

**COUNTY OF EL DORADO  
PLANNING AND BUILDING DEPARTMENT  
PLANNING COMMISSION  
STAFF REPORT**



**Date:** June 10, 2021

**Staff:** Tom Purciel

**DESIGN REVIEW PERMIT**

**FILE NUMBER:** DR21-0003/Mercy El Dorado Haven Apartments

**APPLICANT/AGENT:** Mercy Housing California/Jeff Riley

**REQUEST:** Design Review Permit in accordance with the provisions of California SB 35 (affordable housing streamlined approval) for a 65-unit apartment complex including 136 off-street parking spaces, children's play area, landscaping, signage and open space/common areas.

**LOCATION:** Located on the on the east side of Pleasant Valley Road/State Route 49, approximately 700 feet east of the intersection with Oak Dell Road in the El Dorado Area, Supervisorial District 3. (Exhibits A, B, C)

**APN:** 331-301-017 (Exhibit D)

**ACREAGE:** 4.66 Acres

**GENERAL PLAN:** Multifamily Residential (MFR) (Exhibit E)

**ZONING:** Multi-unit Residential (RM) with Design Review-Historic (-DH) Combining Zone (Exhibit F)

**ENVIRONMENTAL DOCUMENT:** Statutorily Exempt pursuant to Section 15268, Ministerial Projects, of the California Environmental Quality Act (CEQA) Guidelines and Government Code section 65913.4(k).

**RECOMMENDATION:** Staff recommending the Planning Commission take the following actions:

1. Certify the project to be Statutorily Exempt pursuant to Section 15268, Ministerial Projects, of the CEQA Guidelines;

2. Find that the project is consistent with the provisions of Senate Bill 35 (SB 35); and
3. Approve Design Review Permit DR21-0003, based on the Findings and subject to the Conditions of Approval as presented.

## **EXECUTIVE SUMMARY**

Approval of this streamlined ministerial Design Review Permit would allow construction and operation of the Mercy El Dorado Haven Apartments, an affordable housing development consisting of five multi-unit residential buildings (proposed buildings No. A, B, C, D1 and D2) with a total of 65 one-, two- and three-bedroom rental units, targeted to serve households earning between 20-50% of the Area Median Income (AMI). The project also includes 136 off-street parking spaces with associated parking lot lighting and landscaping, a children's play area, a 12-square foot freestanding sign at the project frontage along Pleasant Valley Road/State Route 49 and open space/common areas between buildings. The project also includes an approximate 3,240 square foot attached community building/management office on the north side of proposed Building A and an approximate 850 square foot attached maintenance shop on the west side of proposed Building C. Approximately 0.1 acres of native oak woodland (4,000 square feet) and 17 individual native oak trees would be removed by the project. The remaining oak woodland (approximately 0.15 acres or 6,500 square feet) would be protected from development and retained on site. Access to the project site would be provided via an existing paved non-County maintained private roadway ("Rest Lane") to Pleasant Valley Road/State Route 49. Public water and sewer service would be provided by the El Dorado Irrigation District (EID) via existing water and sewer infrastructure lines on or immediately adjacent to the project site. Electric service would be provided by Pacific Gas and Electric (PG&E), via existing PG&E infrastructure also adjacent to the project site. Solid waste service would be provided by the local County waste franchisee, El Dorado Disposal. The project is consistent with the permit streamlining provisions of California Senate Bill 35 (SB 35), the General Plan Multifamily Residential (MFR) Land Use designation, the RM-DH zone development standards as well as all other applicable, objective County General Plan policies and Zoning Ordinance development standards, as discussed in the Analysis section below and more fully described in the Findings.

## **BACKGROUND/HISTORY**

On September 2, 2020, the applicant submitted a Pre-Application (PA20-0004) in order to solicit public and agency comments prior to formal submittal of an SB 35 affordable housing project. Pre-Application preliminary plans were distributed to applicable agencies and organizations including Caltrans, PG&E, DOT, the Diamond Springs and El Dorado Fire Protection District (Fire District), the County AQMD, the County Environmental Management Division (EMD), the El Dorado Local Agency Formation Commission (LAFCO), the California Department of Forestry and Fire Protection (CalFire), EID and the Diamond Springs and El Dorado Community Advisory Committee (CAC). None of the agencies and organizations that received the Pre-Application expressed any issues or concerns about the proposal. Of these agencies and organizations, comments were received from AQMD, Caltrans, the Fire District, EID, DOT, EMD, El Dorado Transit and the CAC and four agencies (AQMD, DOT, the Fire District and EMD) recommended standard non-discretionary conditions of approval (COAs) which could be incorporated into the project, if warranted. In addition, the CAC also reviewed the preliminary plans at an in-person meeting on October 15, 2020 and expressed strong support for the proposal.

