
Re: 1/9/25, Item #2, Legistar #25006, Diamond Springs Apartments Phase 2 (Design Review DR24-0008)

From Sue Taylor <sue-taylor@comcast.net>

Date Thu 1/9/2025 1:14 AM

To Planning Department <planning@edcgov.us>; Andy Nevis <Andy.Nevis@edcgov.us>; Bob Williams <Bob.Williams@edcgov.us>; Patrick Frega <Patrick.Frega@edcgov.us>; Jeff Hansen <Jeff.Hansen@edcgov.us>; David Spaur <David.Spaur@edcgov.us>

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Report Suspicious

Dear Planning Commission,

Regarding Planning Commission Meeting 1/9/25, Agenda #2, Legistar #25006, Hearing to consider Diamond Springs Apartments Phase 2 (Design Review DR24-0008) request for a Design Review Permit

Unfortunately, this project was just drawn to my attention today. I have a long history with the first phase of this project in which the Courtside Manor Homeowners Association (CMHA) filed a lawsuit against the county's approval. The applicant and CMHA came to a settlement agreement and therefore CMHA dropped the lawsuit. Because of this, the environmental and road capacity unmitigated impact violations were never resolved.

This project compounds those illegally unmitigated impacts. Secondly, this project does not qualify for SB35. There are too many objective zoning standards that pertain to this project and even one makes the project not eligible for SB35, along with having wetlands on the property also makes it ineligible. Even if the project did qualify for SB35, the project still has to meet General Plan and Zoning requirements. SB35 allows for streamlining, not sidestepping county zoning law and requirements of the General Plan. The Findings show numerous violations of the General Plan, which have to be mitigated and not simply ignored. I started to compile all of the evidence to show how this is true and realized I would not be done in time to send this to the Commission prior to the hearing.

Therefore, given the Planning Departments' continuous misuse of SB35, the new commissioners just being seated, ignoring of the required road capacity needed and to be funded, and the history and complexity of this project, I ask that this project be continued to the next Planning Commission Meeting in order for the evidence to be compiled for more mitigation. Also given the size of project, it needs to be determined IF the project CAN even be approved due to the violations of the General Plan. Particularly given this is a high fire hazard area and I do not think there was any consideration to the 100's of residents that would be blocked, due to

this project, coming out of Black Rice in the event of a fire. Those people that live down Black Rice need to be notified of this project.

Below is just my quick grab of violations to the General Plan, that are not being considered by the Planning Department, and which also makes this project not qualify for SB35. This alone violates State law. If this project is not addressed properly, I will be submitting a complaint to the State Attorney General's office along with the other violations and illegal actions that have taken place by the Planning Department.

General Plan Requirement:

1. Traffic from residential development projects of five or more units or parcels of land shall not result in, or worsen, Level of Service (LOS) F (gridlock, stop-and-go) traffic congestion during weekday, peak-hour periods on any highway, road, interchange, or intersection in the unincorporated areas of the county.

County's Rationale: "The project will create five (5) or more residential units. Due to the SB-35 status of the project, a Transportation Impact Study could not be required of the project." **THIS RATIONALE DOES NOT ADDRESS THE GENERAL PLAN REQUIREMENT. THE TRAFFIC STUDY FOR PHASE 1 OF THIS PROJECT SHOWED THAT THE CONGESTION IS ALREADY AT LOS F. THEREFORE PHASE 1 AND THIS PROJECT HAVE, AND WILL, WORSEN AN ALREADY NOT ALLOWED STANDARD. SB-35 DOES NOT ALLOW FOR A JURIDICION TO IGNORE GENERAL PLAN REQUIREMENTS.**

General Plan Requirement:

2. The County shall not add any additional segments of U.S. Highway 50, or any other highways and roads, to the County's list of roads from the original Table TC-2 of the 2004 General Plan that are allowed to operate at LOS F without first getting the voters' approval.

"County's Rationale": This is not applicable as the Project is not requesting any modifications to Table TC-2. **WRONG RATIONALE. A WORSENERED SEGMENT IS BEING ADDED TO TABLE TC-2 WITHOUT GOING TO THE VOTERS FOR APPROVAL. THAT THE APPLICANT IS NOT REQUESTING TO TAKE THAT TO THE VOTERS IS A VIOLATION OF THE GENERAL PLAN.**

General Plan Requirement:

7. Before giving approval of any kind to a residential development project of five (5) or more units or parcels of land, the County shall make a finding that the project complies with the policies above. If this finding cannot be made, then the County shall not approve the project in order to protect the public's health and safety as provided by state law to assure that safe and adequate roads and highways are in place as such development occurs.

"County's Rationale": The project would create more than five residential units and the finding is made that the project complies with the policies of TC-Xa. **NOT TRUE - SEE 1. AND 2. (THAT IS ABOVE 7), WHICH CANNOT BE MEET, THEREFORE THIS PROJECT IS REQUIRED TO BE DENIED.**

Required Capacity is the essence of our General Plan titled, "A PLAN FOR MANAGED GROWTH AND OPEN ROADS; A PLAN FOR QUALITY NEIGHBORHOODS AND TRAFFIC RELIEF", please stop ignoring this requirement on nearly every project coming before the County.

Regarding requested actions 1-3:

- 1) Certify the project to be Statutorily Exempt pursuant to Section 15268, Ministerial Projects, of the CEQA Guidelines and Government Code section 65913.4(d)(2);
- 2) Find that the project is consistent with the provisions of SB-35; and
- 3) Approve Design Review Permit DR24-0008, based on the Findings and subject to the Conditions of Approval as presented.

Ironically, if this project was truly ministerial it would not be required to come before the Planning Commission. Design standards is discretionary, not ministerial, and is not a reason to ignore CEQA guidelines and Government Codes. #1 violates state law, therefore you must deny #1.

I have just presented a few examples of how the project is not consistent with the provisions of SB-35, also, a design review is a discretionary action, which is an objective zoning standard, (and there are numerous other objective zoning standards applied to this project) which makes using SB-35 ineligible, therefore you must deny #2.

#3 must be denied since this project as presented and shown within the staff report is more than a simple design review.

Again, I ask that this project be continued to the next planning commission meeting or simply denied based on a poorly constructed report and evaluation. I will be submitting more documentation prior to the meeting for this and other violations, but I'm pretty sure the Commission will not have time to digest all of it, so if you choose to not deny outright, please continue the item in order to have a more public and commission informed project.

