

November 26, 2024

Erik Nolthenius,
Planning Manager
City of Brentwood Community Development Department
150 City Park Way
Brentwood, CA 94513

Re: Alternate Vesting Tentative Subdivision Map for the Bridle Gate Project

Dear Mr. Nolthenius,

Raney Planning and Management, Inc. has prepared this Memorandum to address if alterations to the design of the proposed St. Regis Avenue/Chestnut Oak Drive/San Jose Avenue intersection that would be constructed as part of the Bridle Gate Project (proposed project), as well as the addition of a new site access roadway and the consolidation of the on-site parks associated with the Alternate Vesting Tentative Subdivision Map (VTSM), would alter the conclusions of the Bridle Gate Project Draft Revised Environmental Impact Report (REIR), such that recirculation of the Draft REIR would be necessary. As discussed herein, the City of Brentwood's approval of the Alternate VTSM would not result in a new significant impact or an increase in the severity of an impact previously identified in the Draft REIR. In addition, a comment letter on the Bridle Gate Project Draft REIR was submitted on August 27, 2024 by Leigh Prince of Fox Rothschild, LLA (see Attachment A of this Memorandum); as discussed in further detail below, the comment letter does not invalidate the conclusions of the Draft REIR, and the analysis of the environmental impacts of the proposed project contained therein remains valid. Therefore, the Alternate VTSM would be consistent with the analyses and conclusions presented in the Final REIR and does not necessitate recirculation of the Draft REIR, as the revisions do not trigger the criteria for recirculation established by CEQA Guidelines Section 15088.5(a).

Project Background

The Draft REIR prepared for the proposed project evaluated all potential environmental effects required for analysis under the California Environmental Quality Act (CEQA), including those associated with the project's westerly extension of San Jose Avenue and construction of the new north-south Chestnut Oak Drive. The two new roadways would serve as the northern and western legs of the new four-way St. Regis Avenue/Chestnut Oak Drive/San Jose Avenue intersection, which would allow for vehicle access from the proposed residences to the existing Brentwood Hills neighborhood adjacent to the south of the project site. One additional site access roadway was proposed to connect to Sand Creek Road to the north. In addition, the Draft REIR prepared for the proposed project evaluated the development of two on-site parks.

As discussed in Chapter 1, Introduction, Description of Project Changes, and List of Commenters, of the Final REIR, following the release of the Draft REIR for public review, the proposed project was further refined as part of the Final REIR to comply with applicable development standards for Planned Development-36 (PD-36), Subarea C, set forth in Brentwood Municipal Code Section 17.486.004. The project refinements reduced the number of proposed residential lots from 286 to 272.

In addition, Millbrook Court, which was previously proposed for east of Park Parcel G, was reconfigured such that the cul-de-sac would now be extended and renamed Millbrook Drive, connecting to Rosewood Drive to the north and east. Due to the Millbrook Drive reconfiguration, Park Parcel G was reduced from 3.39 acres to 2.49 acres. The lots surrounding Park Parcel G were also moved to be located north of Millbrook Drive and south of the park. The public review period for the Final REIR occurred from August 25 to September 5, 2023. Since the release of the Final REIR, changes to the project components have not occurred. As detailed in the Draft REIR and Final REIR, all potential impacts associated with the proposed project, including those related to vehicle miles traveled (VMT), would either be less than significant or would be reduced to a less-than-significant level through implementation of the mitigation measures set forth therein.

On August 27, 2024, the City Council held a public hearing on the appeal filed by the project applicant of the Planning Commission's denial of the proposed project. During the hearing, the City Council raised concerns about traffic circulation and impacts on adjacent/surrounding neighborhoods, CEQA impacts related to VMT, a preference for providing one large park instead of two smaller ones, compliance with PD-36 Subarea C standards, deterioration of ridgelines, and noise. Based on the public comments and concerns raised by the City Council, a motion to deny the appeal and uphold the Planning Commission's denial of the project was unanimously passed by the City Council.

Subsequent to the August 27, 2024 City Council hearing, a Alternate VTSM has been prepared, as shown in Figure 1. As shown therein, the new portion of San Jose Avenue within the project site would not connect with the existing portion of San Jose Avenue for general public vehicular traffic. Similarly, Chestnut Oak Drive would not connect with St. Regis Avenue for public vehicular traffic. Pedestrian and bicycle infrastructure connections would still be developed between the foregoing roadways, and a 20-foot-wide emergency vehicle access (EVA) connection would be provided to the project site. In addition, as shown in the Alternate VTSM, a new site access roadway, labeled as Oak Lane, would be provided from Sand Creek Road, east of the main site entrance. As discussed in further detail below, a sound wall would be installed along the new corner lots along Oak Lane.

In addition, whereas the previous VTSM for the proposed project included two neighborhood parks in Parcel A and Parcel G totaling 4.35 acres, the Alternate VTSM includes a single larger park (8.49 acres) within Parcel A, in the northwestern corner of the site. Parcel G of the previous VTSM has been reconfigured into residential lots. With the reconfiguration of the proposed residential lots, as well as the deletion of the three-story homes in the southern portion of the site, the Alternate VTSM now includes 269 residential lots, as compared to the previously proposed 272 residential lots.

DKS Associates prepared an Updated VMT Assessment based on the Alternate VTSM (see Attachment B of this Memorandum),¹ which was peer reviewed by Kimley-Horn (see Attachment C of this Memorandum),² and Saxelby Acoustics, LLC prepared an Updated Noise Assessment based on the Alternate VTSM (see Attachment D of this Memorandum),³ which was peer reviewed by Bollard Acoustical Consultants, Inc. (see Attachment E of this Memorandum).⁴

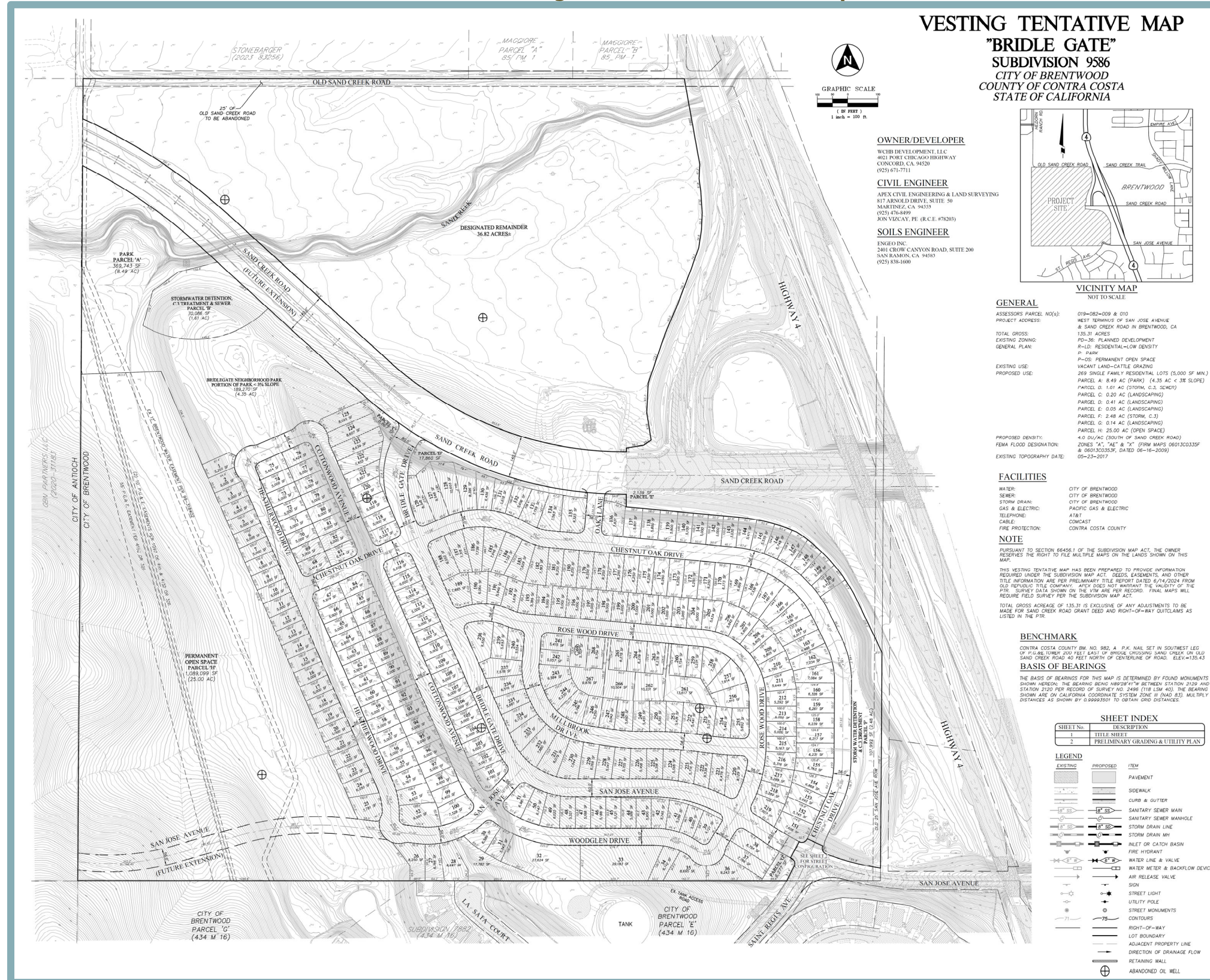
¹ DKS Associates. *VMT Assessment for Bridle Gate Residential Project - Updated*. October 11, 2024.