On March 19, 2021, the applicant filed the current Design Review Permit application under the provisions of California Senate Bill (SB) 35 (Streamlined Ministerial Approval of Affordable Housing). With the exception of new architectural building elevations submitted for Design Review DR21-0003, the project plans are substantially consistent with the preliminary plans reviewed under PA20-0004. Due to extremely short project approval deadlines under SB 35 (see below for details) and substantial consistency with the plans previously circulated under PA20-0004, final project plans were only re-distributed to DOT, EMD, AQMD, the Fire District and the CAC. As with Pre-Application PA20-0004, none of these agencies or organizations expressed any issues or concerns with the project and recommended standard non-discretionary COAs that could be incorporated into the project as warranted. For details, see additional discussion under the Conditions of Approval section below.

## **OTHER PROJECT CONSIDERATIONS**

### **Senate Bill 35 Streamlined Approval Process:**

In 2017, the California Legislature approved Senate Bill 35 (SB 35), codified in 2018 as Government Code Section 65913.4 (Exhibit G) that provided for streamlined affordable housing construction within California jurisdictions that fall short of their Regional Housing Need Allocation (RHNA) (Exhibit H), such as El Dorado County. While SB 35 amended existing code sections and added new ones, the primary code section enacted to provide for streamlined ministerial approval for affordable housing projects is Government Code section 65913.4. While El Dorado County has met a portion of its RHNA requirements, housing units Above Moderate household incomes (household incomes above 120% of the Area Median Income [AMI]), the County falls short of the RHNA requirements for Moderate (household incomes at or below 100% AMI), Low (household incomes at or below 80% AMI) and Very Low income households (households with incomes at or below 50% AMI). Therefore, 50% or more of the proposed units (at least 33 units) must be deed restricted for household incomes at or below 80% AMI to qualify under SB 35. 2021 state income limits for El Dorado County, based on household size, are shown in Table 1 below.

**Table 1. 2021 State Income Limits for El Dorado County\***

| Income Category      |          | Number of Persons in Household |          |           |           |           |           |            |           |
|----------------------|----------|--------------------------------|----------|-----------|-----------|-----------|-----------|------------|-----------|
|                      |          | 1                              | 2        | 3         | 4         | 5         | 6         | 7          | 8         |
| Extremely Low Income | 30% AMI  | \$18,150                       | \$20,750 | \$ 23,350 | \$ 26,200 | \$ 30,680 | \$ 35,160 | \$ 39,640  | \$44,120  |
| Very Low Income      | 50% AMI  | \$30,250                       | \$34,550 | \$38,850  | \$ 43,150 | \$46,650  | \$50,100  | \$ 53,550  | \$57,000  |
| Low Income           | 80% AMI  | \$48,350                       | \$55,250 | \$62,150  | \$ 69,050 | \$74,600  | \$80,100  | \$ 85,650  | \$91,150  |
| Median Income        | 100% AMI | \$60,400                       | \$69,050 | \$77,650  | \$ 86,300 | \$93,200  | \$100,100 | \$ 107,000 | \$113,900 |
| Moderate Income      | 120% AMI | \$72,500                       | \$82,850 | \$93,200  | \$103,550 | \$111,850 | \$120,100 | \$ 128,400 | \$136,700 |

Source:<http://hcd.ca.gov/grants-funding/income-limits/state-and-federal-income-limits.shtml>  
 \*Current as of 4/27/2021

As discussed in detail in the Findings section below, affordable housing projects need to meet additional specific criteria to qualify for processing under SB 35 (Exhibit I). Projects that qualify for SB 35 are considered ministerial and subject to streamlining requirements. Further, projects that qualify for SB 35 are Statutorily Exempt from the CEQA pursuant to Section 15268, Ministerial Project, of the CEQA Guidelines. SB 35 further provides, “The determination of whether an application for a development is subject to the streamlined ministerial approval process provided by subdivision (b) is not a “project” as defined in Section 21065 of the Public Resources Code.” (Gov. Code, § 65913.4.) As such, no discretionary environmental mitigation measures may be imposed on the ministerial project.

