

RESOLUTION 2014-XX

A RESOLUTION OF THE EL CERRITO CITY COUNCIL DENYING AN APPEAL AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF A PLANNED DEVELOPMENT USE PERMIT AT 1715 ELM STREET.

WHEREAS, the subject site is located at 1715 Elm Street; and

WHEREAS, the zoning district of the site is RM (Multifamily Residential); and

WHEREAS, the general plan land use designation of the site is High Density; and

WHEREAS, on January 13, 2014 the City circulated an Initial Study/Mitigated Negative Declarations pursuant to the CEQA Guidelines; and

WHEREAS, at their March 19, 2014 meeting, the Planning Commission held a duly noticed public hearing, received public testimony and directed staff to bring the project back for formal action; and

WHEREAS, at their April 16, 2014 meeting, the Planning Commission held a duly noticed public hearing, received public testimony and adopted Resolution PC14-06, adopting an Initial Study and Mitigated Negative Declaration; and

WHEREAS, at their April 16, 2014 meeting, the Planning Commission held a duly noticed public hearing, received public testimony and adopted Resolution PC14-07, approving a Planned Development Use Permit; and

WHEREAS on April 28, 2014, Howdy Goudey Robin Mitchell Jason Hasley, Keystone Montessori School I Linda Shehabi, Dan & Henia Pines and Julia Lucia filed an appeal of the Planning Commission's Planned Development Use Permit approval at 1715 Elm Street; and

WHEREAS, on June 2, 2014, the City Council held a duly noticed public hearing to consider the appeal; and

WHEREAS, based upon the evidence presented in the record on this matter, including the staff report and oral and written testimony and the proceedings before the Planning Commission, the Council has considered the appeal.

NOW THEREFORE, BE IT RESOLVED:

The City Council of the City of El Cerrito finds that:

1. The proposed residential project will be a transit oriented development (TOD) with good urban design. It will add 14 new dwelling units to the neighborhood while preserving a historic structure and retaining the existing creek. It will not unduly shade surrounding

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dwellings or create unacceptable traffic or parking impacts; and as conditioned it will not adversely affect the livability of the abutting properties or neighborhood.

2. The location and design of the project will provide a functional living environment that has good urban design. With the required vehicle parking tucked under the building, day-lighted creek and landscaped area and clear sightlines to the restored historic building, it will be an attractive amenity for the City.
3. The project is consistent with the purposes of the district and conforms in all significant respects with the General Plan as conditioned; in that it consists of high density multifamily development that utilizes good urban design principles including reduced parking requirements, parking concealed under the new building, and a mix of unit types. It also preserves an important historic resource and protects an existing creek by including it within its landscaped area. The project will implement the following General Plan policies: LU1.3: Quality of Development, LU1.5: Suitable Housing, LU1.6: Various Housing Types, LU1.7: Maximum Density, LU5.5: Pedestrians, Bicycles, and Access, LU6.4: Water Conservation, CD1.2: Design Concept, CD1.3: High-Quality Design, CD1.5: Landmarks Preservation, CD 1.9: Building Design, CD3.3: Site Landscaping, CD4.2: Building Articulation, CD5.1: Design Review Process and R2.2: Historic Preservation.
4. The proposed residential project will be a transit oriented development (TOD) located within 800 feet of a BART station (1,400 feet by foot). It will add 13 new dwelling units while preserving a historic dwelling and retain an existing creek.
5. The proposed project offers a range of attached and detached dwellings on site. In the new construction is includes both one bedroom and two bedroom housing unit styles. All units' prices will be set by the market. It is expected that the prices will reflect the different unit sizes.
6. While this is an important consideration, there was no feasible way to include a mandate to offer these units at an affordable price to persons and families of low and moderate income or lower income homes as defined by the State of California.
7. The existing infrastructure is sufficient to serve the proposed development as proposed.
8. While requiring relief from some development standards of the RM zone, it exceeds the zone requirements for both common area and private open space and allows for ten percent less lot coverage than could have been allowed in this district.
9. The use of the development area is exclusively residential.
10. The design of the new construction has been designed to allow acceptable levels of light and air into the interior spaces of the building. As conditioned, it shall meet or exceed all requirements of the California Building Code. In addition, the distance between the re-located historic building and the adjacent pre-school is approximately 13 feet.