Thank you for your consideration,

Sue Taylor for Save Our County and Save Our County Joint Coalition

Re: 1/9/25, Item #2, Legistar #25006, Diamond Springs Apartments Phase 2 (Design Review DR24-0008)

From Sue Taylor <sue-taylor@comcast.net>

Date Thu 1/9/2025 8:57 AM

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 4 attachments (13 MB)

SOC comments PC 1-9-25.pdf; 2018.8.14 Marsha Comment Diamond Village Apartments.pdf; 9-26-19 comments to planning.pdf; Proposed Phase 1 Site Plan.pdf;

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Sue Taylor for Save Our County and Save Our County Joint Coalition

January 9, 2025

El Dorado County Planning Commission
2850 Fairlane Court, Building C Hearing Room
Placerville, CA 95667

Regarding Planning Commission Meeting 1/9/25, Agenda #2, Legistar #25006,
Hearing to consider Diamond Springs Apartments Phase 2 (Design Review DR24-
0008) request for a Design Review Permit

Dear Commissioners:

We appreciate the opportunity to provide the following comments on behalf of Save
Our County ("SOC") and Save Our County Joint Coalition (SOC-JC) regarding the
above-reference project.

We have a long history with the first phase of this project in which the Courtside
Manor Homeowners Association (CMHA) filed a lawsuit against the county's
approval. The applicant and CMHA came to a settlement agreement and therefore
CMHA dropped the lawsuit and applicant dropped the application to apply for SB35.
Because of this, the environmental and road capacity unmitigated impact violations
were never resolved. See attached files ("2018.8.14 Marsha Comment Diamond
Village Apartments.pdf" and "9-26-19 comments to planning.pdf") for the 2018 and
9-26-29 Planning Commission meetings, and the email transmission below:

9/26/2019

Edcgov.us Mail - Diamond Village Apartments-Agenda Item #3 9/26/19



(Distributed at hearing)

PC 9/26/19
#3

Charlene Tim <charlene.tim@edcgov.us>

Diamond Village Apartments-Agenda Item #3 9/26/19

Craig Sandberg <craig@sandbergglaw.net>

Wed, Sep 25, 2019 at 9:24 PM

To: Jon Vegna <jvegna@edcgov.us>, James Williams <james.williams@edcgov.us>, "jeff.hansen@edcgov.us"
<jeff.hansen@edcgov.us>, "brian.shinault@edcgov.us" <brian.shinault@edcgov.us>, "gary.miller@edcgov.us"
<gary.miller@edcgov.us>

Cc: Breann Moebius <breann.moebius@edcgov.us>, "charlene.tim@edcgov.us" <charlene.tim@edcgov.us>, Sergei Oleshko
<sergei.oleshko@gmail.com>, Marsha Burch <mburchlaw@gmail.com>, Evan Mattes <evan.mattes@edcgov.us>

Members of Commission:

We are sorry for the late notification, but we have resolved the differences with the neighbors and have entered
into a settlement agreement, so on behalf of the applicant, Corecare Foundation, we respectfully withdraw our
application under SB35. Thank you for your patience and understanding.

Sincerely,

Craig Sandberg

Law Offices of Craig Sandberg

1024 Iron Point Road, Suite 100 #1280

Folsom, CA 95630

916-357-6698

This current project compounds those illegally unmitigated impacts. Secondly, this project does not qualify for SB35. There are too many objective zoning standards that pertain to this project and even one objective zoning standard makes the project not eligible for SB35, along with having wetlands on the property also makes it ineligible. Even if the project did qualify for SB35, the project still has to meet General Plan and Zoning requirements. SB35 allows for streamlining, not sidestepping county zoning law and requirements of the General Plan. The Findings show numerous violations of the General Plan, which have to be mitigated and not simply ignored.

The last communication regarding the settlement agreement, that we were privileged to, was the clause, "If the parties reach agreement, then the agreement shall be reduced to writing and shall include a statement that the agreement will be enforceable by motion to the Court under Code of Civil Procedure section 664.6. The written settlement agreement would include a provision stating that upon payment of the fees by Respondents/Developer as set forth herein, the Petition would be dismissed." The conditions that were agreed to, should be submitted to the public and the Planning Commission in order to determine if the conditions were met, and if they are continued being met with this new phase.

Below are some of the violations to the General Plan, that are not being considered by the Planning Department, and which also makes this project not qualify for SB35. This alone violates State law. If this project is not addressed properly, we will be submitting a complaint to the State Attorney General's office regarding the handling of this project along with other violations and illegal actions of the Planning Department that have taken place.

General Plan Requirements:

General Plan Policy TC-Xa:

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NOT TRUE - SEE 1. AND 2. (THAT IS ABOVE 7), WHICH CANNOT BE MEET, THEREFORE THIS PROJECT IS REQUIRED TO BE DENIED.

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ROADS; A PLAN FOR QUALITY NEIGHBORHOODS AND TRAFFIC RELIEF", please stop ignoring this requirement on nearly every project coming before the County.

2.9 The General Plan Policy TC-Xc does not apply to the project.

Developer paid traffic impact fees (TIF) combined with any other available funds shall fully pay for building all necessary road capacity improvements to fully offset and mitigate all direct and cumulative traffic impacts from new development during peak hours upon any highways, arterial roads, and their intersections during weekday, peak-hour periods in unincorporated areas of the county (Resolution 201-2018, September 25, 2018).

County's Rationale: This policy is not applicable as this policy directs how the County will pay for building the necessary road capacity. **WRONG RATIONALE. THIS POLICY DIRECTS THE DEVELOPER OF THE REQUIREMENT TO PAY FOR ALL NECESSARY ROAD CAPACITY IMPROVEMENTS REQUIRED DUE TO THE APPLICANTS PROJECT.**

2.10 The project is consistent with General Plan Policy TC-Xd.

LOS for County-maintained roads and state highways within the unincorporated areas of the county shall not be worse than LOS E in the Community Regions or LOS D in the Rural Centers and Rural Regions except as specified in Table TC-2. The volume to capacity ratio of the roadway segments listed in Table TC-2 shall not exceed the ratio specified in that table. LOS will be as defined in the latest edition of the Highway Capacity Manual (Transportation Research Board, National Research Council) and calculated using the methodologies contained in that manual. Analysis periods shall be based on the professional judgement of DOT, which shall consider periods including, but not limited to, Weekday Average Daily Traffic (ADT), AM Peak Hour, and PM Peak hour traffic volumes.” 25-0006 B Page 5 of 14

County’s Rationale: This is an SB-35 project and cannot be required to provide a Transportation Impact Study (TIS) to evaluate specific consistency with this policy.