² Kimley-Horn. *Final Vehicle Miles Traveled (VMT) Assessment Peer Review*. November 8, 2024.

³ Saxelby Acoustics, LLC. *Bridle Gate Residential Project – Response to Noise Comments from the August 27, 2024 City Council Hearing – City of Brentwood, California*. October 11, 2024.

⁴ Bollard Acoustical Consultants, Inc. *Bollard Acoustical Consultants, Inc. (BAC) Peer Review of the Bridle Gate Residential Environmental Noise Assessment updated prepared by Saxelby Acoustics dated October 11, 2024*. November 4, 2024.

Figure 1
Alternate Vesting Tentative Subdivision Map



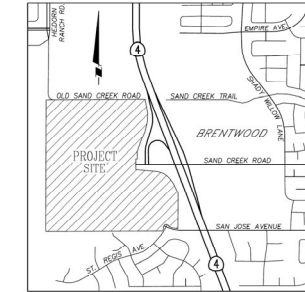
VESTING TENTATIVE MAP
"BRIDLE GATE"
SUBDIVISION 9586
CITY OF BRENTWOOD
COUNTY OF CONTRA COSTA
STATE OF CALIFORNIA



OWNER/DEVELOPER
WCB DEVELOPMENT, LLC
4021 PORT CHICAGO HIGHWAY
CONCORD, CA 94520
(925) 671-7711

CIVIL ENGINEER
APEX CIVIL ENGINEERING & LAND SURVEYING
817 MARVEL DRIVE, SUITE 50
MARTINEZ, CA 94553
(925) 476-8899
JON VIZCAY, PE (R.C.E. #78203)

SOILS ENGINEER
ENGEIO INC.
2801 CROOK CANYON ROAD, SUITE 200
SAN RAMON, CA 94583
(925) 838-1000



GENERAL

ASSESSORS' PARCEL NO(S): 019-082-009 & 010
PROJECT ADDRESS: WEST TERMINUS OF SAN JOSE AVENUE & SAND CREEK ROAD IN BRENTWOOD, CA
TOTAL GROSS: 135.31 ACRES
EXISTING ZONING: PD-36, PLANNED DEVELOPMENT
GENERAL PLAN: R-LD, RESIDENTIAL-LOW DENSITY
P. PLAN: PD-36, PERMANENT OPEN SPACE
EXISTING USE: VACANT LAND-CATTLE GRAZING
PROPOSED USE: 269 SINGLE FAMILY RESIDENTIAL LOTS (5,000 SF MIN.)
PARCEL A: 8.49 AC (PARK) (4.18 AC < 2% SLOPE)
PARCEL D: 1.01 AC (STORM, C.3, SEWER)
PARCEL C: 0.20 AC (LANDSCAPING)
PARCEL E: 0.41 AC (LANDSCAPING)
PARCEL F: 2.48 AC (STORM, C.3)
PARCEL G: 0.14 AC (LANDSCAPING)
PARCEL H: 25.00 AC (OPEN SPACE)
PROPOSED DENSITY: 4.0 DU/AC (SOUTH OF SAND CREEK ROAD)
FEMA FLOOD DESIGNATION: ZONES "A", "AE" & "X" (FIRM MAPS 0601300335F & 0601300335P, DATED 08-16-2009)
EXISTING TOPOGRAPHY DATE: 05-23-2017

FACILITIES

WATER: CITY OF BRENTWOOD
SEWER: CITY OF BRENTWOOD
STORM DRAIN: CITY OF BRENTWOOD
GAS & ELECTRIC: PACIFIC GAS & ELECTRIC
TELEPHONE: AT&T
CABLE: COMCAST
FIRE PROTECTION: CONTRA COSTA COUNTY

NOTE

PURSUANT TO SECTION 64545.1 OF THE SUBDIVISION MAP ACT, THE OWNER RESERVES THE RIGHT TO FILE MULTIPLE MAPS ON THE LANDS SHOWN ON THIS MAP.
THIS VESTING TENTATIVE MAP HAS BEEN PREPARED TO PROVIDE INFORMATION REQUIRED UNDER THE SUBDIVISION MAP ACT, DEEDS, EASEMENTS, AND OTHER TITLE INFORMATION ARE PER PRELIMINARY TITLE REPORT DATED 6/24/2024 FROM OLD REPUBLIC TITLE COMPANY. APEX DOES NOT WARRANT THE VALIDITY OF THE PTR. SURVEY DATA SHOWN ON THE TFM ARE PER RECORD. FINAL MAPS WILL REQUIRE FIELD SURVEY PER THE SUBDIVISION MAP ACT.
TOTAL GROSS ACRES OF 135.31 IS EXCLUSIVE OF ANY ADJUSTMENTS TO BE MADE FOR SAND CREEK ROAD GRANT DEED AND RIGHT-OF-WAY OUTFITMENTS AS LISTED IN THE PTR.

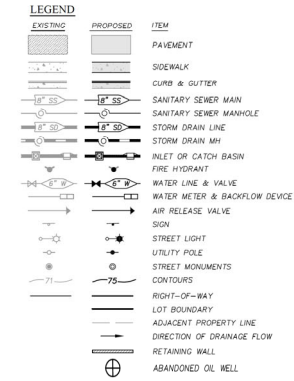
BENCHMARK

CONTRA COSTA COUNTY BM NO. 882, A P.K. NAIL SET IN SOUTHWEST LEG OF 10x16x10x16x200 FEET & 3/4" DIAMETER BRASS SAND CREEK ON OLD SAND CREEK ROAD 40 FEET NORTH OF CENTERLINE OF ROAD. ELEV.=135.43

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS MAP IS DETERMINED BY FOUND MONUMENTS SHOWN HEREIN: THE BEARING BEING 89.928717° BETWEEN STATION 2129 AND STATION 2120 PER RECORD OF SURVEY NO. 2496 (118 LSM 40). THE BEARING SHOWN ARE ON CALIFORNIA COORDINATE SYSTEM ZONE II (NAD 83). MULTIPLY DISTANCES AS SHOWN BY 0.99999201 TO OBTAIN GRID DISTANCES.

SHEET No.	DESCRIPTION
1	TITLE SHEET
2	PRELIMINARY GRADING & UTILITY PLAN



Pursuant to CEQA Guidelines Section 15088.5(a), a lead agency is required to recirculate a Draft EIR if significant new information is added after the Draft EIR is circulated but before certification. Significant new information is defined as information that changes a Draft EIR "...in a way that deprives the public of a meaningful opportunity to comment on..." a significant impact, a feasible way to mitigate an impact, or a feasible way to avoid an impact. The following identifies circumstances that would be considered "significant new information" that would trigger recirculation:

- Information that shows a new significant impact;
- Information that shows an increase in the severity of an impact (unless mitigation measures are identified to reduce it to acceptable levels);
- Information that identifies a feasible new alternative or mitigation measure considerably different from other analyzed alternatives or mitigation measures that would clearly lessen project impacts and the applicant declines to implement the measure; and/or
- Information that demonstrates that the Draft EIR was fundamentally flawed, basically inadequate, and conclusory in nature, thus, precluding meaningful public review and comment.

Pursuant to CEQA Guidelines Section 15088.5(b), recirculation is not required if the information added to an EIR merely clarifies, amplifies, or makes insignificant modifications. The Alternate VTSM is discussed further below with respect to how the revisions could affect the Draft REIR's VMT conclusion under Impact 4.5-3 (Conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision [b]), to determine if the revisions associated with the Alternate VTSM would constitute significant new information should it be selected for implementation. The analysis below is based on the conclusions of the DKS Associates assessment. The discussion is then followed by an evaluation of how any changes in VMT and site design as a result of the Alternate VTSM could affect other environmental issue areas required for analysis under CEQA, which would primarily include air quality, greenhouse gas (GHG) emissions, and noise.

Transportation

As discussed above, under the Alternate VTSM, the new portion of San Jose Avenue within the project site would not connect with the existing portion of San Jose Avenue for general public vehicular traffic. Similarly, Chestnut Oak Drive would not connect with St. Regis Avenue for public vehicular traffic. Pedestrian and bicycle infrastructure connections would still be developed between the foregoing roadways, and a 20-foot-wide EVA connection would be provided to the project site. In addition, as shown in the Alternate VTSM, a new site access roadway, labeled as Oak Lane, would be provided from Sand Creek Road, east of the main site entrance.