SB 35 further provides, “design review or public oversight . . . shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect.” (Gov. Code, § 65913.4.)

SB 35 Definition of Ministerial Projects:

As discussed above, SB 35 requires qualifying projects be considered ministerial and non-discretionary.

According to the California Department of Housing and Community Development Guidelines for implementing the (SB 35) Streamlined Ministerial Approval Process, “ministerial processing or approval” is defined as follows: “...a process for development approval involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project.

*The public official merely ensures that the proposed development meets all the "objective zoning standards," "objective subdivision standards," and "objective design review standards" in effect at the time that the application is submitted to the local government, but uses no special discretion or judgment in reaching a decision.*" (California Department of Housing and Community Development, Division of Housing Policy Development, Streamlined Ministerial Approval Process Guidelines, November 29, 2018, p. 4)

Further, the County General Plan Glossary similarly defines "ministerial" as follows: "*A governmental decision involving little or no judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out.*"(El Dorado County 2004 General Plan Glossary, p. 244)

Examples of ministerial projects routinely reviewed by the County Planning and Building Department include building permits, grading permits and business licenses.

#### Strict Design Review Limitations for SB 35 Projects:

Under SB 35, such design review or public oversight shall be objective and strictly focused on and limited to compliance with state criteria required for SB 35 processing (Exhibit I), as well as any reasonable objective design standards published and adopted by ordinance or resolution by the local jurisdiction (e.g. Zoning Ordinance development standards). Should an approving authority find that a project of 150 units or fewer is in conflict with any of the objective planning standards, the approving authority must provide written documentation of which standard or standards the development conflicts with, and an explanation for the reason the development conflicts with that standard within 60 days of project submittal. Under the provisions of SB 35, a final decision shall be made on a qualifying project within 90 days of project submittal.

#### **Board of Supervisors Resolution No. 211-2021**

#### **(County Approval Authority for SB 35 Streamlined Ministerial Projects):**

While SB 35 applications are considered ministerial and non-discretionary, SB35 does allow for public oversight to be conducted by a local government's planning commission or any equivalent board or commission. Accordingly, Planning Division staff provided an informational presentation on SB 35 legislation to the Board of Supervisors (Board) on February 9, 2021 (Legistar File No. 20-1559) and requested the Board provide direction to staff regarding the Board's desired level of public oversight and approval authority for SB 35 projects. At this meeting, the Board approved Resolution No. 211-2021 (Exhibit J) requiring SB 35 projects be processed as follows: 1) All SB 35 applications will be decided by the Planning Commission, 2) The public does not have a right to appeal decisions on SB 35 projects, and 3) Subsequent modifications to SB 35 projects after approval, if any, shall be processed at the staff level with Planning Director approval.

Design Review Permit DR21-0003 was filed on March 19, 2021 and has been deemed consistent with the streamlining criteria of SB 35. Therefore, under the provisions of SB 35 and as directed by the Board under Resolution No. 211-2021, County approval of this application is required within 90 days of application filing. Therefore, the Planning Commission must grant final approval prior to June 19, 2021. The decision of the Planning Commission shall be final and not appealable.

**Off-Street Parking:**

Chapter 130.35 of the Zoning Ordinance establishes off-street parking and loading requirements for all uses. However, the SB 35 legislation (Government Code Section 65913.4(2)(e)(1)) (Exhibit G), clearly states that projects consistent with the provisions of SB 35 are not subject to local parking standards when located within one-half mile of public transit. There is an El Dorado Transit stop located approximately 0.18 miles (950 feet) to the west of the project site (Pleasant Valley Road and Oro Lane). Therefore, no parking requirements can be imposed for the project. However, for the benefit of residents and visitors to the project and for the community as a whole, the applicant elected to provide 136 off-street parking spaces in full compliance with Zoning Ordinance Table 130.35.030.1 (Schedule of Off-Street Vehicle Parking Spaces) as shown in Table 2 below.