NOT TRUE. ACCORDING TO STATE CODES SB-35 PROJECTS ARE STILL REQUIRED TO MEET COUNTY ORDINANCES WHICH IS MENTIONED FURTHER IN THIS DOCUMENT. (Section 65852.24:

(A)(2)(A) THE HOUSING DEVELOPMENT SHALL BE SUBJECT TO LOCAL ZONING, PARKING, DESIGN, AND OTHER ORDINANCES, LOCAL CODE REQUIREMENTS, AND PROCEDURES APPLICABLE TO THE PROCESSING AND PERMITTING OF A HOUSING DEVELOPMENT IN A ZONE THAT ALLOWS FOR THE HOUSING WITH THE DENSITY DESCRIBED IN PARAGRAPH (1).) THIS APPLIES TO ALL THE OTHER POLICIES THAT THE FINDINGS HAVE IGNORED BY THIS STATEMENT.

2.11 The project is consistent with General Plan Policy TC-Xe.

For the purposes of this Transportation and Circulation Element, “worsen” is defined as any of the following number of project trips using a road facility at the time of issuance of a use and occupancy permit for the development project:

- A. A 2 percent increase in traffic during the a.m. peak hour, p.m. peak hour, or daily, or
- B. The addition of 100 or more daily trips, or
- C. The addition of 10 or more trips during the a.m. peak hour or the p.m. peak hour.

Rationale: This is an SB-35 project and cannot be required to provide a TIS to evaluate specific consistency with this policy. NOT TRUE SEE RESPONSE ON 2.10 ABOVE.

2.12 The project is consistent with General Plan Policy TC-Xf.

At the time of approval of a tentative map for a single-family residential subdivision of five or more parcels that worsens (defined as a project that triggers Policy TC-Xe [A] or [B] or [C]) traffic on the County road system, the County shall do one of the

following: (1) condition the project to construct all road improvements necessary to maintain or attain LOS standards detailed in this Transportation and Circulation Element based on existing traffic plus traffic generated from the development plus forecasted traffic growth at 10-years from project submittal; or (2) ensure the commencement of construction of the necessary road improvements are included in the County's 10-year CIP.

For all other discretionary projects that worsen (defined as a project that triggers Policy TC-Xe [A] or [B] or [C]) traffic on the County road system, the County shall do one of the following: (1) condition the project to construct all road improvements necessary to maintain or attain LOS standards detailed in this Transportation and Circulation Element; or (2) ensure the construction of the necessary road improvements are included in the County's 20-year CIP.

Rationale: This is an SB-35 project and cannot be required to provide a TIS to evaluate specific consistency with this policy. NOT TRUE SEE RESPONSE ON 2.10 ABOVE.

2.13 General Plan Policy TC-Xg does not apply to the project.

Each development project shall dedicate right-of-way, design and construct or fund any improvements necessary to mitigate the effects of traffic from the project. The County shall require an analysis of impacts of traffic from the development project, including impacts from truck traffic, and require dedication of needed right-of-way and construction of road facilities as a condition of the development. This policy shall remain in effect indefinitely unless amended by voters.

Rationale: This is an SB-35 project and cannot be required to provide a TIS to evaluate specific consistency with this policy. NOT TRUE SEE RESPONSE ON 2.10 ABOVE.

2.14 This project is consistent with General Plan Policy TC-Xh.

All subdivisions shall be conditioned to pay the TIF fees in effect at the time a building permit is issued for any parcel created by the subdivision.

Rationale: The project is eligible for, but has not obtained, a TIF Fee Offset. If an offset is not obtained, this project will pay TIF Fees at the time a building permit is issued. EXPLAIN OFFSET – WHO WILL BE COMPENSATING IF THE COUNTY DOES NOT COLLECT FEES FOR THIS PROJECT – WHICH ARE ALSO REQUIRED ON SB-35 PROJECTS?

3.2 The project is consistent with Section 130.24.030 (Residential Zone Development Standards).

Rationale: The project conforms to the site development standards for building height and minimum building setbacks. The maximum building height in the RM base zone is 50 feet. The project proposes a total of four (4) one- to three-story buildings with a maximum building height of 35 feet and 11 inches. Standard setbacks for building structures within the RM zone are 20 feet for the primary front setback, 10 feet for the secondary front setback, five feet for the side setback, and 10 feet for the rear setback. According to the project site plan (Exhibit R), all proposed structures meet these requirements. The proposed uses and structures are consistent with all applicable development standards. THE REQUIRED SETBACKS ARE 30' PER STATE CODE. I AM ASSUMING THAT THESE SETBACKS ARE ALSO BEING MET.

4.8 Does the project meet density requirements, "objective zoning standards," and "objective design review standards"?

Rationale: The MFR land use designation (Exhibit D) has a minimum density requirement of five (5) units per acre and a maximum density requirement of 24 units per acre. The project meets these standards, proposing 5.4 units per acre. As proposed and conditioned, all residential structures meet applicable objective development and design standards as more fully described in the above General Plan, Zoning, and SB-35 Findings. THIS DID NOT ANSWER THE QUESTION IF THE PROJECT COMPLIES TO "OBJECTIVE ZONING STANDARDS". IT DOES NOT.

b. Prime farmland or farmland of statewide importance.

Rationale: The project is not located on prime farmland or farmland of statewide importance as mapped by the California Department of Conservation (California Department of Conservation, Important Farmland Finder, <https://maps.conservation.ca.gov/DLRP/CIFF/>, last accessed July 21, 2020).

THIS IS FARMLAND OF LOCAL IMPORTANCE WHICH DISQUALIFIES THIS PROJECT FOR USING SB-35. SEE THE 9-26-19 LETTER TO PLANNING ATTACHED.

c. Wetlands as defined under 1993 federal law.

Rationale: Under Phase 1 of the project (PD17-0002), an on-site mesic meadow was identified (Exhibit N) as a non-jurisdictional wetland and mitigation measures were incorporated in compliance with the adopted Initial Study and Mitigated Negative Declaration (ISMND) (Exhibit T). The report was then updated with addendums in May 2024 and September 2024 confirming the lack of any jurisdictional wetland as defined under SB-35. Therefore, the project not within a wetland. NOT TRUE. THIS IS FARMLAND OF LOCAL IMPORTANCE WHICH DISQUALIFIES THIS PROJECT FOR USING SB-35. SEE THE 9-26-19 LETTER TO PLANNING ATTACHED.