According to the California Air Pollution Control Officer's Association (CAPCOA) Handbook for Analyzing Greenhouse Gas Emissions Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity (CAPCOA Handbook), one method of reducing VMT is to increase intersection density, listed as Measure T-17.⁵ The CAPCOA Handbook states that increasing intersection density (i.e., by converting cul-de-sacs or dead-end streets to grid streets) decreases VMT by promoting improved connectivity to facilitate shorter trips, encourage more walking and biking, and reduce GHG emissions.

DKS Associates determined that the Alternate VTSM would include project-wide intersection density such that project-generated VMT per capita would be 25.08, which is below the applicable threshold

⁵ California Air Pollution Control Officer's Association. *Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity*. December 2021.

of 25.2 VMT per resident. Therefore, approval of the Alternate VTSM would be consistent with the conclusion of Impact 4.5-3 of the Draft REIR.

In addition, the California Department of Transportation (Caltrans) has reviewed the Alternate VTSM and expressed concerns regarding traffic safety associated with the new site access roadway. However, Conditions of Approval will be required from the Public Works Department to address such concerns and ensure that all access points and internal roadways would be safely designed so as not to create any hazardous design elements.

Air Quality, Greenhouse Gas Emissions, and Noise

Potential increases in VMT would result in an associated potential increase in air quality pollutants, GHG emissions, and noise level increases. With respect to air quality and GHG emissions, as discussed above, the proposed Alternate VTSM would not substantially increase VMT beyond that which was identified in the Draft REIR. In addition, because the Alternate VTSM would result in a reduction in residential units, the Alternate VTSM would slightly reduce a portion of the vehicle trips accessing eastbound SR 4 and eastbound Sand Creek Road. Thus, the Alternate VTSM would not result in substantial increases to project-generated criteria pollutants during project operation, which were concluded under Impact 4.1-2 of the Draft REIR to be less than significant. In addition, the Draft REIR determined that with implementation of Mitigation Measure 4.5-3 (pursuant to Mitigation Measure 4.1-6[a]) and prohibition of natural gas within the proposed structures as required by Mitigation Measure 4.1-6(b), the potential impact related to GHG emissions would be reduced to a less-than-significant level. Therefore, approval of the Alternate VTSM would similarly result in a less-than-significant impact with implementation of Mitigation Measures 4.1-6(a) and 4.1-6(b). Based on the above, approval of the Alternate VTSM would be consistent with the analyses and conclusions related to air quality and GHG emissions in the Draft REIR.

With respect to noise, the Draft REIR determined under Impact 4.4-2 that noise-level increases at existing sensitive receptors in the project vicinity as a result of project-generated traffic would be, at most, 0.9 dB, with most noise-level increases projected to not exceed 0.4 dB. Thus, the Draft REIR concluded that with regard to noise-level increases related to traffic, the proposed project would not exceed the applicable threshold of 1.5 dB and a less-than-significant impact would occur. According to Saxelby Acoustics, LLC, construction and operation associated with the Alternate VTSM would not increase off-site noise and vibration levels in violation of the City's standards or the requirements of CEQA. Therefore, the Alternate VTSM would not result in an increase to existing roadway traffic volumes such that the proposed project would be anticipated to result in a new significant impact related to traffic noise beyond what was identified in the Draft REIR and, thus, the proposed Alternate VTSM would be consistent with the analyses and conclusions related to noise in the Draft REIR. It is noted, however, that Saxelby Acoustics, LLC states that an eight-foot sound wall would be required along the lots adjacent to Oak Lane in order to ensure that interior noise levels meet the City's interior noise standard, as shown in Figure 4 of the Updated Noise Assessment (see Attachment D of this Memorandum).

Remaining Environmental Issue Areas

With respect to the remaining environmental issue areas addressed in the Draft REIR, approval of the proposed Alternate VTSM would not result in new or substantially more severe significant impacts beyond what was identified in the Draft REIR or Final REIR or information that identifies a feasible new alternative or mitigation measure that would clearly lessen project impacts or demonstrates that the Draft REIR and Final REIR are fundamentally flawed. For example, alterations to the routing of project-generated traffic as a result of the proposed Alternate VTSM would not necessitate the construction of off-site roadways that were not previously proposed and analyzed in

the Draft REIR or Final REIR, or any other alterations to the previously evaluated area of disturbance. Thus, the proposed Alternate VTSM would not result in new or substantially more severe significant impacts related to agriculture and forestry resources, biological resources, cultural and tribal cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, or mineral resources. The Alternate VTSM would result in fewer new residential units as compared to the proposed project and, thus, would not result in associated population increases beyond what was evaluated in the Draft REIR and Final REIR. In addition, although the on-site park uses would be consolidated into one lot, the acreage provided would not change. Therefore, new or substantially more severe significant impacts would not occur related to energy consumption, land use and planning, population and housing, public services, recreation, utilities and service systems, or wildfire. Finally, as the Alternate VTSM would only result in a decrease of project-generated traffic to previously proposed and/or existing roadways in the project vicinity, and would not result in changes related to the visual appearance of the proposed development or the amount of light and/or glare generated, new or substantially more severe significant impacts would not occur related to aesthetics. Thus, approval of the Alternate VTSM would be consistent with the analyses and conclusions related to the Draft REIR's remaining environmental issue areas.

Response to Comment

A comment letter on the Bridle Gate Project Draft REIR was submitted on August 27, 2024 by Leigh Prince of Fox Rothschild, LLA (see Attachment E of this Memorandum). Responses to the comments within the letter are provided below.

The comment letter states that the proposed project is inconsistent with General Plan Policy COS 7-1, which states that the City shall protect Brentwood's ridgelines from erosion, slope failure, and development. However, as discussed in Section VII, Geology and Soils, of the Initial Study prepared for the proposed project, although the project site is located on a slope, implementation of Mitigation Measure VII-5, which requires the applicant to submit to the City a letter from a qualified Geotechnical Engineer and Civil Engineer prior to issuance of a building permit for any lot stating that the lot has been constructed in conformance with the approved Grading Plan and recommendations in a Geotechnical Report that provides feasible measures to address potential impacts related to slope failure. In addition, pursuant to Mitigation Measure VII-7, the project applicant shall be required to submit an erosion control plan to the City Engineer for review and approval prior to approval of a grading permit, thus ensuring that erosion would not occur. Furthermore, the aesthetic impacts of the proposed project are addressed in Section I, Aesthetics, of the Initial Study prepared for the proposed project. It is also noted that the language of Policy COS 7-1 does not constitute an absolute prohibition on ridgeline development.

With respect to the commenter's claim that the proposed project conflicts with General Plan Policy CIR 3-4, as discussed above, pursuant to the Alternate VTSM, the new portion of San Jose Avenue within the project site would not connect with the existing portion of San Jose Avenue for general public vehicular traffic, and Chestnut Oak Drive would not connect with St. Regis Avenue for public vehicular traffic. Because the proposed project would no longer include connections to the aforementioned streets for vehicular traffic, cut-through traffic would be further discouraged, and the project would be consistent with Policy CIR 3-4. With respect to the proposed project's alleged conflict with General Plan LU 2-8, the language of the Policy is as follows: "Provide for a variety to residential products through the Zoning Ordinance in order to accommodate the housing needs of all segments of the City's population." The intent of the Policy is to provide a City-wide goal, and is not intended to apply to individual development projects. Furthermore, as discussed in further detail below, the proposed project is consistent with the site's PD-36 zoning designation.

The zoning for the project site is PD-36, which is set forth in Brentwood Municipal Code (BMC) Chapter 17.486 and includes a map that does not show any subarea boundaries. Chapter 17.486 does, however, include objective zoning standards for PD-36 that are consistent with the General Plan designation. The fact that the map for PD-36 does not include locations for the various subareas was one of the subjects of a lawsuit concerning the project application. In that lawsuit, the City took the position that the residential development standards in BMC Section 17.486.004 (referring to Subarea C) were appropriate. This conclusion was consistent with the property's General Plan designation of Residential Low Density, which allows for residential development densities ranging from 1.1 to 5.0 units per acre. The court hearing the lawsuit did not raise concerns with using these objective standards to review the subject application, and so these have been applied. As such, consistent with the analysis of the Draft REIR for the proposed project and the decision of the court, the proposed project is subject to compliance only with the Subarea C standards established for the PD-36 zoning designation, and is not subject to Subarea D or Subarea E standards. Therefore, the comment does not invalidate the conclusions of the Draft REIR, and the analysis of the environmental impacts of the proposed project contained therein remains valid.

Conclusion

As demonstrated above, the proposed Alternate VTSM is consistent with the analyses and conclusions of the Draft REIR and revisions to the Draft REIR and/or Final REIR are not required. Thus, the proposed Alternate VTSM does not constitute significant new information and recirculation of the Draft REIR is not warranted.