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11. This project will contribute to the enhancement of the neighborhood character and the environment of El Cerrito in the long term in that it represents a balance of many of El Cerrito's core values. It incorporates transit oriented development and good urban design with successful historic preservation and stewardship of an existing creek.
12. The project is proposing to provide 14 new one and two bedroom dwelling units on a 0.42 acre site that is designated in the General Plan for high density. It also proposes to restore and relocate the existing historic single-family detached house on site to provide a fifteenth living unit and preserving an important historic resource. Finally, the project is proposing to keep the creek in place, thereby protecting the 115 foot long water course which is a tributary of the Baxter Creek and utilizing it as an amenity to the overall site.

After careful consideration of facts, correspondence, and testimony, and other evidence submitted in this matter, the El Cerrito City Council hereby denies the subject appeal and upholds the Planning Commission's approval of Planned Development Use Permit at 1715 Elm Street. Application No. 6133, subject to the following conditions:

1. The project will be constructed substantially in conformance with the plans dated January 20, 2014. Minor changes may be approved by the Zoning Administrator. All improvements shall be installed in accordance with these approvals. Once constructed or installed, all improvements shall be maintained as approved. Minor changes may be approved by the Zoning Administrator.
2. If Applicant constructs buildings or makes improvements in accordance with these approvals, but fails to comply with any of the conditions of approval or limitations set forth in these Conditions of Approval and does not cure any such failure within a reasonable time after notice from the City of El Cerrito, then such failure shall be cause for non-issuance of a certificate of occupancy, revocation or modification of these approvals or any other remedies available to the City.
3. These Conditions of Approval shall apply to any successor in interest in the property and Applicant shall be responsible for assuring that the successor in interest is informed of the terms and conditions of this approval.
4. All new residential developments of five or more units are required to comply with the Art in Public Places ordinance pursuant to El Cerrito Municipal Code Section 13.50. This is a requirement of any project with development costs of two hundred fifty thousand dollars or more. The applicant shall devote an amount not less than one percent of such costs for acquisition and installation of public art on the development site, subject to a maximum of one hundred fifty thousand dollars. Compliance with the provisions of this chapter shall be demonstrated by the applicant at the time of filing a building permit application in one of the following ways:
 - a) Payment of the full amount of the public art in-lieu contribution; or
 - b) Written proof to the community development department of a contractual agreement to commission or purchase and install the required public art on the subject

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development site and a written acknowledgement by the visual art professional and the owner or developer, in a form approved by the city, that the proposed public art complies with the following criteria:

- 1) The public art shall be designed and constructed by any person experienced in the production of such art and recognized by critics and by his or her peers as one who produces works of art,
- 2) The public art shall require a low level of maintenance and that the proposed maintenance provisions are adequate for the long-term integrity and enjoyment of the work,
- 3) The public art shall be related in terms of scale, material, form and content to immediate and adjacent buildings and architecture, landscaping or other setting so as to complement the site and its surroundings and shall be consistent with any corresponding action of the planning commission, design review board or city council as it may relate to any development entitlements,
- 4) Permanent public art shall be a fixed asset to the property,
- 5) The public art shall be maintained by the property owner in a manner acceptable to the city,
- 6) The public art meets all applicable building code requirements.

The applicant shall provide the city with proof of installation of the required public art project on the development site prior to the issuance of a certificate of occupancy. If installation prior to the date of occupancy is impracticable, as determined by the city manager or his or her designee, a certificate of occupancy may be approved for the building or portion thereof if the application submitted pursuant to this section has been approved, the applicant has executed a written agreement with the city to install the public art, and the applicant has filed security in an amount and form acceptable to the city attorney to guarantee installation of the public art.

