

ORDINANCE 2014–XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING  
A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF EL CERRITO AND THE  
EDWARD AND LORETTA BIGGS REVOCABLE TRUST FOR 1715 ELM STREET –  
APPLICATION 6133

THE CITY COUNCIL OF THE CITY OF EL CERRITO DOES HEREBY ORDAIN AS  
FOLLOWS:

SECTION 1. RECITALS

A. The Applicant, the Edward and Loretta Biggs Revocable Trust, proposes a development project that includes the relocation and renovation of an existing historical single-family detached house on the Property, the construction of 14 new one- and two-bedroom dwelling units, and the preservation of an existing creek on 0.42 acre site. The project proposes a General Plan Amendment to change the allowable density to 35.7 units per acre; Planned Development District; a Planned Development Use Permit; Design Review; a subdivision map and condominium plan; and this Development Agreement. The proposed development and applications are collectively known as the “Project”; related approvals of the applications are collectively known as the “Project Approvals”.

B. The Project site is located at 1715 Elm Street in El Cerrito, California (the “Property”).

C. The Applicant and City desire to enter into a Development Agreement subject to certain terms, attached to this ordinance, and the vesting of the Project Approvals for ten years.

D. The California Environmental Quality Act (CEQA), together with the state guidelines and City environmental regulations, require that certain projects be reviewed for environmental impacts and that environmental documents be prepared.

E. An Initial Study and Mitigated Negative Declaration (MND) pursuant to the California Environmental Quality Act (CEQA) have been prepared for this Project. All potential impacts identified are reduced to a less than significant level pursuant to the California Environmental Quality Act with the implementation of mitigation measures.

F. On April 16, 2014, the Planning Commission held a properly noticed public hearing on the Project, and adopted Resolution 14-07 recommending that the City Council adopt the Planned Development Use Permit, which Resolution is incorporated herein by reference and available for review at City Hall during normal business hours.

G. On May 21, 2014, the Planning Commission held a properly noticed public hearing on the Project, including the proposed General Plan Amendment, Planned Development District and Development Agreement, and adopted Resolution 14-10 recommending that the City Council not adopt the General Plan Amendment, Planned Development District and

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Development Agreement, which Resolution is incorporated herein by reference and available for review at City Hall during normal business hours.

H. The City Council held a properly noticed public hearing on the Project, including the proposed Development Agreement, on June 2, 2014 at which time all interested parties had the opportunity to be heard.

I. A staff report dated June 2, 2014 and incorporated herein by reference, described and analyzed the Project, including the Development Agreement, for the City Council.

J. The City Council used their independent judgment and considered the staff report, the Initial Study and Mitigated Negative Declaration, and all reports, recommendations and testimony referenced above and adopted Resolution No. 14-XX adopting the Initial Study and Mitigated Negative Declaration prior to approving the Development Agreement.

K. The City Council has considered the recommendation of the Planning Commission on the Development Agreement, including the Planning Commission's reasons for its recommendation, the staff report, all comments received in writing, and all testimony received at the public hearing.

**SECTION 2. FINDINGS AND DETERMINATIONS**

On the basis of: (a) the foregoing Recitals which are incorporated herein, (b) the City of El Cerrito General Plan; (c) Initial Study and Mitigated Negative Declaration, (e) the staff report; (f) information in the entire record of proceedings for the Project, and on the basis of the specific conclusions set forth below, the City Council finds and determines that:

1. The Development Agreement is consistent with the objectives, policies, general land uses and programs specified and contained in the City's General Plan in that: (a) the General Plan land use designations, policies, programs and objectives are incorporated into the Development Agreement and not altered by the Development Agreement; and (b) the Project is consistent with the fiscal policies of the General Plan with respect to the provision of infrastructure and public services.

2. The Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use districts in which the real property is located.

3. The Development Agreement is in conformity with public convenience, general welfare, and good land use policies in that the Project will implement land use guidelines set forth in the General Plan.

4. The Development Agreement will not be detrimental to the health, safety, and general welfare in that the Developer's proposed Project will proceed in accordance with all the programs and policies of the General Plan and Project Approvals.

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5. The Development Agreement will not adversely affect the orderly development of property or the preservation of property values in that the Project will be consistent with the General Plan and Project Approvals.

6. The Development Agreement complies with the requirements of §§ 65864 et seq. of the California Government Code and El Cerrito Municipal Code Chapter 19.14 and specifies the duration of the agreement, the permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation of open space. The Development Agreement contains an indemnity and insurance clause requiring the developer to indemnify and hold the City harmless against claims arising out of the development process, including all legal fees and costs.

**SECTION 3. APPROVAL**

The City Council hereby approves the Development Agreement (Exhibit A to the Ordinance) and authorizes the City Manager to execute it.

**SECTION 4. NOTICING, POSTING, PUBLICATION AND RECORDATION**

This ordinance is adopted pursuant to the procedures established by state law, and all required notices have been given, and the public hearing has been properly held and conducted. Within ten days after the Development Agreement is fully executed by all parties, the Development Services Manager shall submit the Agreement to the County Recorder for recordation.

**SECTION 5. EFFECTIVE DATE**

This ordinance shall take effect thirty days after the date of its adoption, and prior to the expiration of fifteen days from the passage thereof, the ordinance or a summary thereof shall be posted or published as may be required by law, and thereafter the same shall be in full force and effect.

THE FOREGOING ORDINANCE was introduced at a special meeting of the City Council on June 23, 2014 and passed by the following vote:

AYES:	Councilmembers
NOES:	Councilmembers
ABSTAIN:	Councilmembers
ABSENT:	Councilmembers

ADOPTED AND ORDERED published at a regular meeting of the City Council held on the July \_\_\_\_, 2014 and passed by the following vote:

AYES:	Councilmembers
NOES:	Councilmembers

ABSTAIN: Councilmembers  
ABSENT: Councilmembers

APPROVED:

\_\_\_\_\_  
Janet Abelson, Mayor

ATTEST:

\_\_\_\_\_  
Cheryl Morse, City Clerk

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

\_\_\_\_\_  
Cheryl Morse, City Clerk

**ORDINANCE CERTIFICATION**

I, Cheryl Morse, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2014-XX of the City of El Cerrito; that said Ordinance was duly enacted and adopted by the City Council of the City of El Cerrito at a meeting of the City Council held on the \_\_\_<sup>th</sup> day of July, 2014; and that said Ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of El Cerrito, California, this \_\_\_ day of July, 2014.

\_\_\_\_\_  
Cheryl Morse, City Clerk