If you have any questions regarding the contents of this document, please do not hesitate to contact me at (916) 372-6100, or via email at rods@raneymanagement.com.

Thank you,

Rod Stinson
Vice President/Air Quality Specialist



1501 Sports Drive, Suite A
Sacramento, CA 95834
Office: (916) 372-6100
www.raneymanagement.com

Attachments:

Attachment A	Comment Letter from Leigh Prince of Fox Rothschild, LLA
Attachment B	Updated VMT Assessment
Attachment C	Updated VMT Assessment Peer Review
Attachment D	Updated Noise Assessment
Attachment E	Updated Noise Assessment Peer Review

Attachment A

Comment Letter



101 S. Tryon Street, Suite 1700
 Charlotte, NC 28280
 ☎ 704.384.2600 📠 704.384.2800
 www.foxrothschild.com

345 California Street, Suite 2200
 San Francisco, CA 94104
 ☎ 415.364.5540 📠 415.391.4436

LEIGH PRINCE
 Direct No: 704.384.2617
 Email: LPrince@Foxrothschild.com

August 27, 2024

Via Email: citycouncil@brentwoodca.gov

City Council
 City of Brentwood
 150 City Park Way
 Brentwood, CA 94513

Re: Bridle Gate Project – City Council Public Hearing Item F.1

Dear Honorable Mayor and City Council Members:

This letter is written on behalf of Discovery Builders, Inc. in support of the Planning Commission’s *unanimous* denial of the Bridle Gate Project (“Project”) on the basis that the Project does not comply with either the City’s General Plan or the Municipal Code.

A. The Project does not comply with the City’s General Plan.

The Planning Commission made findings that the Project does not comply with General Plan policies to protect Brentwood’s ridgelines or discourage cut-through traffic. See General Plan Policy COS 7-1 and CIR 3-4. The City Council can also make these findings and deny the Project. It should be noted, however, that the City Council is not limited to these findings and may find that the Project does not comply with other General Plan policies. For example, by not including larger lot sizes as required in Subarea D, an objective zoning standard, the Project does not conform to Policy LU 2-8 to provide a variety of residential products through the Zoning Ordinance to accommodate the housing needs of all segments of the City’s population.

The courts defer to a local agency’s determination of consistency, or lack thereof: “When we review an agency’s decision for consistency with its own general plan, we accord great deference to the agency’s determination. This is because the body which adopted the general plan policies in its legislative capacity has unique competence to interpret those policies when applying them in its adjudicatory capacity.” *Save Our Peninsula Comm. v Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 142. Thus, the Council’s decision to deny based on findings that the Project does not conform to the City’s General Plan policies would be given great deference.

A Pennsylvania Limited Liability Partnership

California Colorado Delaware District of Columbia Florida Georgia Illinois Massachusetts Minnesota Missouri
 Nevada New Jersey New York **North Carolina** Oklahoma Pennsylvania South Carolina Texas Washington



August 27, 2024

Page 2

B. The Project does not comply with the City's Municipal Code.

The Planning Commission also found that the Project did not comply with the City's Municipal Code by failing to conform to both Subarea C and Subarea D standards. Attached is the letter submitted to the Planning Commission explaining that the land use regulations applicable to the Project are not limited to Subarea C standards, but also include Subarea D standards and Subarea E standards, even after the court decision. The staff report is correct that the court did not address these other Subarea standards. These standards are codified in the City's Municipal Code remain applicable as to open space, ridgeline preservation and lot sizes.

C. The Environmental Impact Report should not be certified.

As outlined in the attached letter to the Planning Commission, there are inadequacies in the Environmental Impact Report ("EIR"). Therefore, the City Council should not certify the EIR, and does not need to certify the EIR when it denies the Project.

For all the foregoing reasons, Discovery Builders urges the City Council to uphold the Planning Commission's determination that the Project is not in compliance or conformance with both the City's General Plan and Municipal Code and *deny* the appeal.

Sincerely,

A handwritten signature in blue ink, appearing to read "Leigh Prince", with a long horizontal flourish extending to the right.

Leigh Prince

Enclosure

cc: Anita Roberts (aroberts@brentwoodca.gov)
David Sparling (dsparling@brentwoodca.gov)
Gerald Johnson (gjohnson@brentwoodca.gov)
Rod Flohr (rflohr@brentwoodca.gov)
Kristopher Brand (kbrand@brentwoodca.gov)



August 27, 2024
Page 3

Erik Nolthenius (enolthenius@brentwoodca.gov)
Katherine Wisinski (kwisinski@brentwoodca.gov)
City Clerk (cityclerk@brentwoodca.gov)
Clients



101 S. Tryon Street, Suite 1700
Charlotte, NC 28280
☎ 704.384.2600 📠 704.384.2800
www.foxrothschild.com

345 California Street, Suite 2200
San Francisco, CA 94104
☎ 415.364.5540 📠 415.391.4436

LEIGH PRINCE
Direct No: 704.384.2617
Email: LPrince@Foxrothschild.com

July 16, 2024

Via Email

Planning Commission
City of Brentwood
150 City Park Way
Brentwood, CA 94513

**Re: Bridle Gate Housing Development Project - Planning Commission Hearing
July 16, 2024 – Item E.1**

Dear Planning Commission:

My firm represents Discovery Builders, Inc. and this letter pertains to the housing development project in the City of Brentwood known as Bridle Gate Project Subdivision 9586 (“Project”) and is submitted for the Planning Commission hearing regarding the Project on July 16, 2024.

In reviewing the staff report, it appears that City staff have determined only Subarea C standards in the PD-36 zoning district apply and therefore the Project meets applicable objective requirements of the City’s land use regulations. This conclusion is incorrect.

City staff submitted a comment letter on August 2, 2022 (attached) while reviewing this Project and summarized the land use regulations applicable to this Project. Applicable land use regulations, as indicated by staff, are not limited to Subarea C standards.

Furthermore, there is a final court ruling Superior Court ruling N22-1738 (attached) as a result of an April 27, 2023 hearing. The issue in the case was whether PD-36 was valid and whether lots less than 5,000 square feet were acceptable. The court did not find PD-36 invalid and held that the minimum lot size in the PD-36 zoning district for Subarea C was 5,000 square feet (an objective standard). Although lots could not be smaller, nothing in the court’s ruling suggests larger 10,000 square foot lots (also an objective standard for Subarea D) were not appropriate. The court did not rule that only Subarea C requirements applied.

A Pennsylvania Limited Liability Partnership

California Colorado Delaware District of Columbia Florida Georgia Illinois Massachusetts Minnesota Missouri
Nevada New Jersey New York North Carolina Oklahoma Pennsylvania South Carolina Texas Washington



July 16, 2024

Page 2

Following are some objective standards outlined in the City's Municipal Code – PD-36 – that the current application does not comply with:

- Subarea D – requiring 10,000 sq ft lot minimums
- Subarea E – specifying open space preservation, specifically the sensitive topographic areas
- Maximum number of units: 124 in Subarea C and 42 in Subarea D for a total maximum allowable unit count of 166

Government Code section 65589.5(j) provides that the City may require the proposed housing development to comply with the objective standards and criteria of the zoning that are consistent with the general plan; however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan. Here, whether Subarea C standards only or standards consistent with City staff's August 2nd letter are applied the Project would still be consistent with the general plan density of 1.1 to 5 units per acre. Applying only Subarea C results in approx. 4 units per acre and applying the Subareas as shown in the August 2nd letter results in approx. 3 units per acre. As argued by the City during the litigation, the Planning Commission (and if appealed, the City Council) will be the final decision maker regarding compliance with all applicable land use regulations.

In order to comply with the objective standards as outlined in the City's August 2, 2022 letter that is consistent with the allowable general plan density and the final court order, the Project needs to be redesigned. Moving forward with approval of the application as presented will be in violation of the applicable objective standards and therefore the application would not be subject to the protections of the Housing Accountability Act.

In addition, upon reviewing the latest map, there is a future San Jose Road extension to the west in the Southwest portion of the Project site. This is not adequately addressed in the Environmental Impact Report (EIR) for the Project, and it should be further analyzed and addressed. This future San Jose Road extension will be crossing a jurisdictional wetland and also crossing and impacting a significant PG&E gas line. Environmental impacts of this future road extension should be fully addressed and



July 16, 2024

Page 3

discussed in the EIR. Furthermore, if this road extension is completed, it will impact traffic patterns for this Project and the City. This extension is not adequately addressed in the City's traffic studies for this Project.

In summary, Discovery Builders, Inc. urges the Planning Commission to request that the Project be revised to comply with the objective standards identified in City staff's letter dated August 2, 2022 and for the EIR to be updated to adequately and comprehensively address the future San Jose Road extension.