Other El Dorado County General Plan requirements that must be meant:

Policy 5.1.2.2. Provision of public services to new discretionary development shall not result in a reduction of service below minimum established standards to current users, pursuant to Table 5.1.

Policy 5.1.2.3. New development shall be required to pay its proportionate share of the costs of infrastructure improvements required to serve the project to the extent permitted by State law. Lack of available public or private services or adequate infrastructure to serve the project which cannot be satisfactorily mitigated shall be grounds for denial of any project or cause for the reduction of size, density, and/or intensity otherwise indicated on the General Plan land use map to the extent allowed by State law.

Policy 6.2.3.2. As a requirement of new development, the applicant must determine that adequate access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area.

Policy 6.11.2.1. Development shall be served by street system with at least two evacuation routes capable of carrying peak load traffic and have sufficient capacity to meet project need, or they must provide the necessary capacity to ensure the development has adequate fire protection and safe ingress and egress routes.

Even if the lead agency determines a project to be exempt to CEQA, the substantive requirements in the government code regarding fire protection must be satisfied.

Federal Code:

These regulations do not supersede local regulations which equal or exceed minimum regulations adopted by the state.

State Code:**503.2.5 Dead Ends**

Dead-end fire apparatus access roads in excess of 150 feet (45 720 mm) in length shall be provided with an approved area for turning around fire apparatus.

SB-35 - Chapter 4.2- 65913.4 (2) The development and the site on which it is located satisfy all of the following:

(B) At least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

THE STAFF REPORT DID NOT MAKE A CORRECT DETERMINATION OF THIS REQUIREMENT. THE COMMUNITY REGION LINE IS THE URBAN BOUNDARY. THE BOUNDARY RUNS ALONG THE SIDE OF THIS PROPERTY, THEREFORE THE PARCEL

NORTH AND EAST ARE NOT AN URBAN USE. THIS MUST BE RECALCULATED TO DETERMINE THIS REQUIREMENT, OTHERWISE IF LESS THAN 75 PERCENT THE PROJECT DOES NOT QUALIFY FOR SB-35.

(C)(III) The site meets the requirements of Section 65852.24.

Section 65852.24:

(a)(2)(A) The housing development shall be subject to local zoning, parking, design, and other ordinances, local code requirements, and procedures applicable to the processing and permitting of a housing development in a zone that allows for the housing with the density described in paragraph (1). *-(paragraph (1) The density for the housing development shall meet or exceed the applicable density deemed appropriate to accommodate housing for lower income households in that jurisdiction as specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2.)-*

-(From Section 65583.2:

Subdivision (c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing. A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality's housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households. Notwithstanding the foregoing, for a local government that fails to adopt a housing element that the department has found to be in substantial compliance with state law within 120 days of the statutory deadline in Section 65588 for adoption of the housing element, rezoning pursuant to this subdivision shall be completed no later than one year from the statutory deadline in Section 65588 for adoption of the housing element. An unincorporated area in a nonmetropolitan county pursuant to clause (ii) of subparagraph (B) of paragraph (3) shall not be subject to the requirements of this subdivision to allow residential use by right. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing,

single-room occupancy units, emergency shelters, and transitional housing, and whether the inventory affirmatively furthers fair housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

Paragraph (3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

Sub-paragraph (B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.

(ii) For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units per acre.

(iii) For a suburban jurisdiction: sites allowing at least 20 units per acre.

(iv) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.)-

(3) The housing development shall comply with any public notice, comment, hearing, or other procedures imposed by the local agency on a housing development in the applicable zoning designation identified in paragraph (2). (referring to paragraph above)

(b)(5) The housing development complies with all other objective local requirements for a parcel, other than those that prohibit residential use, or allow residential use at a lower density than provided in paragraph (1), including, but not limited to, impact fee requirements and inclusionary housing requirements.

(g) Notwithstanding Section 65913.4, a project subject to this section shall not be eligible for streamlining pursuant to Section 65913.4 if it meets either of the following conditions:

(2) The developer of the project or any person acting in concert with the developer has previously proposed a project pursuant to Section 65913.4 of 10 units or fewer on the same or an adjacent site. PHASE 1 IS ADJACENT TO THE PROJECT AND HAS 10 UNITS.

Other issues:

Regarding the June 2022 parcel split: It is not clear if this parcel split was publicly posted or heard by the appropriate jurisdictional body. The findings state that a parcel map waiver was applied for and approved. If this is true the county sidestepped analyzing if this was done correctly. It appears that the project is leaving less than 5 acres on a parcel that is general plan designated Medium-

Density Residential (MDR) and zoning designated "Residential Estate Five-Acre-Planned Development (RE-5-PD), meaning 5 acre minimum. "The Project is approximately 5.71 ± acres in size. The Project is currently zoned by the County of El Dorado for both Residential Multi-Unit (RM) and Residential Estate 5 Acres – Planned Development (RE-5) uses. Approximately 3.9 acres of the Project site will remain unimproved and in its natural condition. This violates zoning law. This parcel split and project has been purposely hidden from the public.

The Staff Report states the No formal public outreach was conducted by the County beyond the CAC's publicly noticed May 16, 2024 meeting. This was done based on the provisions of SB-35 prior to the hearing of the Planning Commission to determine if this even is eligible for SB-35. It is just today the Commission is being asked to make the finding that the project is consistent with the provisions of SB-35. With the violations of the General Plan and not meeting objective zoning standards this never was a SB-35 project. This project must be denied and processed as a project subject to CEQA.

Regarding requested actions 1-3:

- 1) Certify the project to be Statutorily Exempt pursuant to Section 15268, Ministerial Projects, of the CEQA Guidelines and Government Code section 65913.4(d)(2);
- 2) Find that the project is consistent with the provisions of SB-35; and
- 3) Approve Design Review Permit DR24-0008, based on the Findings and subject to the Conditions of Approval as presented.

Ironically, if this project was truly ministerial it would not be required to come before the Planning Commission. Design standards is discretionary, not ministerial, and is not a reason to ignore CEQA guidelines and Government Codes. #1 violates state law, therefore you must deny #1.

