

From:  
Sierra del Oro Trading Company LLC  
Rock Creek Ranch Mutual Water Corporation  
Rock Creek Ranch Rural Electric Corporation  
Sierra del Oro Community Service Association

November 7, 2023

Regarding: Housing Laws Violations Mono County  
Rock Creek Ranch Housing Development Project  
APN # 026-330-002-000

To:  
Mono County Board of Supervisors  
Mono County Planning Commissioners  
Mono County Planning and Community Development Department  
California State Housing and Development Department  
Office of the Attorney General of California

With California having some of the highest housing and rent prices in the country, affordable housing is a top priority in the state. In 2019, two State bills, SB 35 and SB 330 created requirements and eased timeframes to help relieve the current housing situation. This is in addition to:

1. the Housing Accountability Act [*which limits local government's ability to deny, reduce the density of, or make infeasible housing development projects (Gov Code section 65589.5)*];
2. the Density Bonus Law [*which incentivizes the construction of affordable housing by allowing a developer to add additional housing units to a project beyond the zoned capacity and secure other "incentives" in exchange for a commitment from the developer to include deed-restricted affordable units in the project. When a developer meets the requirements of the Density Bonus Law, a local government is obligated to permit increased building density, grant incentives, and waive any conflicting development standards (Gove Code section 65915-65918)*]; and
3. the Accessory Dwelling Unit Law [*Accessory dwelling units (ADUs) and junior ADUs (JADU) are a flexible form of housing that is "affordable by design" . . . and addresses barriers, streamlines approval, and expands potential capacity for ADUs, recognizing their unique importance in addressing California's housing needs (Gov Code section 65852.2)*].
4. "*In response to California's critical housing needs, the legislature enacted Housing Element Law with the goal of adequate and safe housing for every Californian. The attainment of housing for all requires the cooperation of local and State governments.*" (Mono County Housing Element). "*Mono County Housing Element Goal 1- Increase Overall Housing Supply, Consistent with County's Rural Character: Programs targeted at producing more units, irrespective of income level. Mono County has a lack of overall supply and supports the creation of all residential projects that provide housing within the context of community plans. Programs are targeted at identifying appropriate sites and removing constraints that slow or limit development.*"

Mono County small town atmosphere, rural residential character and associated quality of life shall be enhanced by the proposed infill development project to complete the Paradise Community: 10-lot Rock Creek Ranch Sustainable Intentional Community Low Income Housing with approved 2014 Specific Plan and certified EIR. And the Community at large will benefit from the proposed Emergency Shelter, Trail System, New Access Road, Sustainable small-scale farms and other projects elements by fulfilling Mono County Housing Elements goals and policies with State laws and policies. For example:

1. *Mono County Housing Element Goal 1.6 Monitor the requirements for complexes with four units to be approved through a conditional use permit and if it is a constraint on development. Complexes with up to three units are currently a permitted use by-right in multi-family land use designations. Must be adapted to the Accessory Dwelling Unit Law and the Housing Accountability Act for new housing development projects.*
2. *Mono County Housing Element Goal 1.10 Establish and adopt minimum allowable densities or*

*increased densities in appropriate community areas or specific plans. Density Bonus Law- The Rock Creek Ranch Specific Plan is SFR Land Use Designation- 2.58 DUs per acre.*

3. *Mono County Housing Element Goal 1.4 Identify future opportunities for CEQA streamlining, including using exemptions when possible. SB 226 Infill project CEQA streamlining. The proposed housing development project is consistent with regional strategy for land use.*

Per the Mono County Housing Element, Paradise Community housing is 12.6% vacant/seasonal of total housing; 95.9% owner occupied; and 4.1% renter occupied. The proposed housing development project introduces 40 rental DUs that will support 140 residents with safe, healthy, new affordable co-living housing. The proposed project increases Low-Income deed restricted rental DUs by 9% but increases Low-Income rental housing by 24% (Current Low Income Rental DUs total 410; Intentional Community addition of 130 co-living within 40 DUs). The Intentional Community is designed for a high degree of social cohesion of collective co-living households in a co-housing sustainable subdivision.