Sincerely,

A handwritten signature in blue ink, appearing to read "Leigh Prince", with a long horizontal flourish extending to the right.

Leigh Prince

Enclosures

cc: Anita Roberts (aroberts@brentwoodca.gov)
David Sparling (dsparling@brentwoodca.gov)
Gerald Johnson (gjohnson@brentwoodca.gov)
Rod Flohr (rflohr@brentwoodca.gov)
Kristopher Brand (kbrand@brentwoodca.gov)
Erik Nolthenius (enolthenius@brentwoodca.gov)
Katherine Wisinski (kwisinski@brentwoodca.gov)
City Clerk (cityclerk@brentwoodca.gov)
Louis Parsons (lparsons@discoverybuilders.com)
David Young (dyoung@discoverybuilders.com)



August 2, 2022

Louis Parsons
Discovery Builders, Inc.
4061 Port Chicago Highway
Concord, CA 94520

Subject: Review of the Bridle Gate project consistency with PD-36 Zone Development Standards and Brentwood General Plan Land Use Policies (APN 019-082-007)

Mr. Louis Parsons:

Thank you for your recent submittals proposing the development of 286 single family residences, two parks, a commercial area, and open space on 135.31 acres located at the west end of Sand Creek Road and west of State Route 4. Based on a review of the application submittal materials, staff has determined that the project, as proposed, is inconsistent with the Development Standards for the PD-36 zone (pursuant to Brentwood Municipal Code Section 17.486), the Brentwood General Plan, and the City's Residential Design Guidelines.

As you know, the proposed project includes development within subareas C, D, and E of the PD-36 zone as approved by City Council in 2006. The subarea map is included as an attachment to this letter. The subareas should be clearly delineated on the proposed vesting tentative map.

Consistency with Zoning Regulations

Chapter 17.486 PD-36 Zone of the Brentwood Municipal Code includes the permitted uses, conditionally permitted uses, and general development standards within each subarea of the PD-36 zone.

Subarea C is located between Bridle Gate Drive, State Route 4, Sand Creek Road, and the southern boundary of the project site. The following are the applicable development standards required for subarea C. Inconsistencies or unmet requirements are noted under the sections in *italics*.

Section 17.486.004 (C)

1. Minimum lot size: Five thousand square feet;
 - *Proposed minimum lot size is 4,500, and does not meet this requirement.*
2. Minimum lot width: Fifty feet;
 - *Many proposed lots have a width of 45 feet, and do not meet his requirement.*
3. Minimum lot frontage: Thirty-five feet at the front property line for lots on culs-de-sac, knuckles, or curvilinear streets;

COMMUNITY DEVELOPMENT
150 City Park Way • Brentwood, California 94513
Phone: 925-516-5405 • Fax: 925-516-5407
e-mail: dept-comdev@brentwoodca

- Requirement met.
4. Minimum front yard setback: Twenty feet for front-facing garages; fifteen feet for building walls and porches;
- Proposed setback requirement to garage is 20 feet, and requirement is met.
 - *Proposed setback to living and porch is 10 feet, and requirement is not met.*
5. Minimum side yard setback: Five feet, with the sum of both sides twelve feet; corner lots shall maintain a minimum setback of ten feet on the streetside yard;
- *Proposed minimum side yard setback is 5 feet, but the sum of both sides does not equal 12 feet, and the requirement is not met.*
 - Proposed streetside yard setbacks for corners lots maintains a minimum of 10 feet and the requirement is met.
6. Minimum rear yard setback: Fifteen feet, with an average of twenty feet;
- *Proposed minimum rear yard setback is 15 feet, but does not average 20 feet and the requirement is not met.*
7. Maximum building height: Two stories, not to exceed thirty feet;
- *Building heights for single- and two-story homes are not included in the proposed vesting tentative map and must meet this requirement.*
8. Corner lot fence setback: Five feet from the street side property line; all other fence regulations shall adhere to the requirements of Chapter 17.660 of [Title 17 of the Brentwood Municipal Code];
- *Fence setbacks are not included in the proposed vesting tentative map and must meet this requirement.*
9. Lots adjacent to open space shall utilize a six-foot high open space fence along the common property line(s), as approved through VTSM 8506;
- *Fence heights for these lots are not included in the proposed vesting tentative map and must meet this requirement.*
10. Accessory structures shall be prohibited in side or rear yards for areas exceeding a 3:1 slope;
- No accessory structures are shown on the proposed vesting tentative map. Insomuch as none are proposed, this requirement is met.
11. Maximum lot coverage: Forty percent for two-story homes and forty-five percent for single-story homes;
- The proposed 40% lot coverage for two-story homes meets the requirement.
 - *The proposed 50% lot coverage for single-story homes does not meet the requirement.*
12. Maximum number of primary dwelling units: One hundred twenty-four. (Ord. 857 § 2, 2008)
- *The proposed vesting tentative map exceeds the maximum number of lots allowed within subarea C.*

Subarea D is located between Cottonwood Avenue and Heatherwood Drive. The general development standards for subarea D are found in Section 17.486.005 of the Brentwood

Municipal Code.

Section 17.486.005 (C)

1. Minimum lot size: Ten thousand square feet;
 - *Proposed minimum lot size is 4,500, and does not meet this requirement.*
2. Minimum lot width: Ninety feet;
 - *Many proposed lots have a width of 45 feet, and do not meet his requirement.*
3. Minimum lot frontage: Forty-five feet at the front property line for lots on culs-de-sac, knuckles, or curvilinear streets;
 - No proposed cul-de-sacs within subarea D.
4. Minimum front yard setback: Twenty feet for front-facing garages; fifteen feet for building walls and porches;
 - Proposed setback requirement to garage is 20 feet, and requirement is met.
 - *Proposed setback to living and porch is 10 feet, and requirement is not met.*
5. Minimum side yard setback: Five feet, with the sum of both sides fifteen feet; corner lots shall maintain a minimum setback of ten feet on the street side yard.
 - *Proposed minimum side yard setback is 5 feet, but the sum of both sides does not equal 15 feet, and the requirement is not met.*
 - Proposed streetside yard setbacks for corners lots maintains a minimum of 10 feet and the requirement is met.
6. Minimum rear yard setback: Fifteen feet, with an average of twenty feet.
 - *Proposed minimum rear yard setback is 15 feet, but does not average 20 feet for every lot within subarea D and the requirement is not met.*
7. Maximum building height: Two stories, not to exceed thirty feet; except that the ten lots referenced on the approved residential site plan with Model 11 shall not exceed thirty-three and one-half feet;
 - *Building heights for single- and two-story homes are not included in the proposed vesting tentative map and must meet this requirement.*
8. Corner lot fence setback: five feet from the street side property line; all other fence regulations shall adhere to the requirements of Chapter 17.660 of this title;
 - *Fence setbacks are not included in the proposed vesting tentative map and must meet this requirement.*
9. Lots adjacent to open space shall utilize a six-foot-high open space fence along the common property line(s), as approved through VTSM 8506;
 - *Fence heights for these lots are not included in the proposed vesting tentative map and must meet this requirement.*
10. Accessory structures shall be prohibited in side or rear yards for areas exceeding a 3:1 slope;
 - No accessory structures are shown on the proposed vesting tentative map. Insomuch as none are proposed, this requirement is met.

11. Maximum lot coverage: Forty percent for two-story homes and forty-five percent for single-story homes;

- The proposed 40% lot coverage for two-story homes meets the requirement.
- *The proposed 50% lot coverage for single-story homes does not meet the requirement.*

12. Maximum number of primary dwelling units: Forty-two. (Ord. 857 § 2, 2008)

- *The proposed vesting tentative map exceeds the maximum number of lots allowed within subarea D.*

Subarea E is located west of Heatherwood Drive, and extends to the northern, western, and southern boundaries of the project site. Permitted uses within subarea E are:

- Public recreational areas;
- Public or quasi-public rights-of-way for utility, irrigation, drainage, or similar areas utilized for or having the potential to be utilized for trails or similar uses;
- Open space as a reserve for fire protection, seismic safety, water conservation, protection of view, or similar appropriate purposes;
- Parks, playgrounds, and recreational trails;
- Conservation easements for wetland and habitat preservation and mitigation related to development of SPA E.

Conditionally permitted uses with subarea E include:

- An addition to an existing structure which will increase the coverage of the structure by five hundred square feet, or any new structure in excess of five hundred square feet, except minor recreational structures such as playground equipment, trellises, and similar uses;
- Any commercial use which may be conducted on open space land without substantially detracting from its value as open space such as golf courses, riding academies or stables, tennis or swim clubs, and similar recreational-related uses of a predominantly open nature.

All uses in subarea E are subject to the design and site development review procedures established in Chapter 17.820. The setback, building height, parking, and other design and performance criteria shall be established at the time of the proposed development and in accordance with any development standards established by resolution for the type of use proposed.