**Table 2. Required Off Street Parking Spaces For Multi-Unit Residences  
(From Table 130.35.030.1 – Schedule of Off-Street Vehicle Parking Requirements)**

| Unit Type          | Parking Requirement        | Spaces Required | Spaces Provided |
|--------------------|----------------------------|-----------------|-----------------|
| Studio/1 bedroom   | 1.5 spaces/unit            | 30              | 30              |
| 2 or more bedrooms | 2/unit (minimum 1 covered) | 90 (45 covered) | 90 (45 covered) |
| Guest Parking      | 1 space/4 units            | 16              | 16              |

**Signs:**

Existing Snowline Hospice Sign:

The existing non-illuminated off-site sign for the Snowline Hospice, to the east of the project parcel, was permitted in 2006 as part of a separate Special Use Permit S05-0042 (refer to sign location on the project site plan, Exhibit K). However, in 2015, all off-site signs in Community Regions were prohibited as part of the County’s 2015 Sign Ordinance Update. Therefore, as all parcels in the project vicinity are located within the Diamond Springs and El Dorado Community Region (Exhibit A) the existing 63-square foot off-site sign would not be allowed under the current ordinance (Chapter 130.36 – Signs) and is now considered legal nonconforming.

**Other Approved and Pending SB 35 Housing Projects to Date:**

Not including the current project, to date there have been two SB 35 affordable housing projects reviewed by the County, one has been approved and another project is currently in process.

Approved SB 35 Design Review Permit DR20-0001 (El Dorado Senior Village):

On August 27, 2020, the Planning Commission approved the first SB 35 affordable housing development in the County. The approved project consisted of a 149-unit age-restricted apartment complex and two commercial buildings located in the El Dorado area, approximately 0.25 miles west of the current project. For project details, please refer to the Planning Commission Legistar Calendar File for August 27, 2020:

<http://eldorado.legistar.com/gateway.aspx?m=l&id=/matter.aspx?key=28241>

In-Process SB 35 Design Review (Pre-Application PA20-0007- Courtside Apartments):

A pre-application review has been completed and preliminary project plans have been distributed to all affected County agencies and applicable Native American tribal organizations for review and comment. Details regarding the above Pre-Application can be accessed on the County's project information webpage under search by the above application number:

<https://edc-trk.aspgov.com/etrakit/Search/project.aspx>

As reviewed by staff, the Courtside Apartments proposal would likely meet all SB 35 criteria for ministerial approval. However, to date, a formal Design Review Permit application has not been filed.

## **ANALYSIS**

### **Site Description:**

The project site consists of 4.66 acres, located on the on the east side of Pleasant Valley Road/State Route 49, approximately 700 feet east of the intersection with Oak Dell Road in the unincorporated community of El Dorado. The project parcel is currently vacant and undeveloped and contains nonnative annual grasses, mixed chaparral shrubs, Himalayan blackberry and 0.35 acres of oak woodland (five percent of the project parcel), primarily on the north and south sides of the parcel. The parcel elevation ranges from approximately 1,700 to 1,730 feet above sea level. Surrounding land uses include single-family residences on lands zoned Multifamily Residential (MFR) to the north and south, single family residences on lands zoned One-Acre Residential (R1A) to the west and a community care facility (Snowline Hospice) on MFR-zoned land to the east Although not immediately adjacent to the project parcel, the Lake Oaks mobile home park is located approximately 150 feet to the north of the project site (Exhibits B and C). EID will serve the project with potable water and sewer via connections to existing water and wastewater service lines on or adjacent to the project parcel. PG&E will serve the project via connections to existing utility line infrastructure along the west side of the site. Access to the project would be provided via an existing paved non-County maintained private roadway ("Rest Lane") to Pleasant Valley Road/State Route 49, which would share access with the existing Snowline Hospice facility. In addition to the primary access road, a gated Emergency Vehicle Access (EVA) is also proposed through the center of the project which would provide fire and emergency vehicle access to all proposed structures.