The Housing Element Law compels the Mono County Planning Commissioners and Planning Department to:

1. comply with Senate Bills 330, 226, 35, and Density Bonus requirements;
2. be responsible to coordinate a streamlining discretionary and ministerial permitting process to review and approve all the applications associated with the proposed Low-Income development project;
3. determine what requirements, concessions, incentives, waivers and reductions in development standards are applicable for the project. Modifications to objective standards granted as part of a density bonus, concession, incentive, or waiver of development standards pursuant to Density Bonus Law Government Code section 65915, or a local density bonus ordinance, shall be considered consistent with objective standards; and
4. identify CEQA streamlining.

*Usually, a development project must be modified and/or reduced to comply with established objective design standards and other development regulations such as limits on building height, setback, parking and on-site open space requirements, etc. Concessions and incentives, as defined under State law, allow a developer to deviate from those design standards and/or development regulations when such regulations potentially make the project economically infeasible for the developer to build. Incentives and concessions include "a reduction in site development standards or a modification of zoning code requirements or architectural design requirements . . . that result in identifiable and actual cost reductions, to provide for affordable housing costs." [Gov Code 65915(d)(1) and 65915(k)]. But without a working relationship with the local jurisdiction, the proponent is unsure what is applicable for the development housing project, as is such in this case. And Mono County is unable to acknowledge that the proposed housing development project is entitled to any concessions, incentives and waivers or reductions in development standards.*

The purpose of SB 330 is to streamline and reduce the time it takes to approve housing developments. By reducing the processing time, the goal is to create certainty within the building process with vested rights. SB 330 provides eligible housing development projects seeking discretionary approval enhanced streamlining and an optional vesting opportunity through a process initiated by the filing of a Preliminary Application. Typically, early consultation with the Planning Department and a presentation to the Planning Commission is recommended after the submission of SB 330 Preliminary Application, to coordinate the scope of the project with vesting rights and its anticipated ability to remain vested after a Preliminary Application is submitted with the local government. Mono County Community Development Department has failed to ascertain or define the project's scope, including its objectives, deliverables, governing bodies, budget, and time frame, even after the submission of the SB 330 Preliminary Application submitted October 5, 2023.

The proponents have only 180 days from the submission of the Preliminary Application to submit development applications for review. Without a meeting with the Planning Department or the Planning Commissioners, an undue burden has been placed on the proponents of the 100% Low-Income development housing project to navigate a process that is not on the Mono County website and unfamiliar to the County's lead project contact, a MIG sub-contractor. The situation is further exasperated by the Planning Departments lack of comprehension of the due process of the Housing Crisis Act, Housing Accountability

Act, Density Bonus Law and Accessory Dwelling Unit Law in relation to the proposed housing development project to Mono County's policies and their inability to timely respond with information necessary to proceed forward with submissions of further applications with regards to incentives, concessions and waivers to development standards.

The goal of SB 35 is to increase the housing supply within counties and cities that have not made progress toward meeting affordable housing goals (of mostly rental units), that are mandated by the state, [specifically, for "multifamily infill projects" which includes accessory dwelling units for new construction of single-family homes with attached accessory dwelling units or a "housing development project" (refers to a group of housing units)]. Housing Accountability Act (Gov Code 65589.5) seeks to increase the approval and construction of new housing by curbing the ability of local governments to deny or reduce the density of "housing development projects". (The proposed development project includes 100% Low-Income rental units- four DU's per lot = 40 DUs). The SB 35 Statewide Determination Summary clearly indicates that Mono County is **not** exempt currently from subject to the streamlined ministerial review process.

Mono County has made insufficient progress toward their Lower income Regional Housing Needs Assessment (RHNA) and are therefore subject to streamlined ministerial approval process for proposed developments with at least 50% affordability as noted in the published SB 35 Statewide Determination Summary 2023. SB 35 Notice of Intent was submitted to Mono County Community Development Department, October 5, 2023, along with the SB 330 Preliminary Application which included the 8/7/2023 Rock Creek Ranch Vesting TTM application. The SB 330 Preliminary Application stated that the proponent would be seeking Density Bonus incentives, waivers, concessions and reduction in development standards for the development project which would require Mono County to provide the requirements for a SB 35 Supplemental or a Density Bonus application requirement checklist.