The proposed vesting tentative map shows single-family lots within subarea E, which is neither a permitted or conditionally permitted use per Section 17.486.006 of the Brentwood Municipal Code.

Consistency with General Plan Policies

Policy LU 2-1 states: Maintain Brentwood's predominant land use of single family residential, while providing for a mix of housing types throughout the community, in accordance with the Housing Element. Consistent with this policy, the PD-36 zone included a subarea with a 5,000-square-foot (sf) lot minimum, and a subarea with a 10,000-sf lot minimum, in order to achieve a mix in housing and lot sizes. However, the proposed project includes a 4,500-sf lot minimum throughout the development, and therefore does not achieve a mix of housing types.

Consistency with City of Brentwood Residential Design Guidelines

Section 2.4 Landscaping – 2.4.1 Street Trees

- Street trees are required along all public and private streets at a minimum of 1 tree per lot, plus 2 additional trees on the side of corner lots.
Not all corner lots within the proposed development map include 2 additional trees on the side yard.

Project Comments Unrelated to Consistency with Objective Standards

In addition to the foregoing, staff also notes:

Section 1.6 Basic Design Principles - 4.

- Minimize the impact of garages and driveways along street frontages.
The proposed Vesting Tentative Map shows many of the lot frontages being 45 feet. Having narrow lot widths makes minimizing the impact of garages and driveways difficult. Additionally, the layout of the lots in a linear design without curves or breaks only emphasizes garages and driveways further.

Section 2.1 Subdivision Layout – 2.1.1 Neighborhoods:

- Incorporates natural features into the site design to enhance the subdivisions' visual links to their unique location.
PD-36 subarea E maintained open space around the onsite hills, however the project includes development on a portion of subarea E.

Section 2.2 Streets – 2.2.1 Internal Streets:

- Interior streets should have visual interest with street trees, parks trips, decorative street lights, and landscape bulbs to reduce apparent street width.
- Internal streets should be faced by no more than a maximum of 10 uninterrupted parking spaces or garages. Significant landscaped areas, including trees and with a minimum width of 5 feet, should separate blocks of garages and/or parking spaces.
While the minimum 5-foot side yard setback may meet the minimum required in the guidelines, the length of Cottonwood Avenue and Heatherwood Drive do not meet the intent of the guideline. For example, Heatherwood Drive has over 1,600 feet of lots that are very similar in size in a straight line, with one street tree each. This layout will not minimize driveways or create a streetscape with visual interest.

In order to proceed with the proposed project, project plans must be revised to be compliant with all applicable regulations and guidelines or a rezone application to modify the development standards is required.

Staff will provide additional project comments, which are not related to inconsistencies with objective standards, in separate correspondence. Please note that as the City continues processing of your application, it may identify additional information that is necessary to clarify, amplify, correct, or supplement your application.

Parsons
August 2, 2022
Page 6

If you have any questions regarding the above comments, please contact Erik Nolthenius by email at enolthenius@brentwoodca.gov.

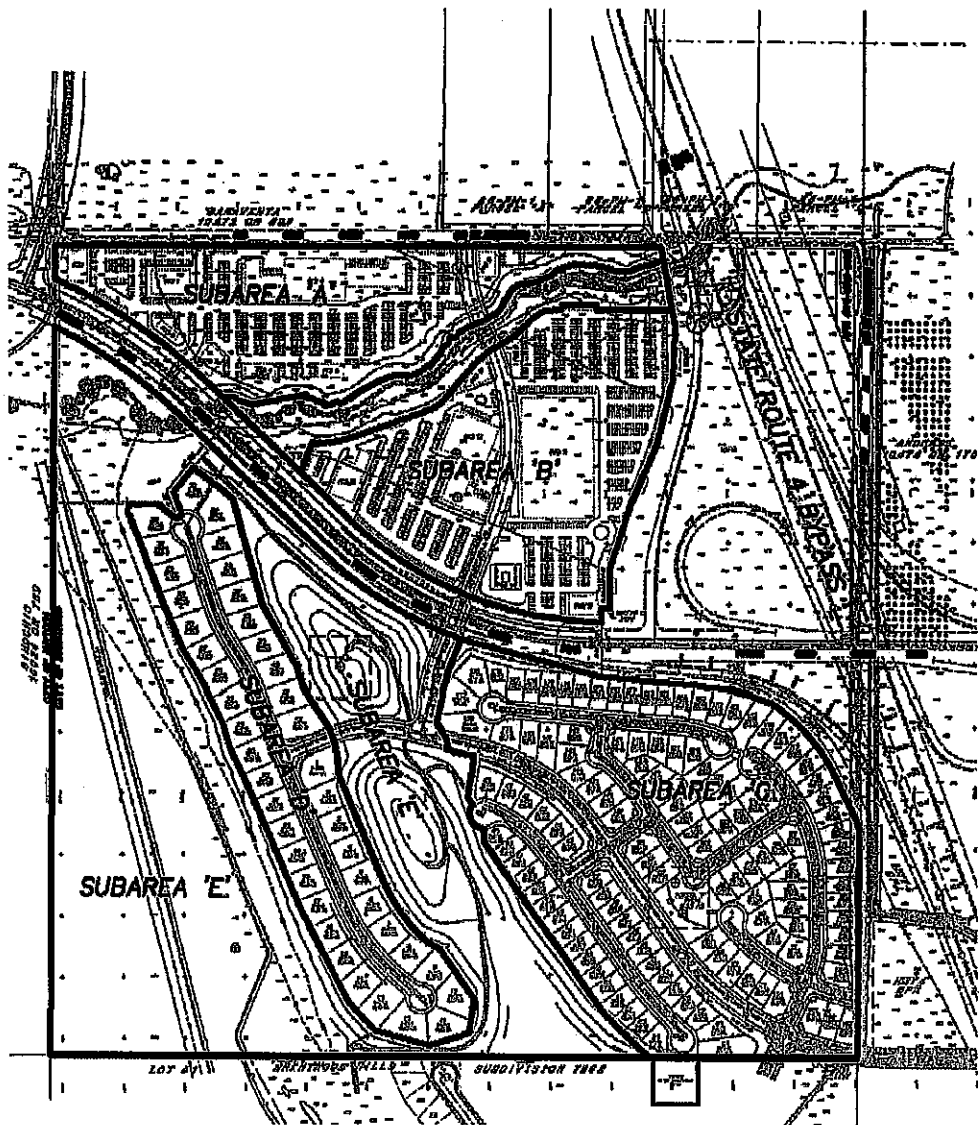
Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a horizontal line that tapers to the right.

Alexis Morris
Community Development Director, City of Brentwood
(925) 516-5405

Attachment: Subarea Map for PD-36

17.486.08 SUBAREA MAP FOR PD-36



Subarea C:
5,000 sq ft
min lots

Subarea D: 10,000 sq ft
min lots

Superior Court of California, Contra Costa County

Department 12
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

MINUTE ORDER	
DISCOVERY BUILDERS, INC., A CALIFORNIA CORPORATION VS.	N22-1738
CITY OF BRENTWOOD, A CALIFORNIA GENERAL-LAW CITY	HEARING DATE: 04/27/2023
PROCEEDINGS: *HEARING ON MOTION IN RE: JUDGMENT ON PETITION FOR WRIT OF MANDATE (CONTINUED FROM 3/30/23 CALENDAR)	
DEPARTMENT 12 JUDICIAL OFFICER: CHARLES S TREAT	CLERK: DENESE JOHNSON COURT REPORTER: RAQUEL SHARP, #10619
<u>JOURNAL ENTRIES:</u>	
<p>Counsel: Ellis Raskin & Andrew Bassak, for petitioner, are present in person.</p> <p>Counsel: Kevin Siegel & Deepa Sharma, for respondent, appear via Zoom.</p> <p>The Court issued the following tentative ruling:</p> <p>Petitioners, Discovery Builders, Inc. and WCHB Development, LLC, request judgment on the pleadings. Among other items, their petition seeks a writ of mandate compelling Respondent and Defendant City of Brentwood to “proceed with processing” the Bridle Gate Project consistent with various applicable laws. They also seek a determination from this Court that the Project is consistent with the City’s standards, and that the City cannot require a zoning amendment.</p> <p>The Court previously requested supplemental briefing to address several questions concerning Chapter 17.486 of the City’s Municipal Code, the “blank map” located at section 17.486.008 of that Chapter, ripeness and the issues before the Planning Commission, and timelines for further Project review. Parties have provided responsive supplemental briefs.</p> <p>Having reviewed these materials, the motion is denied. As discussed below, Petitioners fail to meet their burden to demonstrate the requirements for a writ of mandate: a clear and present duty on the part of the City, and their entitlement to the City’s performance of any duty.</p> <p>Requests for Judicial Notice</p> <p>Both the City and Petitioners request judicial notice.</p> <p>Petitioner requests notice of various provisions from the City’s Municipal Code (Exs 1-2, 6-7), a 2014 map from a draft EIR, not ultimately adopted (Ex 3); a City staff report regarding the 2014 General Plan Update agenda item for City Council (Ex 4); the Land Use Element of the City’s 2014 General Plan (Ex 5); Ordinance No. 960, adopted in 2015, as well as the attached blank map showing PD-36 (Ex 8); and the Department of Housing and Community Development’s Housing Accountability Act Technical Assistance Advisory (Ex. 9).</p>	

Superior Court of California, Contra Costa County

Department 12
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

In support of its Opposition, the City requests notice of the judgment in a previous lawsuit between the parties (Ex. A); various provisions from the City's municipal code (Exs. B-C); and provisions from other cities' municipal codes, including Antioch, Danville, El Cerrito, Hercules, Lafayette, Moraga, Orinda, Pittsburg, Richmond, and Walnut Creek (Exs. D-M).