I have just presented a few examples of how the project is not consistent with the provisions of SB-35, also, a design review is a discretionary action, which is an objective zoning standard, (and there are numerous other objective zoning standards applied to this project) which makes using SB-35 ineligible, therefore you must deny #2.

#3 must be denied since this project as presented and shown within the staff report is more than a simple design review.

Based on the information presented and other information not yet documented, this project must be denied and/or resubmitted following the laws of the state and the county.

Thank you for your consideration,

Sue Taylor for Sue Taylor, Save Our County, Save Our County – Joint Coalition

MARSHA A. BURCH

ATTORNEY AT LAW

131 South Auburn Street
GRASS VALLEY, CA 95945

Telephone:
(530) 272-8411

mburchlaw@gmail.com

August 14, 2018

Via hand delivery and email

El Dorado County Board of Supervisors
2850 Fairlane Court
Placerville, California 95667
edc.cob@edcgov.us

Re: Mitigated Negative Declaration for Diamond Springs Village Apartments

Dear Supervisors:

We appreciate the opportunity to provide the following comments on behalf of Courtside Manor Homeowners Association ("Association"). The Association is deeply concerned about the proposed apartment project ("Project") and the cursory level of environmental review. These comments are intended to supplement comments submitted previously by the Association and others during the review process.

The need for additional review and comments on this Project came to my attention during a time when I was engaged with other matters that could not be avoided, and I apologize for the late submission of these comments. We request that the Board continue this item to the next meeting so that we may have an opportunity to review the issues more fully, and the Board may also have a greater opportunity to consider our concerns.

As an initial matter, the Project is inconsistent with General Plan policy TC-Xa. Further, there is no evidence that the mitigation proposed in the Initial Study and Mitigated Negative Declaration (referred to herein as "MND") would mitigate the impacts to intersections with an existing LOS of F. There is a bare conclusion in the traffic study, but no discussion nor any suggestion that the impacts would truly be lessened.

Also explained below, the MND for the Project also does not comply with the California Environmental Quality Act ("CEQA") (Public Resources Code § 21000 *et seq.*) in certain essential respects.

While the County may understandably wish to avoid the costs associated with extensive environmental review, the MND does not fulfill the County's obligations under CEQA. It is our view that an Environmental Impact Report ("EIR") is required for the Project.

A. The Project is inconsistent with the General Plan

The most recent staff report appears to be from September of last year. In that document, staff briefly discusses concerns about consistency with Measure E, and dismisses the concern by simply concluding that through mitigation, the Project will be consistent with Measure E. The trouble with this conclusion is that the “alternative mitigation measure” discussed in the Fehr & Peers Traffic Impact Study (“Traffic Study”) has no substantial evidence to support it. The Traffic Study simply states that a signal at the two intersections that will be worsened by the Project would reduce the impact to less than significant, and then offers “alternatives” to the signals, with no analysis or discussion.

Mitigation 1 proposed in the Traffic Study for the intersection of Pleasant Valley Road/Racquet Way indicates that the LOS would be B with the installation of a signal, and then proposes the alternative of providing a public road connection to Diamond Road, by way of Black Rice Road (which is a *private* road) would reduce impacts. It does not say to what LOS. This analysis is inadequate. (Traffic Study, p. 39.)

The same is true for Mitigation 2 for the intersection of Missouri Flat Road/China Garden Road. (Traffic Study, p. 39.)

The Project is also inconsistent with TC-Xd in that there is no demonstration that there is adequate emergency access, and additionally there are not sufficient set backs as required for fire safety. This issue is ignored in the MND.

Finally, as other commenters have noted, the Project is not consistent with General Plan and State law requirements for the provision of parks in the community.

This analysis is insufficient and there is no substantial evidence to support the conclusion that the impacts will be mitigated, nor enough to conclude that the Project is consistent with the General Plan.

B. The MND fails to adequately address the Projects’ impacts

As noted above, the mitigation measures for traffic impacts are “alternatives” to mitigation measures that were actually analyzed in the Traffic Study. There is no substantial evidence to support the conclusion that TR-1 and TR-2 will mitigate the impacts in the same way that the signals analyzed in the Traffic Study would. There is simply an unsupported conclusion in the Traffic Study, and repeated in the MND, stating that the mitigation measures will reduce the impacts to a level of insignificance. More is required to make such a conclusion and a full EIR is required.

C. Standard for use of a Negative Declaration

Where, as here, there is substantial evidence in the record to support a fair argument that the proposed project may have a significant effect on the environment, preparation of an EIR is required. (PRC §§ 21100, 21151; CEQA Guidelines § 15064; *Communities for a Better Environment v. South Coast Air Quality Mgmt. Dist.* (2010) 48

Cal.4th 310, 319.)

The standard in reviewing an agency's decision not to prepare an EIR for a project is subject to the "fair argument test" and is *not* reviewed under the substantial evidence test that governs review of agency determinations under Public Resources Code sections 21168 and 21168.5. The "substantial evidence test" that generally applies to review of an agency's compliance with CEQA provides that if any substantial evidence in the record supports the agency's determination, then the determination will remain undisturbed.

In stark contrast, an agency's decision to omit the preparation of an EIR will not stand if *any* substantial evidence in the record would support a fair argument that the Project *may* have a significant effect on the environment. (*No Oil, Inc. v. city of Los Angeles* (1974) 13 Cal.3d 68, 75; *Friends of "B" Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1000-1003; Pub. Resources Code § 21151.)

Because of the flaws in MND and the deferral of analysis and development of mitigation measures, the MND fails disclose and to adequately analyze all areas of impact. Also, there is substantial evidence to support a fair argument that the Project impacts discussed above *may* be significant. A full EIR should be prepared.

D. Conclusion

For the reasons set forth above, the County should reject the Project because it is inconsistent with the General Plan. We also believe that if the County wishes to move forward with the Project, the MND fails to meet the requirements of the California Environmental Quality Act. For these reasons, we believe the document should be withdrawn and a revised environmental document, a full EIR, should be prepared.

Very truly yours,



Marsha A. Burch
Attorney

cc: Courtside Manor Homeowners Association
Supervisors (via email)

9-26-19

Dear Planning Commission,

Re: Agenda Item 9-26-19, Item #3 File #19-1425, Hearing to consider the Diamond Village Apartments project (Planned Development PD19-0003) to allow the construction and operation of ten multi-unit residential buildings and one community building totaling 80 multi-family residential units and one on-site manager unit in accordance with Senate Bill 35.