Community Development Department
Building and Planning Division:

1. The mitigation measures identified in the mitigation monitoring plan (MMRP) shall be considered conditions of approval of the project. They are included as Attachment A to the resolution.
2. Prior to the issuance of a building permit, the Building Official shall confirm that the building permit plans, specifications and other related information conform to the California Codes in effect at the time, and all other applicable local ordinances. Compliance with the California Codes and local ordinances shall include, but not be limited to, seismic and geotechnical requirements for Seismic Zone 4, and Title 24 energy conservation and disabled access requirements.
3. Prior to the issuance of a building permit, Applicant shall submit to the Building Official proof of compliance with all other permits necessary from the applicable regulatory

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agencies, including but not limited to the Stege Sanitary District, West Contra Costa Unified School District, Pacific Gas and Electric and East Bay Municipal Utility District.

4. A demolition permit for all proposed demolition shall be submitted to and approved by the City of El Cerrito prior to issuance of a building permit.
5. Prior to the issuance of a demolition or building permit, the Building Official shall confirm that a survey of lead-based paint (LBP) and asbestos-containing materials (ACMs) shall be completed and all identified ACMs and any loose or peeling LBP must be abated. If intact LBP is present on the site and not abated, demolition and construction activities must comply with the State's construction lead standard (Title 8, California Code of Regulations, Section 1532.1).
6. Prior to the issuance of a building permit the applicant and/or construction company shall submit the location of construction staging areas for materials, equipment, and vehicles to the Zoning Administrator for review and approval.
7. Prior to the issuance of a building permit the applicant and/or construction company shall submit a parking management plan for all construction workers and their equipment to ensure that construction workers or construction equipment and vehicles do not occupy on-street spaces.
8. In the City of El Cerrito, the hours of construction work are limited to:
 - a) 7:00 a.m. to 6:00 p.m. Monday through Friday
 - b) 8:00 a.m. to 5:00 p.m. on Saturdays
 - c) Work is prohibited on Sundays and holidays.
 - d) Work may be prohibited during inclement weather by order of the City Building Official.
9. No construction shall take place on June 27, 2014 at the request of the preschool.
10. To ensure that the construction of the project is completed with minimal impact to the existing neighborhood, the following requirements shall be met before the issuance of a building permit:
 - a) Applicant shall submit a construction sign for approval by the Development Services Manager. The sign shall be made of a permanent material with professional lettering. The sign shall be at least 2 feet by 3 feet with a minimum letter size of 2 inches. The sign shall include the following information: the project name; name of the owner/developer; the name and phone number of a contact person, available at all times to address complaints and with the authority to control construction activity on the site; name and phone number of the contractor; and the approved hours of construction. The sign shall be posted at the time of placing temporary fencing and start of construction activity. The sign shall be placed on the Elm Street frontage of the site in a location facing the street where the information can be easily read.

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- b) Prior to issuance of a building permit, the applicant shall submit a site security and safety plan to assure that grading and construction activities are adequately secured during off-work hours. This will include the temporary construction fence required in the Public Works Department condition listed below. The height of the construction fence on the south side of the property shall be twelve feet in height.
11. The applicant shall stipulate in the construction bid information for the project that construction company shall be required to do the following:
- a) A notification procedure stating their plan to notify adjacent property owners as to when major deliveries, detours and lane closures may occur. At a minimum, this notification plan will include a written notice sent electronically as soon as possible to all neighbors that request such notification. The list of interested parties will be kept by the Community Development Department.
 - b) A monthly meeting in person with the operators of the preschool to go over any issues or concerns.
 - c) Make every possible effort shall be made to have the construction site turn off all unnecessary heavy equipment, generators and power tools from noon until 1:00 p.m.
12. Prior to issuance of a certificate of occupancy, the Zoning Administrator shall confirm that:
- a) All mechanical equipment, including electrical and gas meters, heating/air conditioning or ventilation units, radio/TV antennas or satellite dishes shall be appropriately screened from off-site view, and electrical transformers shall be either placed underground or appropriately screened.
 - b) All visible vents, gutters, down spouts, flashings, and the like shall match the color of adjacent surfaces, or shall be incorporated into the overall exterior color and materials scheme for the building.
13. All landscaping improvements shall be maintained in a healthy, growing condition at all times. The landscaped areas shall be irrigated by an automatic sprinkler system designed to reduce water usage. Applicant shall replace all landscaping that dies with the exact living species, or substitutes approved by the Zoning Administrator.
14. The applicant has volunteered to donate four thousand dollars to the City of El Cerrito towards the creation and installation of up to two historical plaques. (This money will be held in a draw down account and any unused funds will be refunded.) The purpose of commemorative plaques would be to explain the history of the Rodini house as well as the history of the surrounding Little Italy neighborhood. The Zoning Administrator shall work with the El Cerrito Historical Society to create these plaques. The plaques will be installed on the front fence of the new project.
15. If for some reason, the City Council denies the Development Agreement, the General Plan Amendment or the Planned Development District, this entitlement is null and void.