Both these requests are unopposed and **granted**.

On reply, Petitioners additionally request notice of an agenda for a meeting of the City of San Ramon Planning Commission for the purpose of showing statements by counsel for the City in this case. The request is **denied** based on relevance. Further, the argument of counsel is not evidence. (*Fuller v. Tucker* (2000) 84 Cal.App.4th 1163, 1173.)

In support of its supplemental brief, the City requests judicial notice of its Notice of Preparation of a Revised Environmental Impact Report for the Proposed Bridle Gate Project. The request is **granted**.

Standard

The parties appear unsure about which sort of mandate controls our analysis. The court in *Bunnett v. Regents of University of California* (1995) 35 Cal.App.4th 843, 848, provides the basic rules by which we may determine the applicable standard here:

The proper method of obtaining judicial review of most public agency decisions is by instituting a proceeding for a writ of mandate. Statutes provide for two types of review by mandate: ordinary mandate and administrative mandate. (Code Civ.Proc., §§ 1085 [ordinary], 1094.5 [administrative].) The nature of the administrative action or decision to be reviewed determines the applicable type of mandate. In general, quasi-legislative acts are reviewed by ordinary mandate and quasi-judicial acts are reviewed by administrative mandate. But judicial review via administrative mandate is available "only if the decision[] resulted from a 'proceeding in which by law: 1) a hearing is required to be given, 2) evidence is required to be taken, and 3) discretion in the determination of facts is vested in the agency.'" Thus, ordinary mandate is used to review adjudicatory actions or decisions when the agency was not required to hold an evidentiary hearing.

(Citations omitted.)

Because no one has argued that an evidentiary hearing should have occurred in this matter, we proceed under the standard for ordinary mandate, Code of Civil Procedure § 1085. Section 1085 (a) provides that a writ of mandate may be issued "to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station, or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled, and from which the party is unlawfully precluded by that inferior tribunal, corporation, board, or person."

This has been read to require the showing of a (1) clear, present and usually ministerial duty on the part of the respondent and (2) a clear, present and beneficial right in the petitioner to the performance of that duty. (*CV Amalgamated LLC v. City of Chula Vista* (2022) 82 Cal.App.5th 265,

Superior Court of California, Contra Costa County

Department 12
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

278, citing *Santa Clara County Counsel Attys. Assn. v. Woodside* (1994) 7 Cal.4th 525, 539-40.) The petitioner bears the burden of pleading and proving the facts on which the claim for relief is based. (*California Correctional Peace Officers Assn. v. State Personnel Bd.* (1995) 10 Cal.4th 1133, 1153.)

Discussion

1. The Consistency Determination

Petitioners contend the Planning Commission was required to make the relevant consistency determination, that it did not, and this means the Project must be deemed to conform with any objective criteria. They contend the Court must order the City to “proceed with processing” the Project consistent with applicable laws and deem the Project compliant with all objective standards.

In support of their position, Petitioners urge the Court to examine the Legislative purposes of Government Code § 65589.5. Government Code, section 65589.5(j)(2) states (emphasis added):

(A) If the *local agency* considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:

[...]

(ii) Within 60 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains more than 150 units.

(B) If the local agency *fails to provide the required documentation* pursuant to subparagraph (A), the housing development project shall be deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

Nothing in the statute itself refers to a meeting or determination by the Planning Commission. Further, it is only where an applicant is *not* informed of an inconsistency within the relevant time period, that the housing project is “deemed consistent [...] with the applicable plan, program,” etc. (See Gov. Code, § 65589.5(j)(2)(B).)

In this case, the triggering event for deeming a project compliant did not occur. Petitioners *were* timely informed of the alleged inconsistency.

Parties here agree that the application was complete on June 3, 2022. Then, within 60 days, the City (staff) sent a letter (“written documentation”) on August 2, explaining the issues with the application (“an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity”). This is all the statute requires.

Superior Court of California, Contra Costa County

Department 12
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

The Court is not permitted to read additional requirements into the law, be it an implication that the Planning Commission make the consistency determination, or redefining the term “considers” to include a requirement that the agency opinion is correct.

A court's role in construing a statute is to ascertain the intent of the Legislature so as to effectuate the purpose of the law. (*Merced Irrigation Dist. v. Superior Court* (2017) 7 Cal.App.5th 916, 924.) Courts look first at the words themselves, giving them their usual and ordinary meaning because statutory language is generally the most reliable indicator of that intent. (*Ibid.*) When the statutory language is clear, courts usually adopt the plain meaning of that language unless it would (1) produce absurd consequences that the Legislature clearly did not intend or (2) frustrate the manifest purposes that appear from the provisions of the legislation when considered as a whole in light of its legislative history. (*Ibid.*)

Petitioners argue that there are absurd consequences in construing the City’s August 2 letter as a valid consistency determination. The Housing Accountability Act must be “interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.” (Gov. Code, § 65589.5(a)(2)(L).)

But requiring a local agency to convene a properly noticed Planning Commission meeting within the timelines mentioned in the statute (30 or 60 days) could also be an absurd consequence of the interpretation urged by Petitioners, as the City contends.

Because (1) the August 2 letter was sent, and (2) no one contends additional standards (beyond what was mentioned in the letter) should apply, there is no clear, present duty on the part of the City pursuant to Government Code section 65589.5(j)(2)(B).

2. Zoning for PD-36

Petitioners argue they are entitled to an Order that their Project is consistent with all objective criteria—a determination premised on a finding that the zoning for PD-36—the City’s Municipal Code Chapter 17.486—is wholly invalid (see Petitioner Supplemental Brief, 10:20-22.) That premise is not sufficiently supported here.

The City’s Chapter 17.486 of its Municipal Code is titled “PD-36 (PLANNED DEVELOPMENT THIRTY-SIX) ZONE.” It contains seven sections of text in addition to the attached map.

As reflected in the City’s August 2 letter, the text of section 17.486.004 provides that lot sizes for single-family residential areas within PD-36 must be a minimum of five thousand square feet. (See Raskin Decl., Ex. 3 [“1. Minimum lot size: Five thousand square feet; Proposed minimum lot size is 4,500, and does not meet this requirement.”].)

This minimum is unambiguous and this section is the most permissive residential lot size that exists within Chapter 17.486 (the other minimum residential lot size being 10,000 square feet). One can derive, from this, the minimum lot size for residential lots within the area designated as PD-36.

That means any residential lot that measures less than this violates the Code provisions. No subjective judgment is necessary to determine whether residential lots can be less than 5,000 square feet. This is a standard that is “objective” pursuant to Government Code, § 65589.5(h)(8)

Superior Court of California, Contra Costa County

Department 12
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

[“involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official”].)

A similar construction is possible with respect to lot widths. The unambiguous and most permissive width for residential lots is 50 feet. The City’s August 2 letter states the Petitioners’ application includes lots that only measure 45 feet.

As the Court’s previous order mentioned, Petitioners make no argument that the lots in their Project comply with the standards of the text.

Although not mentioned by the parties, the Court notes that the City’s Municipal Code provides for inconsistencies in its rules of construction. The rules, listed in Chapter 1.01, state, in relevant part:

J. Severability. The titles, chapters, sections, subsections, paragraphs, sentences, clauses and phrases of this code are severable. If any is declared unconstitutional, invalid or unenforceable by a court, that determination shall not affect the remaining provisions.

K. If there is an inconsistency, the stricter regulation applies. (Ord. 999 § 1, 2018; Ord. 978 § 2, 2016)

Petitioner ignores the specifics of its Project, not presenting “substantial evidence” showing *compliance* with the relevant standards, relying instead on the invalidity of the zoning chapter. (See Gov. Code, § 65589.5(f)(4) discussing substantial evidence standard for consistency determination.)

Petitioners do claim the zoning in PD-36 is inconsistent with the General Plan, but do not provide specifics as to how. Whether or not the Chapter is inconsistent with the General Plan may ultimately need to be determined in the course of this litigation, but the issue is not necessary to reach at this time.