The project site has a General Plan land use designation of Multifamily Residential (MFR) and a corresponding zoning of Multi-Unit Residential (RM) with a Design Review-Historic Combining Zone overlay (Exhibits E and F).

### **Project Description:**

Design Review Permit DR21-0003 is a request for an affordable housing development consisting of five multi-unit residential apartment buildings (proposed buildings No. A, B, C, D1 and D2) with a total of 65 one-, two- and three-bedroom rental units, targeted to serve households earning between 20-50% of the Area Median Income (AMI). The project also includes 136 off-street parking spaces with associated parking lot lighting and landscaping, a children's play area, a 12-square foot freestanding sign at the project frontage along Pleasant Valley Road/State Route 49 and open space/common areas between buildings. The project also includes an approximate 3,240 square foot attached community building/management office on the north side of proposed Building A and an approximate 850 square foot attached maintenance shop on the west side of proposed Building C, as shown on the project site plan and architectural building elevations, Exhibits K and L. The residential units will also be deed-restricted to require at least 50% of the units to be affordable for households at or less than 80% of the Area Median Income (AMI) consistent with applicable provisions of SB 35. Access to the project site would be provided via an existing paved non-County maintained private roadway ("Rest Lane") to Pleasant Valley Road/State Route 49. Public water and sewer service would be provided by EID via connections to existing water and sewer lines on or immediately adjacent to the project site. Electric service would be provided by PG&E, via existing PG&E infrastructure also adjacent to the project site. Solid waste service would be provided by the local County waste franchisee, El Dorado Disposal. Approximately 0.1 acres of native oak woodland (4,000 square feet) and 17 individual native oak trees would be removed by the project. The remaining oak woodland (approximately 0.15 acres or 6,500 square feet) would be protected from development and retained on site as detailed in the project Oak Resources Technical Report (ORTR) (Exhibit N). Proposed Oak Resources removal and retention, including payment of mitigation fees for removal of Oak Resources, as applicable, will be consistent with all applicable development standards of Chapter 130.36 (Oak Resources Conservation) and project-specific requirements in the project ORTR.

### **Building Design:**

The project is located in a Design Review-Historic (-DH) Combining zone, which requires discretionary development proposals for multi-family and commercial structures be designed consistent with the County's adopted Historic Design Guide (Design Guide). However, as the Design Guide, last revised on April 24, 2018, does not contain objective design standards (e.g. building setbacks, specific color palette or exterior building treatment options) but instead uses subjective design recommendations based on photographic and descriptive examples, consistency with the Design Guide is not required for SB 35-compliant proposals. Nevertheless, the applicant designed the exterior of the proposed buildings to be consistent with most elements of the Design Guide including Gold Rush Design features such as wrap-around porches, board and batten siding, gabled rooflines, multi-paned and shuttered windows and brick accents (Exhibit L).



### **Lighting and Landscaping:**

Preliminary landscaping plans (Exhibit M), including plant types and sizes, landscaped buffer areas, parking area shade requirements and water efficiency documentation have been deemed consistent with the County's objective landscape standards including Chapter 130.33 (Landscaping Standards) and the 2015 California Model Water Efficiency Landscape Ordinance (MWELo), adopted by the County on August 27, 2019 (Resolution 139-2019) as an additional requirement to ensure compliance with the state's 2015 water efficiency standards. Final submitted landscaping plans will be required to demonstrate consistency with all applicable provisions of both Chapter 130.33 and the MWELo prior to issuance of a building permit. The project also includes outdoor lighting for both parking and other on-site uses. As proposed and conditioned, all light fixtures will be fully shielded to prevent excess light and glare and overall light levels will be consistent with applicable provisions of Chapter 130.34 (Outdoor Lighting). A preliminary lighting plan is provided as Exhibit O.

### **Access and Circulation:**

Primary access to the project site would be provided via an existing paved non-County maintained private roadway ("Rest Lane") to Pleasant Valley Road/State Route 49, which would share a common access point to Pleasant Valley Road/State Route 49 with the existing Snowline Hospice facility as shown on the Project Site Plan (Exhibit K). In addition to the primary access road, a gated Emergency Vehicle Access (EVA) is also proposed through the center of the site which would allow for fire and emergency vehicle access to all proposed structures (Exhibit K). Both the County DOT and the Diamond Springs and El Dorado Fire Protection District (Fire District) have reviewed the project plans and determined that, as proposed, the project is consistent with all applicable codes, standards and regulations for vehicular and emergency vehicle access and circulation. For additional details, please refer to project comments from the Fire District, attached as Exhibit P.

