act (CEQA)

Finding: No further environmental review is required under the California Environmental Quality Act pursuant to State CEQA Guidelines Section 15162 (Subsequent EIRs and Negative Declarations).

Evidence: CEQA requires analysis of agency approvals of discretionary "projects." A "project," under CEQA, is defined as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment" (State CEQA Guidelines Section 15378). The proposed Project is a project under CEQA.

State CEQA Guidelines Section 15183, provides that projects which are consistent with the development density established by a Community Plan, General Plan, or Zoning for which an environmental impact report (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 prepared and certified by the City Council as part of the Elk Grove General Plan (SCH# 2017062058).

The proposed Project is consistent with the development density established by the General Plan EIR because the parcel split will result in new parcels over two acres in size at a density consistent with the rural area range of 0.1 to 0.5 units per acre. New construction on the resulting parcels will comply with EGMC development standards for land grading and erosion control (Chapter 16.44), Swainson's hawk surveys and possible mitigation (Chapter 16.130), in addition to other pre-construction surveys as defined by the General Plan EIR. Compliance with these standards has been included in the conditions of approval for the Project. No additional impacts to on-site resources have been identified beyond what was envisioned in the General Plan EIR. Therefore, no further environmental analysis is required as the proposed Rezone is consistent with the General Plan.

Rezone

Finding #1: The proposed zoning amendment (text or map) is consistent with the General Plan goals, policies, and implementation programs.

Evidence: The Project proposes to Rezone 50 gross acres from Agricultural Residential five-acre minimum (AR-5) to Agricultural Residential two-acre minimum (AR-2); however, the site will maintain its Rural Residential (RR) General Plan land use designation. General Plan Table 3-1 indicates that AR-2 is a zone compatible with the RR designation. Additionally, consistent with General Plan policies related to site access, flooding, and creek crossings, the Tentative Parcel Map has been designed to avoid the need to cross an existing drainage channel as Parcel 1 provides approximately 0.75-acres of buildable area that will be accessed via a 25-foot wide easement without the need to cross the channel. Therefore, the Rezone is consistent with the General Plan as the proposed AR-2 development standards are intended to implement rural policies of the Project site by maintaining a two-acre-minimum lot size and rural road design and restricting connection to underground water and sewer facilities.

Section 3. Action

The City Council hereby approves the Rezone as shown in Exhibit A and Exhibit B, incorporated herein by this reference.

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: 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 7: 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).

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 24th day of April 2019

ORDINANCE: 13-2019
INTRODUCED: April 24, 2019
ADOPTED: May 8, 2019
EFFECTIVE: June 7, 2019




STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:



JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:



JONATHAN P. HOBBS,
CITY ATTORNEY

Date Signed: May 10, 2019

Exhibit A
Kitenza Map (PLNG18-088)
Project Description

PROJECT DESCRIPTION

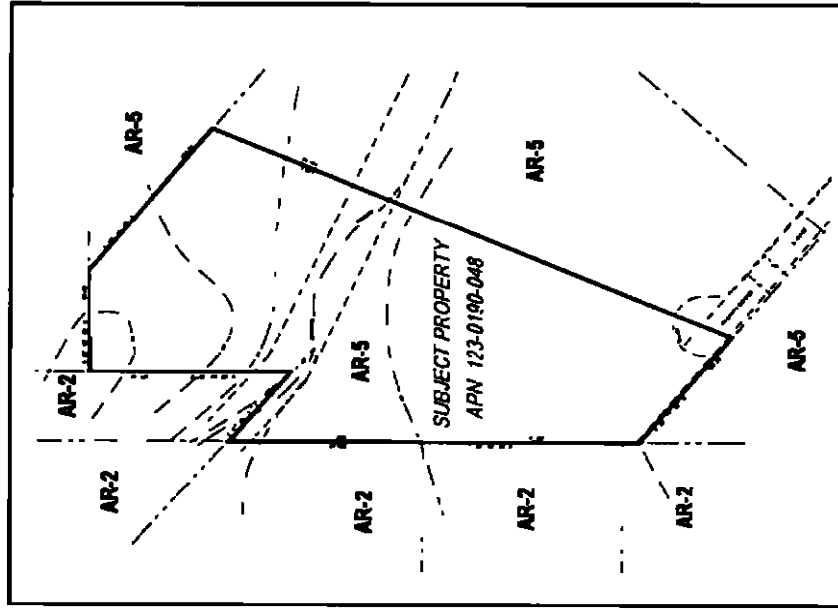
The Project proposes to divide the existing, 5-acre (gross) lot into two lots: one, 2-acre lot and one 3-acre lot. The proposed subdivision also requires a Rezone to rezone subject site from Agricultural Residential-5 (AR-5) to Agricultural Residential-2 (AR-2). Both parcels will be served by a private drive. There is an existing drainage easement and an existing drainage crossing, which are located on the proposed Parcel 1. A private water well and septic system are also located on the property.

Exhibit B
Kitenza Map (PLNG18-088)
Rezoning

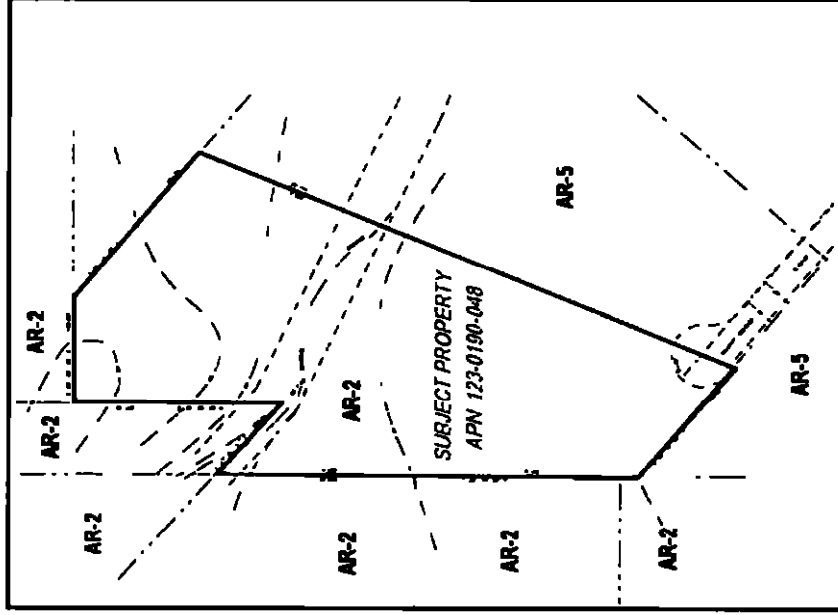


REZONE EXHIBIT FOR LOKOKO & LINDA KITTENZA
CITY OF ELA GROVE, COUNTY OF SACRAMENTO, CALIFORNIA

SEPTEMBER 2018



APN: 123-0190-048
5.001 Acres
Zone: AR-5
EXISTING



APN: 123 0190-048
5.001 Acres
Zone: AR 2
PROPOSED

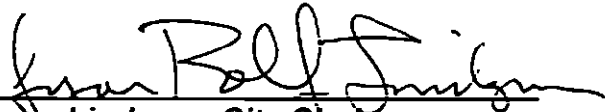
CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 13-2019

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 April 24, 2019 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on May 8, 2019 by the following vote:

AYES: COUNCILMEMBERS: *Ly, Hume, Nguyen, Suen*
NOES: COUNCILMEMBERS: *None*
ABSTAIN: COUNCILMEMBERS: *None*
ABSENT: COUNCILMEMBERS: *Detrick*

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



Jason Lindgren, City Clerk
City of Elk Grove, California