Public Works Department:

16. A complete Stormwater Control Plan (Narrative Report and Exhibit) prepared in accordance with the latest version of Contra Costa Stormwater C.3 Guidebook, must be submitted as soon as possible to ensure the stormwater design, site plan, and landscaping plan are congruent.
17. Any changes to existing storm drain channel will require a Public Works Encroachment Permit and may require that storm drain easement be recorded. The applicant must furnish plans, specifications and hydrology/hydraulics studies, as appropriate, prior to consideration of the permit application. The City may impose conditions as are appropriate to eliminate any diminution in the capacity of the existing drain to carry off the volume of water reasonably anticipated. If conflict exists between the Encroachment Permit and the JARPA permit, the JARPA permit shall prevail.
18. Remove and replace all sidewalk and driveway approaches to comply with Americans with Disability Act and all other applicable City standards. Sidewalk and driveway improvements shall require a Public Works Encroachment Permit.
19. All site grading shall be done per Chapters 8 and 13 of the El Cerrito Municipal Code and all other relevant laws, rules and regulations. Prior to commencing any grading in excess of 50 cubic yards, the applicant shall obtain a Grading & Transportation Permit and approval from the Public Works Department.
20. New street tree types and locations shall be approved by the City Arborist prior to issuance of building permit.
21. Prior to issuance of a building, demolition or grading permit for any portion of the project, applicant shall submit a Traffic and Parking Management Plan for review and approval by the Public Works Director and the Zoning Administrator. The plan shall include any City restrictions and limitations on using certain local streets for construction traffic, proposed truck delivery and haul routes, parking arrangements for construction personnel, ingress and egress, noise, efforts to address street debris and dust control and proposed on-site staging and equipment/material storage areas.
22. Prior to the issuance of a building permit, applicant shall install temporary construction fence around the perimeter of the site that provides for continued pedestrian traffic meeting the standards of the Americans with Disabilities Act as approved by the Public Works Director and the Zoning Administrator. On the southern property line, the fence shall be 12 feet high to provide an additional visual and safety screen for the adjacent school. The applicant shall submit the materials for the fence to the Zoning Administrator for review and approval before the fence is installed.
23. Applicant, through its contractor, shall implement comprehensive traffic control measures as set forth in the approved Traffic and Parking Management Plan, including scheduling of major truck trips and deliveries to avoid peak hours (normally 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m.).

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24. All mud, dirt and construction debris carried off the construction site onto adjacent streets shall be removed and cleaned daily. Failure to adequately sweep the streets may result in the City undertaking the effort at Applicant's cost.
25. Dust control measures to minimize air quality impacts shall be implemented including:
 - a) Cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.
 - b) Cover all trucks hauling soil, sand, and other loose materials.
 - c) Pave, apply non-potable water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at site.
 - d) Limit traffic speeds on unpaved roads to 5 mph.
 - e) Install, maintain and replace sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - f) Minimize removal and replant vegetation in disturbed areas as quickly as possible.
 - g) No grading between October 1st and April 15th unless the City Engineer has approved an erosion and sedimentation control plan.
26. Applicant shall be deemed responsible for any damage to public improvements that occurs during construction and shall repair such damage at its expense and to the satisfaction of the City Engineer, including but not limited to sidewalk repair, street slurry seal or street reconstruction.
27. Prior to issuance of a certificate of occupancy, the Public Works Director shall confirm that all off-site and on-site public improvements (including sidewalk and driveway approaches) are completed in accordance with the final building permit and improvement plans or that other arrangements acceptable to the Public Works Director have been made for ensuring that the work is completed, such as an irrevocable standby letter of credit.