Under the Housing Crisis Act, proposed housing developments projects are only subject to objective standards, objective subdivision standards, and objective design review standards enacted and in effect at the time that the application is submitted. When determining consistency with objective zoning, subdivision, or design review standards, the local government shall only use those standards that meet the definition referenced. Without a working relationship with the Planning Department, the project relies on the objective standards of the County's General Plan, which directly impacts the ability to coordinate a path forward for submission of Use Permits, Director Reviews and other permit applications when applying concessions, incentives or waivers to development standards.

The Mono County Planning Department does not have an SB 35 application, nor an SB 35 Supplemental Application which is necessary for Density Bonus and which has made the process of submitting applications extremely difficult to the point that no applications have been able to be submitted. Under the Density Bonus Law, jurisdictions must adopt an ordinance that specifies how the Density Bonus Law will be implemented locally. This ordinance may comprehensively address all parts of the law (e.g., eligibility, bonus percentages, etc) or simply indicate that the Density Bonus Law will be implemented directly from State statute. Mono County allows for density bonuses *to residential projects* (in Multiple-Family land use designation) *at a rate of 35% over the maximum density or a ratio of one bonus unit to one affordable/employee housing unit, whichever is greater. Density bonuses will be awarded in a manner consistent with Gov Code section 65915.* Due to SB 330, the Rock Creek Ranch is a "housing development project" and is entitled under the Housing Accountability Act and Density Bonus Law incentives, concessions and waivers. Furthermore, Mono County should have updated their website to include the Housing Crisis Act.

Also, per the Housing Crisis Act, if the local government fails to publicly provide information, in a manner readily accessible to the general public, about the locality's process for applying and receiving approval, the local government shall accept any application that meets the requirements for a standard multifamily entitlement submittal and that contains information showing how the development complies with requirements. Mono County does not have a multifamily entitlement process listed on their website and repeated requests for guidance to the Community Planning Department have been unsuccessful.

Because the Vesting TTM application was submitted with the SB 330 Preliminary Application, and found to be incomplete, the proponents should be permitted to resubmit the requested information without triggering

a new application process to review for completeness within the next thirty days.

The proponents should also be permitted to schedule a hearing with the planning commissioners to review the scope of the project or at a minimum have a designated planner within the Mono County Planning Department that is familiar with Mono County Housing Element and Objective Standards (instead of a sub-contractor that is unfamiliar with Mono County's character, codes and guidelines and State law) to save time and money and fulfill the streamlining permitting intent of the laws and most importantly to not overwhelm the limited resources of the Mono County Planning Department.

The Mono County Community Development Department has been non-compliant and is lacking the technical assistance to process the applications associated with the proposed housing development under the Housing Crisis Act, the Housing Accountability Act, the Density Bonus Law, and the Accessory Dwelling Unit Law. Based on the responses received, inability for early consultation, and the lack of corrective action taken, the proponent filed potential violations with California State Housing and Development Department to bring the situation to the attention of the Office of the Attorney General under the Housing Element Law.

Again, Mono County must collaborate with applicable federal, state and local entities in pursuing the vision through citizen-based planning and efficient, coordinated permit processing that adhere to the Housing Crisis Act, Housing Accountability Act, Density Bonus Law, Accessory Dwelling Unit Law and objective guidelines for infill projects- SB 226 CEQA Streamlining. At this time, the development housing project requires that Mono County Planning Commissioners and Mono County Community Development Department to comply with the Housing Crisis Act, Housing Accountability Act, Density Bonus Law, and Accessory Dwelling Unit Law to coordinate the streamlining permitting process for reviewing and processing the applications for the proposed housing development project to determine what requirements, concessions, incentives and waivers are applicable for the 10-lot Rock Creek Ranch Sustainable Intentional Community with 100% Low-Income Housing.

Thank you,

Paula Richards

Sierra del Oro Trading Company LLC  
Rock Creek Ranch Mutual Water Corporation  
Rock Creek Ranch Rural Electric Corporation  
Sierra del Oro Community Service Association

**Project Name: Rock Creek Ranch Sustainable Intentional Community Low Income Housing**

**Total Number of Units: 40**

**Number of Affordable Units: 40**

**APN# 026-330-002-000**

**Location: 9125 Lower Rock Creek Rd, Bishop CA 93514**

**Jurisdiction: Mono County**