Currently this project is under litigation due to unmitigated impacts not addressed by the County. This is merely an attempt for the developer of this project to sidestep the process in which those impacts would be mitigated.

Unfortunately the impact to this project is due to the County's disregard to adequately account for the traffic impact of multiple prior projects allowed within the Missouri Flat Corridor without mitigation. Therefore, currently there are sections of infrastructure in the area that have been allowed to go to LOS F. This was brought up when the Sheriff's Safety Facility was approved, but mitigation of traffic impacts in the area, and the Missouri Flat Interchange, was ignored by the County.

The staff report states that the "planned development request is consistent with Measure E, specifically General Plan Policies TC-Xa, ..." yet gives no basis for that conclusion. In fact the Applicant's traffic study shows, given the data that even with mitigation Racquet Way and Pleasant Valley will still remain at level of Service F. The study also shows other sections at LOS F and also that the Missouri Flat Interchange with the existing and project conditions does not have the stacking room for the pending traffic. The solution is signals at 3 intersections which are not being required for mitigation to this project. Instead the study bases that hypothetical solutions will cause impacts to be less than significant.

The staff report briefly discusses concerns about consistency with Measure E, and dismisses the concern by simply concluding that "the project is required to mitigate the impacts to the worsened intersections as seen in the Conditions of Approval", but there is nothing in the Conditions of Approval that mitigates Measure E. Mitigation 1 proposed in the Traffic Study for the intersection of Pleasant Valley Road/Racquet Way indicates that the LOS would be B with the installation of a signal, and then proposes the alternative of providing a public road connection to Diamond Road, by way of Black Rice Road (which is a *private* road) would reduce impacts. It does not say to what LOS. Then the graph shows that this intersection will remain at LOS F even with mitigation. The same is true for Mitigation 2 for the intersection of Missouri Flat Road/China Garden Road. This analysis is inadequate. (Traffic Study, p. 40=41.)

The alternative also relies on the Connector which is a future unknown as to when the County will ever have the funds to complete that project.

The Project is also inconsistent with TC-Xd in that there is no demonstration that there is adequate emergency access, and additionally there are not sufficient setbacks as required for fire safety. This issue is ignored.

TABLE 13 PEAK HOUR INTERSECTION LEVEL OF SERVICE – EXISTING PLUS PROJECT CONDITIONS WITH MITIGATIONS														
Intersection	Mitigation	Control	Existing				Existing Plus Project				Existing Plus Project with Mitigations			
			AM		PM		AM		PM		AM		PM	
			Delay ¹	LOS	Delay ¹	LOS	Delay ¹	LOS	Delay ¹	LOS	Delay ¹	LOS	Delay ¹	LOS
1. Pleasant Valley Road/Racquet Way	Traffic Signal Control	SSSC	39	E	191	F	41	E	<u>>300</u>	<i>E</i>	14	B	16	B
1. Pleasant Valley Road/Racquet Way	Black Rice Connections	SSSC	39	E	191	F	41	E	<u>>300</u>	<i>F</i>	38	E	117	F
6. Missouri Flat Road/China Garden Road	Restricted Access	SSSC	49	E	108	F	49	E	<u>111</u>	<i>E</i>	23	C	21	C
Notes: SSSC = side street stop control, AWSC = all way stop control, N/A = Not Applicable (future intersection)														
¹ For signalized and all-way stop controlled intersections, average intersection delay is reported in seconds per vehicle for the overall intersection. For unsignalized (side street stop controlled) intersections, average intersection delay is reported in seconds per vehicle for the overall intersection (worst movement). All results are rounded to the nearest second.														
Bold text indicates LOS worse than established threshold. <u><i>Italic and underlined</i></u> text identifies a potential impact.														
Source: Fehr & Peers, 2015														

SB35 does not contain policy that it does not have to comply to voter approve ballot initiatives or laws that require protection to the public's health and safety to assure that safe and adequate roads and highways are in place as such development occurs.

Policy TC-Xa states:

"Except as otherwise provided, the following TC-Xa policies shall remain in effect indefinitely, unless amended by voters:

1. Traffic from residential development projects of five or more units or parcels of land shall not result in, or worsen, Level of Service F (gridlock, stop-and-go) traffic congestion during weekday, peak-hour periods on any highway, road, interchange or intersection in the unincorporated areas of the county.

2. The County shall not add any additional segments of U.S. Highway 50, or any other highways and roads, to the County's list of roads from the original Table TC-2 of the 2004 General Plan that are allowed to operate at Level of Service F without first getting the voters' approval.

3. Developer paid traffic impact fees combined with any other available funds shall fully pay for building all necessary road capacity improvements to fully offset and mitigate all direct and cumulative traffic impacts from new development during peak hours upon any highways, arterial roads and their intersections during weekday, peak hour periods in unincorporated areas of the county.

7. Before giving approval of any kind to a residential development project of five or more units or parcels of land, the County shall make a finding that the project

complies with the policies above. If this finding cannot be made, then the County shall not approve the project in order to protect the public's health and safety as provided by state law to assure that safe and adequate roads and highways are in place as such development occurs."

I've also included Table TC-2 for easy reference:

TABLE TC-2 EL DORADO COUNTY ROADS ALLOWED TO OPERATE AT LEVEL OF SERVICE F ¹		
Road Segment(s)		Max. V/C ²
Cambridge Road	Country Club Drive to Oxford Road	1.07
Cameron Park Drive	Robin Lane to Coach Lane	1.11
Missouri Flat Road	U.S. Highway 50 to Mother Lode Drive	1.12
	Mother Lode Drive to China Garden Road	1.20
Pleasant Valley Road	El Dorado Road to State Route 49	1.28
U.S. Highway 50	Canal Street to junction of State Route 49 (Spring Street)	1.25
	Junction of State Route 49 (Spring Street) to Coloma Street	1.59
	Coloma Street to Bedford Avenue	1.61
	Bedford Avenue to beginning of freeway	1.73
	Beginning of freeway to Washington overhead	1.16
	Ice House Road to Echo Lake	1.16
State Route 49	Pacific/Sacramento Street to new four-lane section	1.31
	U.S. Highway 50 to State Route 193	1.32
	State Route 193 to county line	1.51
Notes: ¹ Roads improved to their maximum width given right-of-way and physical limitations. ² Volume to Capacity ratio.		

Also the findings and conditions of approval are conflicting in regards to fire safety requirements.