### **Site Improvements:**

Proposed site improvements include grading, earth movement and minor retaining walls to accommodate the building pads, on-site private driveway, parking lot improvements and underground installation of utilities including water, sewer and electric service. There will be an approximate cut of 2,500 cubic yards (cy) and an approximate fill of 5,300 cy of soil as shown on the preliminary Grading and Drainage Plan (Exhibit M). Onsite drainage will be collected through drain inlets located throughout the proposed parking lot and around proposed structures with storm pipes directing runoff to several onsite storm detention ponds as shown on the Preliminary Grading and Drainage Plan.

### **Proposed Freestanding Sign:**

Chapter 130.36 (Signs) provides parcel-specific requirements for sign location, size, number, type and design based on location within the County and based on the individual zone district(s) of each parcel. Table 130.36.070.1a (Community Region Area Signage Standards for Permanent On-Site Signs - Residential and Agricultural Zone Districts) summarizes allowed sign types,

number and sizes as allowed in various zone districts within Community Regions. According to this table, the RM zone district allows one 12-square foot, non-illuminated freestanding sign on-site per each subdivision or neighborhood. With the exception of the nonconforming Snowline Hospice sign as previously discussed, there are no other on-site signs in the neighborhood of the project parcel. Since the proposed freestanding sign (shown on Exhibit K) conforms to the current ordinance requirements for on-site signs, it is allowed as part of this project.

## **CONSISTENCY ANALYSIS**

### **SB 35:**

As proposed, the project has been reviewed by staff and found consistent with all applicable qualifying criteria for the SB 35 streamlined ministerial approval process. The applicant has also certified compliance with SB 35 regulations as evidenced by a signed SB 35 application checklist (Exhibit I). Current qualifying criteria include but are not limited to the minimum number of multifamily housing units (2 or more units), unit income restrictions, urban infill requirements, successful completion of a preliminary consultation with applicable Native American tribal organizations, zoning and General Plan consistency, consistency with applicable “objective zoning standards” as identified in the provisions of SB 35 and project location outside specific environmental resource areas identified in the provisions of SB 35 including but not limited to earthquake fault zones, hazardous waste sites, coastal zones and prime farmland. For additional details, please refer to the Findings section below.

### **General Plan:**

The project is consistent with General Plan policies applying to SB 35 streamlined approvals, specifically those policies containing objective development and design standards for new development or those policies addressing affordable housing. Policies reviewed for consistency include Policy 2.2.1.2. (Multifamily Residential [MFR] land use designation), Policy 2.2.5.21 (project compatibility with adjoining land uses), Policy 5.2.1.2 (adequate quantity and quality of water for all uses, including fire protection), Policy 6.2.3.2 (adequate access for emergencies), Policies 6.5.1.2, 6.5.1.3 and 6.5.1.11 (acceptable noise levels), and Policy 7.4.4.4 (impacts to oak resources). Further, the project was found consistent with Transportation and Circulation Element Policies TC-Xa through TC-Xi (roadway levels of service and roadway improvement requirements/impact fees for new development). Additionally, the project was deemed consistent with Economic Development Policy 10.2.1.5 (public facilities and services financing plan).

In addition, the project was also deemed consistent with applicable Housing Element Policies HO-1.5 (directs higher density development to Community Regions or Rural Centers), HO-1.7 (priority permit processing for low and very low income households) and HO-1.18 (incentive programs/partnerships to encourage private development of affordable housing). For additional details, please refer to the Findings section below.

### **Zoning Ordinance:**

Staff has determined that the project, as proposed and conditioned, is consistent with all applicable objective development and design standards of Title 130 of the County Ordinance Code (Zoning Ordinance) including Chapter 130.24.020 (Matrix of Allowed Uses), Chapter 130.24.030 (Residential Zone Development Standards) including building setbacks and building height, Chapter 130.36 (Signs), Chapter 130.33 (Landscaping Standards), Chapter 130.34 (Outdoor Lighting), 130.37 (Noise Standards) and Chapter 130.39 (Oak Resources Conservation). Further details are discussed in the Findings section below.