Operations and Environmental Services Division

28. Prior to issuance of a building permit, the applicant shall provide provision for pickup and hauling of solid waste and recycling to the satisfaction of the City of El Cerrito Operations & Environmental Services Division. This includes a written description of the plan for the removal of solid waste and recycling items; the plans clearly showing the location of the solid waste and recycling area and the proposed access for both users and waste haulers. The solid waste and recycling area must include:
 - a) Access doors that are at least 8 feet wide.
 - b) The solid waste and recycling storage areas/room shall be lined with metal bands 2 feet wide at a height starting 3 feet from the ground.
 - c) There shall be sloping curbs in front of the access door to the solid waste and recycling storage areas/rooms.
29. Prior to the issuance of a building permit, the applicant shall submit a Construction/Demolition Waste Management Plan to the satisfaction of the City of El Cerrito Operations and Environmental Services Division. This plan must comply with the California Building Code requirement that at least 50% by weight of jobsite debris generated by new construction be recycled, reused or otherwise diverted from landfill disposal.

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30. Upon completion of construction and demolition activities, but before the Certificate of Occupancy, the applicant shall submit the CWM Report to demonstrate achievement of the diversion requirement to the satisfaction of the City of El Cerrito Operations and Environmental Services Division.

Fire Department:

31. Approved numbers or address shall be provided in such a position to be plainly visible and legible from the street fronting the property.
- a) The address numbers shall be of contrasting color of the back ground
 - b) Shall be internally or externally illuminated.
 - c) If address cannot be placed as stated above a monument shall be placed where the address is plainly visible from the street.
32. An Automatic Fire Sprinkler System is required for this project.
33. A fire hydrant is required within 50' of the Fire Department Connection (FDC) and shall be on the same side of the street as the FDC unless approved by the Fire Marshal.
34. Building shall have a "Wet Fire Standpipe in rear stairwell.
35. Standpipes shall be interconnected with the fire sprinkler system.
36. The fire alarm system shall be installed in accordance with NFPA 72.
37. Fire alarm System shall have the FACP located in an approved location and shall be easily accessible and access doors clearly labeled.
38. If the FACP cannot be located for easy access a remote enunciator shall be placed in an approved location.
39. Knox box shall be placed adjacent to entry doors, doors inclosing the fire sprinkler riser and or fire alarms control panel and any remote annunciating locations, and locking gates.
40. Electronic gate shall have a Knox Key Entry System installed for emergency operations.
41. All Knox Box Entry Systems used in this building shall be approved by the Fire Marshall before installation.
42. Fire Extinguishers shall be placed on each level and throughout the building.
- a) Spacing shall have a maximum travel distance of 75'.
 - b) Travel distance to an extinguisher shall not exceed 75' of travel distance.
 - c) The location of each extinguisher shall be conspicuously posted with an approved sign.
 - d) Mount Fire extinguishers on wall with the top no higher than 5 feet from the ground.
43. All electrical breakers shall be labeled. Major equipment shall have corresponding labels.

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44. The Fire Department shall review building plans for compliance of these before a building permit is issued. The applicant shall provide Fire Prevention Division with 24-hour notice prior to any inspections. Implementation of these conditions shall be verified prior to the issuance of the Certificate of Occupancy.

Police Department:

45. The building plans shall note that exterior lighting shall provide adequate illumination for on-site security and display purposes for the building, parking lot and pedestrian accessways while limiting off-site spillover of light through shielding. This condition shall be reviewed for compliance prior to the Certificate of Occupancy.

I CERTIFY that at a regular meeting on June 23, 2014, the El Cerrito City Council passed this Resolution by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on June X, 2014.

Cheryl Morse, City Clerk

APPROVED:

Janet Abelson, Mayor