IN THE FINDINGS:

2.12 The project is consistent with General Plan Policy 6.2.2.2.

Policy 6.2.2.2, Wildland Fire Hazards, requires that the County preclude development in high and very high wildland fire hazard areas unless such development can be adequately protected from wildland fire hazards, as demonstrated in a Fire Safe Plan and approved by the local Fire Protection District and/or CALFIRE.

Rationale: The property is located in a Moderate Fire Hazard Zone, **therefore a fire safe plan is not required** and the project is in compliance with this

policy. Additionally, the project has been reviewed by the Diamond Springs El Dorado Fire Protection District.

IN THE CONDITIONS OF APPROVAL:

Diamond Springs El Dorado Fire Department:

19. Setbacks: Any parcels greater than one acre shall conform to State Fire Safe Regulations (Title 14 SRA Fire Safe Regulations.) requirements for setbacks (minimum 30' setback for buildings and accessory buildings from all property lines).

a. 1276.01 Setback for Structure Defensible Space:

All parcels 1 acre and larger shall provide a minimum 30 foot setback for buildings and accessory buildings from all property lines and/or the center of the road.

b. For parcels less than 1 acre, the local jurisdiction shall provide for the same practical effect. (Section 4290, Public Resources Code. Reference: Sections 4290 and 4291. Public Resources Code.)

c. Setback variances will be considered based upon actual distance from property lines, fire rated construction, size, type and percentage of openings in rated walls, and will be based upon the 2016 Title 24 California Building Code, Part 2 Vol 1, for R-2 construction as well as same practical effect consideration and **an approved wildland urban interface plan.**

As far as using SB35 for this project, there are at least 2 policies that conflict with automatic approval:

Wetlands and Farmlands.

WETLANDS:

Per SB35: 65913.4. (a) A development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (b) and not subject to a conditional use permit if the development satisfies all of the following objective planning standards:

(2) The development is located on a site that satisfies all of the following:

(6) The development is not located on a site that is any of the following:

(C) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

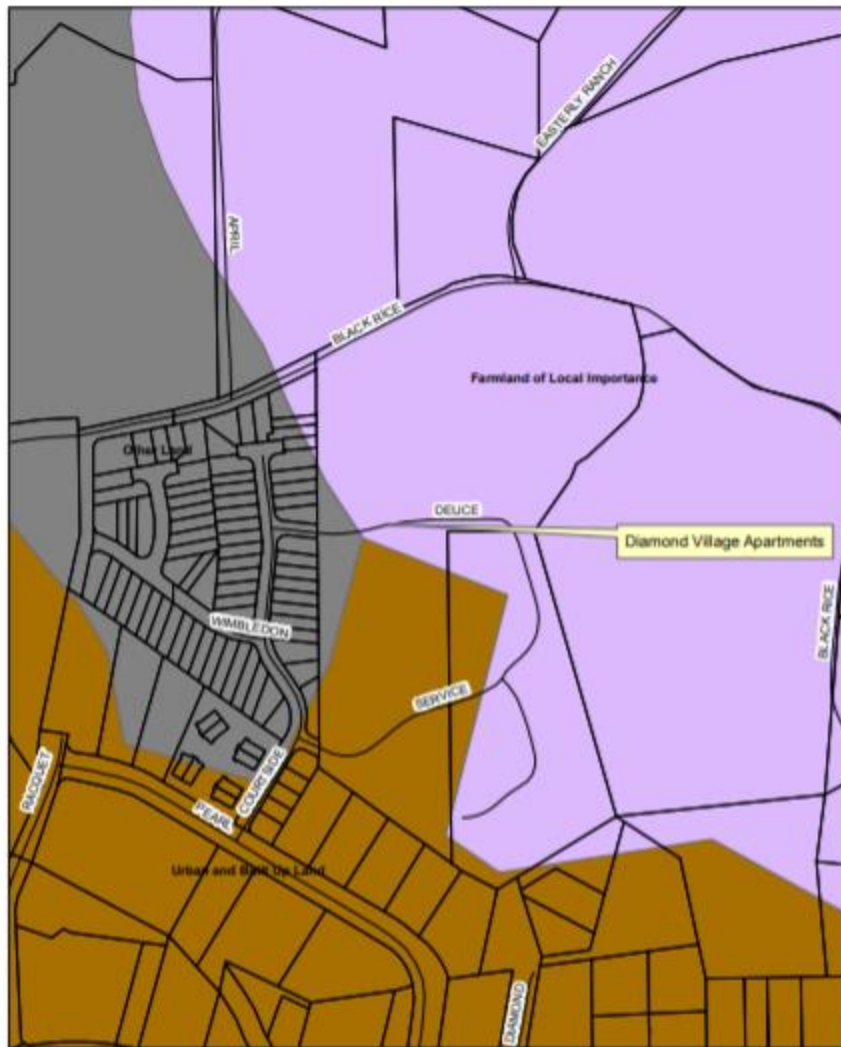
The Biological report identifies three wetlands on the project site. That is all the law requires, is that wetlands are defined, not that they are identified as non-jurisdictional under Federal law.

SUMMARY OF FINDINGS		
Hydrophytic vegetation present?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Hydric soil present?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Wetland hydrology present?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

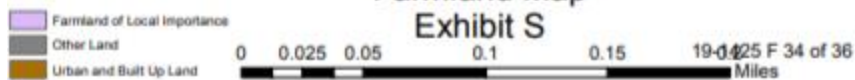
FARMLAND:

6) The development is not located on a site that is any of the following:

(B) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of the jurisdiction.



PD19-0003/Diamond Village Apartments
Farmland Map
Exhibit S



In 2004 the voters of El Dorado County voted to approve the El Dorado County General Plan. Within the General Plan they added an Agricultural and Forestry Element. The above diagram above shows the project area is within Farmland of Local importance. Therefore the applicant cannot use SB35 to streamline this project.



EL DORADO COUNTY GENERAL PLAN AGRICULTURE AND FORESTRY ELEMENT

PRINCIPLE

The Plan must provide for the conservation and protection of El Dorado County's important natural resources, and recognize that the presence of these resources pose a constraint to development.

INTRODUCTION

The Agriculture and Forestry Element addresses the conservation, management, and utilization of the County's agricultural and forest lands. In El Dorado County, these lands are regarded by residents as fundamental components of the County's rural character and way of life. In recent years, large influxes of new residents have resulted in increased development and thus a changed landscape. While this growth has benefited the County in many ways, the low-density residential growth has threatened important agricultural and forest lands. Prudent management of the County's agriculture and forestry resources is needed to provide future generations with opportunities to experience both the economic benefits and rural lifestyle residents now enjoy. This prudent management strategy involves maintenance of large parcel sizes and the minimization of incompatible land use encroachment into these resource rich lands.