### **PUBLIC AND AGENCY REVIEW**

#### **Public outreach:**

No formal public outreach was conducted, and a public outreach plan was not required for this project pursuant to the Zoning Ordinance or pursuant to the provisions of SB 35. However, as directed by the Board under Resolution No. 211-2021 (Exhibit J) the project was duly noticed for a Planning Commission hearing, to include the posting of a legal notice in applicable local newspapers and the mailing of hearing notices to surrounding property owners within a 1000-foot radius from the project parcel consistent with Zoning Ordinance Section 130.50.040 (Public Notice Requirements and Procedures). In addition, project notification was also sent to the Commission's agenda email subscription list. No physical sign posting is required for Design Review Permits.

#### **Public and agency comments:**

The project was distributed to all applicable local, County and state agencies, committees and commissions for review and comment. Comments were received from EID, County DOT, the Diamond Springs and El Dorado Fire District (Fire District), the County Air Quality Management District (AQMD), the County Environmental Management Division (EMD), the Diamond Springs and El Dorado Community Advisory Committee (CAC), the County HCED Programs Analyst, the County Surveyor's office and the United Auburn Indian Community of the Auburn Rancheria (Auburn Rancheria). None of these agencies or organizations expressed any site-specific issues or concerns regarding this project. Several of these agencies recommended standard non-discretionary conditions of approval (COAs) in order to notify the applicant of standard requirements of law that apply to ministerial projects of this type. All agency-recommended COAs have been incorporated into the project as applicable. For details, please refer to the following COA section of this report. A detailed discussion of CAC and Auburn Rancheria comments is also included below.

#### **Comments from the Diamond Springs and El Dorado Community Advisory Committee (CAC):**

Section 130.52.030(C) (Design Review Committee) requires discretionary projects located within a Design Review Combining Zone, with an established design review committee, be reviewed by that designated committee for conformance to adopted design standards or

guidelines, as applicable, and said committee shall submit appropriate design-related recommendations to applicable decision-makers prior to final action on the project. The project is located within a Design Review -Historic (-DH) Combining Zone and a typical, non SB 35, discretionary project would be submitted to the CAC for review and advisory comments regarding project consistency with the County's Design Guide. However, as the Design Guide, last revised on April 24, 2018, does not contain objective design standards (e.g. building setbacks, specific color palette or exterior building treatment options) but subjective design recommendations based on photographic and descriptive examples, CAC advisory recommendations are not required for this application. Nevertheless, in the interest of the community, staff submitted preliminary project plans to the CAC for review and comment at an in-person meeting on October 15, 2020 (Pre-Application PA20-0004) and the CAC expressed strong support for the proposal at that time. At the meeting, the CAC had no significant issues or concerns with the proposal and provided general recommendations regarding architectural design and frontage improvements along Pleasant Valley Road/State Route 49 which have been incorporated into the project. In addition, the County also distributed project plans for this Design Review Permit to individual CAC members for review and comment on April 13, 2021. To date, no additional CAC comments have been received.

### **Comments from Local Native American Tribes (SB 35 Consultation)**

Although SB 35 projects are exempt from CEQA and associated tribal notification/consultation, AB 168, enacted in 2020, created a new process for tribal scoping consultation for housing proposals seeking review under the provisions of SB 35. Under AB 168, the County is now required to make preliminary application information available to affected Native American tribes and successfully conclude consultation with any interested tribe(s) prior to accepting a formal SB 35 development application. If during the tribal consultation process, a Tribal Cultural Resource (TCR) is identified on the site or if the County and affected tribe(s) cannot agree on whether a TCR is present on site or if affected tribe(s) and the County cannot reach a mutual agreement regarding treatment of potential TCRs, the project is not eligible for streamlined processing under SB 35.

Native American tribal consultation was successfully concluded pursuant to the provisions of AB 168, as specified in Government Code Sections 65913.4(b)(3)(A) through 65913.4(b)(3)(D). The County solicited tribal consultation with interested Native American tribal organizations on December 30, 2020 and sent SB 35 project notification, via certified mail, to affected tribes on the then-current NAHC tribal contact list. Of the seven tribal organizations included in the County's solicitation letter, only one tribal organization, the United Auburn Indian Community of the Auburn Rancheria (Auburn Rancheria), responded with a request to consult regarding the project. The County responded by submitting a copy of a recent archaeological records search to the Auburn Rancheria on February 9, 2021. The Auburn Rancheria responded the same day concurring with the County that the project would be unlikely to affect TCRs and also provided a recommended condition of approval (COA) in the unlikely event any inadvertent discoveries of TCRs are found. This tribal-recommended COA is included as COA No. 6, further discussed below.

## **CONDITIONS OF APPROVAL**

Of the commenting agencies that reviewed the project, several County agencies or departments recommended standard non-discretionary conditions of approval (COAs) to notify the applicant of site-specific requirements of law applying to this project. These COAs have been incorporated into the project as follows: The Auburn Rancheria (Condition No. 6 regarding inadvertent discovery of TCRs), the County Surveyor's office (Conditions No. 12 through 14 regarding project addressing, boundary monumentation and easement abandonment), the Environmental Management Division (Conditions No. 15 through 18 regarding solid waste and recycling regulations), the County AQMD (Conditions No. 19 through 26 regarding regulations to reduce or eliminate mobile and point sources of toxic emissions and reduce emission of greenhouse gases), EID (Condition No. 27 regarding project-specific development requirements to establish water and sewer service, as described in the current EID Facility Improvement Letter [FIL]) and the Fire District (Conditions No. 28 through 51 regarding regulations to protect public safety and prevent or reduce damage to proposed structures as a result of wildland or structure fires).

## **ENVIRONMENTAL REVIEW**

This project has been found to be Statutorily Exempt from the requirements of CEQA pursuant to Section 15268 Ministerial Projects. As discussed in Section 4.0 of the Findings below, staff has found the project consistent with the requirements to qualify for SB 35 streamlining. Projects consistent with SB 35 are considered ministerial projects which are considered Statutorily Exempt from the requirements of CEQA.

Pursuant to Resolution No. 240-93, a \$50.<sup>00</sup> processing fee is required by the County Recorder to file the Notice of Exemption. The filing of the Notice of Exemption is optional; however, not filing the Notice extends the statute of limitations for legal challenges to the project from 30 days to 180 days.

## SUPPORT INFORMATION

### Attachments to Staff Report:

Findings  
Conditions of Approval

|                |   |
|----------------|---|
| Exhibit A..... | Vicinity Map  |
| Exhibit B..... | Location Map  |
| Exhibit C..... | Site Aerial Photo   |
| Exhibit D..... | Assessor's Parcel Map   |
| Exhibit E..... | General Plan Land Use Map   |
| Exhibit F..... | Zoning Map  |
| Exhibit G..... | SB 35 Bill Text (Gov. Code Section 65913.4)                                     |
| Exhibit H..... | 2021 El Dorado County Regional Housing Needs<br>Allocation (RHNA)               |
| Exhibit I..... | Applicant's SB 35 Eligibility Checklist   |
| Exhibit J..... | Board of Supervisors Resolution No. 211-2021<br>(SB 35 Project Processing)      |
| Exhibit K..... | Project Site Plan   |
| Exhibit L..... | Architectural Building Elevations   |
| Exhibit M..... | Preliminary Landscape, Grading and Drainage<br>Plans                            |
| Exhibit N..... | Oak Resources Technical Report  |
| Exhibit O..... | Preliminary Lighting Plan   |
| Exhibit P..... | Diamond Springs and El Dorado Fire District<br>Comments                         |
| Exhibit Q..... | El Dorado Irrigation District Facility Improvement<br>Letter (FIL), May 6, 2021 |
| Exhibit R..... | Project Noise and Vibration Study   |
| Exhibit S..... | Noise Study Sound Barrier Locations   |
| Exhibit T..... | 2010 U.S. Census Bureau Urbanized Area<br>Reference Map                         |
| Exhibit U..... | Project Biological Resources Evaluation,<br>September, 2020                     |
| Exhibit V..... | County HCED Programs Analyst Comments   |
| Exhibit W..... | Preliminary Utility Plan  |