The Agriculture and Forestry Element is consistent with the requirements set forth in California Government Code Section 65302 and other applicable sections. The conservation and management of agricultural and forest lands is identified by the residents of El Dorado County as an important issue to be addressed by the General Plan. This element encompasses portions of the mandatory Land Use, and Conservation and Open Space Elements set forth by the California Government Code. Provisions within each of these elements apply to agricultural and forest lands. Specifically, State law requires that the general plan shall include:

"A land use element which designates the proposed general distribution and general location and extent of the use of land for . . . agriculture. . . ." (Government Code Section 65302(a)).

"A conservation element for the conservation, development, and utilization of natural resources including . . . soils. . . ." (Government Code Section 65302(d)).

I would ask that the request to use SB35 for this project be rejected and the project be rejected until a properly written environmental impact document and can be composed that will comply with CEQA, the El Dorado County General Plan and Measure E.

Respectfully,

s/Sue Taylor
For Save Our County

PARKING:				
NO. UNITS	TYPE	RESIDENT	GUEST	REQUIRED
40	1-BDRM	30	5	35
20	2-BDRM	80	10	90
20	3-BDRM	40	5	45
	OFFICE/ MANGR			4
80				174
SPACES PROVIDED:				
STANDARD				174
COMPACT				4
HANDICAP				12
TOTAL PROVIDED:				190

DIAMOND SPRINGS VILLAGE APARTMENTS

CONCEPTUAL SITE PLAN

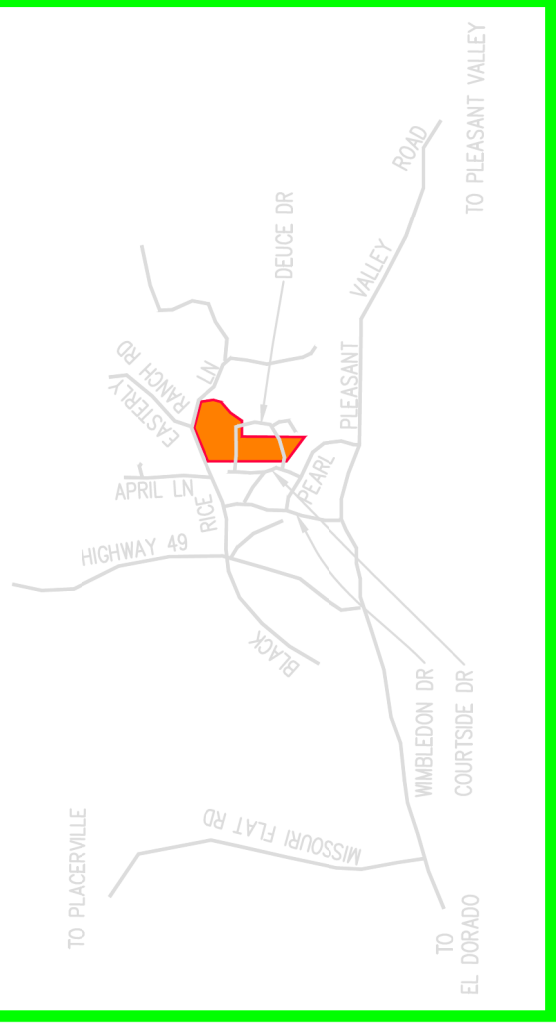
A PORTION OF THE SOUTH 1/2 OF SECTION 19 AND THE NORTH 1/2 OF SECTION 30, T10 N., R11 E., M.D.M.
DIAMOND SPRINGS, EL DORADO COUNTY, CALIFORNIA
MARCH, 2017 SCALE: 1" = 50'

AREA CALCULATIONS	
AREA	SQFT
CONDITIONED	78,401
PORCH/PATIO	5,859
STORAGE	3,624
LAUNDRY	170
COMMON AREA	12,294

KEYNOTES	
1	12" DEEP, 98" WIDE, 60" HIGH SIGN
2	(6) 6" REDWOOD FENCE TO REMAIN
3	PROPOSED 6" REDWOOD FENCE
4	15' X 25' STORAGE SHED



VICINITY MAP
NO SCALE



LEGEND:

(8) 1 - BEDROOM
UNITS PER BLDG
(2) BUILDINGS
(16) UNITS

(8) 2 - BEDROOM
UNITS PER BLDG
(5) BUILDINGS
(40) UNITS

(8) 3 - BEDROOM
UNITS PER BLDG
(2) BUILDINGS
(16) UNITS

(4) 1 - BEDROOM
UNITS PER BLDG
(4) 3 - BEDROOM
UNITS PER BLDG
(1) BUILDINGS
(8) UNITS

TOTAL: 80 APARTMENT UNITS

PROJECT INFORMATION:

OWNER / APPLICANT:
CORECARE FOUNDATION
8863 GREENBACK LN., STE. 324
ORANGEVALE, CA 95662
CONTACT PERSON: SERGE OLESNKO
(916) 949-8892

PLANNING & ENGINEERING:
SCO PLANNING & ENGINEERING, INC.
140 LITTON DRIVE, SUITE 240
GRASS VALLEY, CA 95945
CONTACT PERSON: MARTIN D. WOOD, P.L.S.

ARCHITECT:
GERALD A. BECK, ARCHITECT
140 LITTON DRIVE, SUITE 240
GRASS VALLEY, CA 95945
CONTACT PERSON: MARTIN D. WOOD, P.L.S.

ASSESSOR'S PARCEL:
031-461-03
10.72 ACRES

ZONING:
R2 & RE-5 WITH PD OVERLAY

GENERAL PLAN DESIGNATION:
MDR - MEDIUM DENSITY RESIDENTIAL
MFR - MULTI-FAMILY RESIDENTIAL

FIRE PROTECTION:
EL DORADO COUNTY FIRE DISTRICT

WATER:
EL DORADO IRRIGATION DISTRICT

ELECTRICAL & GAS UTILITIES:
PACIFIC GAS & ELECTRIC

TELEPHONE:
AT&T

SEWAGE DISPOSAL:
EL DORADO IRRIGATION DISTRICT

SCHOOL DISTRICT:
EL DORADO UNION