Conclusion

Petitioners’ requested relief (the duty) is not particularly precise. An order of compliance with several broad statutory schemes, as well as “all applicable laws and regulations” does not sufficiently articulate a ministerial duty appropriate for a writ of mandate. (See Proposed Order on Plaintiffs’ Motion for Judgment.) Petitioners fail to meet their burden to articulate a duty.

They also cannot show entitlement to the City’s performance as the City appears to already be granting the relief requested by continuing to process the application. (See RJN in Support of Supplemental Brief [draft revised EIR].) Parties agree there are still timelines (mandated by CEQA) applicable to the processing of the application. (See City’s Supplemental Brief, 3:16-28 and Petitioners’ Supplemental Brief, 12:10-13:8.)

Because the burden falls on Petitioners to show the existence of a clear and present duty, and their entitlement to the City’s performance, the motion must be denied.

Superior Court of California, Contra Costa County

Department 12
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

The Court, having considered the pleadings and oral argument of counsel, adopts the above tentative ruling as the ruling of the Court.

A case management conference is set for 8/2/23 at 8;30 a.m.

FUTURE HEARING(S):

AUGUST 02, 2023 8:30 AM *CASE MANAGEMENT CONFERENCE

TREAT, CHARLES S

JOHNSON, DENESE

DEPARTMENT 12

DATED: 4/27/2023

BY: _____

D. JOHNSON, DEPUTY CLERK

Attachment B

Updated VMT Assessment



BRENTWOOD BRIDLE GATE VMT ANALYSIS

DATE: October 11, 2024

TO: Doug Chen | WCHB Development LLC

FROM: Erin Vaca | DKS Associates

SUBJECT: VMT Assessment for Bridle Gate Residential Project – Updated Project #22265-001

INTRODUCTION

This memorandum is an update to the March 2023 analysis documenting the VMT characteristics of the proposed Bridle Gate residential development (“Project”) located in Brentwood, California. The March 2023 analysis was included in Appendix J of the Project’s Revised EIR (Raney Planning & Management Inc., May 2023). The Project originally consisted of 286 single-family residential lots at the southwest quadrant of State Route 4 and Sand Creek Road, and with parcels for parks, open space, and designated remainder, all within a gross area of approximately 135 acres. The Project site is currently vacant and is being used for grazing (see **Figure 1** for location; a copy of the site plan is attached).

In response to the City’s request, the Project Applicant subsequently revised the site plan from 286 lots to 272 lots in order conform to PD-36 Subarea C standards. After Planning Commission Hearings on September 5, 2023, and July 16, 2024; and a City Council Hearing on August 27, 2024, the Project Applicant issued an Alternate Map (269-lot configuration) dated September 19, 2024, to address City Council comments. DKS’s October 3, 2024, memo provided a qualitative VMT analysis of the Alternate Map.

A quantitative VMT analysis of the Alternate Map has been performed and confirms the previous findings of Less-than-Significant Impact with Mitigation (the mitigation measure remains valid).

BACKGROUND ON SENATE BILL 743 AND VMT METRICS

California Senate Bill 743, adopted in 2013, brought about changes in the approach to measuring the transportation impacts of projects subject to the California Environmental Quality Act (CEQA). Effective July 2020, the transportation impacts of projects are primarily measured in terms of Vehicle Miles Traveled (VMT) characteristics.

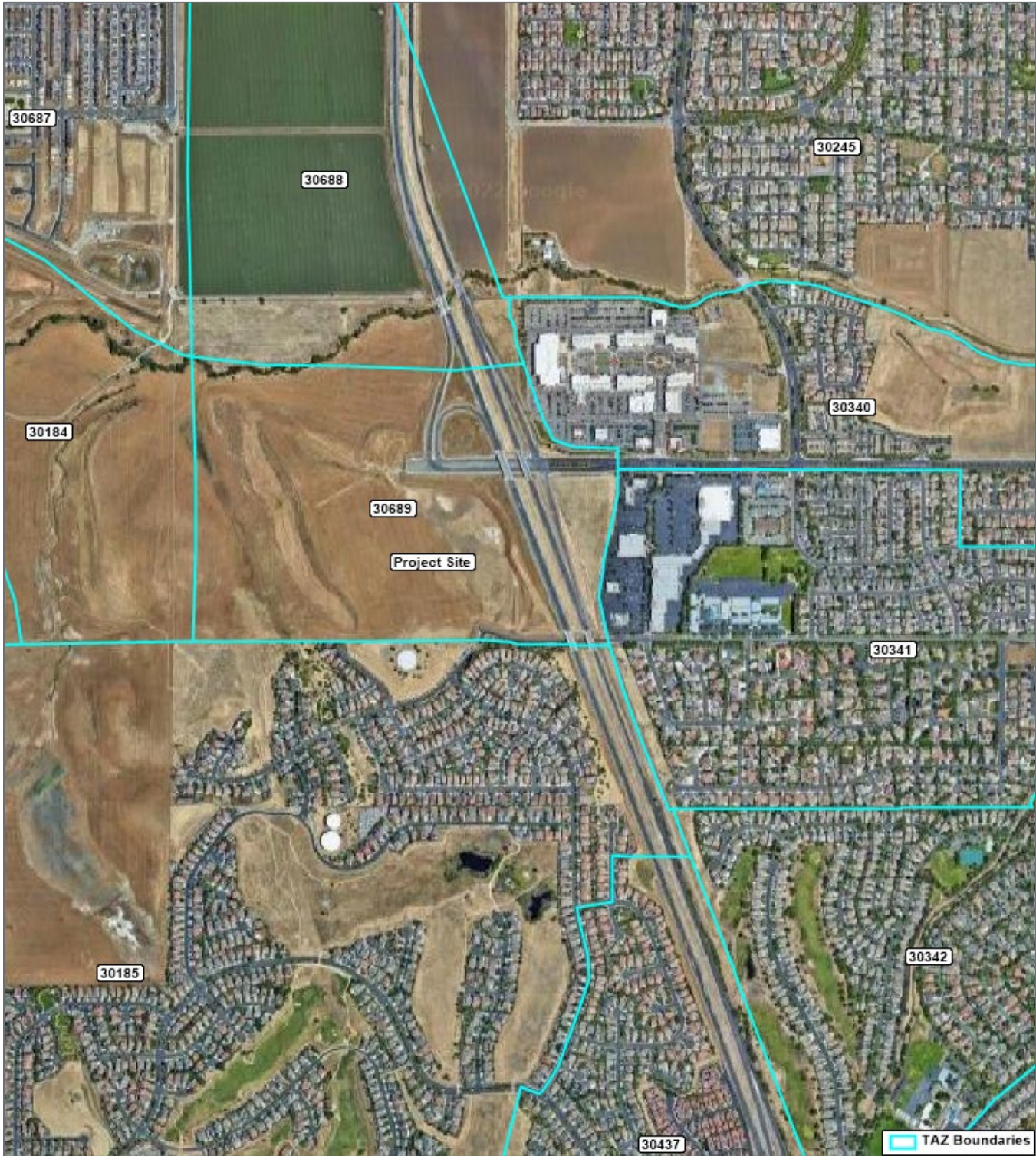


FIGURE 1: PROJECT LOCATION

The Governor’s Office of Planning and Research (OPR) has issued technical guidance recommending that residential and employment land use projects be assessed in terms of VMT per capita, and that the recommended threshold of significance be set at 85% of the existing baseline VMT per capita or per employee. The OPR technical guidance also specifies circumstances under which projects may be presumed to have less than significant VMT impacts (i.e., screening criteria).

METHODOLOGY AND ANALYSIS STANDARDS

In compliance with SB 743 and following OPR guidance, the Contra Costa Transportation Authority (CCTA) has implemented VMT analysis methodologies in its Growth Management Plan (GMP) Implementation Guide (revised February 2021). This document specifies the methodology, screening criteria, and thresholds of significance that member jurisdictions should follow to remain in compliance with the GMP. This assessment utilizes follows methodologies specified in the GMP Implementation Guide to calculate the VMT characteristics of the proposed project.

VERSION OF CCTA MODEL AND VMT SUMMARY SCRIPT

DKS conducted analysis using the 2020 version of the CCTA travel demand model¹ which incorporates the “P2017” land use forecasts. Model files previously used for analysis of other projects in Brentwood were reviewed to ensure consistency (model files used by TJKM and provided by the City of Brentwood). In particular, the land use input file (without the project) was compared and found to be identical. While the TJKM script used to calculate VMT for each TAZ appeared to differ from the script supplied by CCTA, the resulting VMT was very similar (see Project VMT Analysis, below).

Although the project’s proposed residential units are in the model’s land use file, the model does not forecast activation of this land use until many years in the future. To conduct the project VMT analysis, DKS modified the master land use file to reflect project land use for a 2020 scenario.

THRESHOLD OF SIGNIFICANCE

The threshold of significance is based on a citywide average of 29.6 VMT per capita, as reported by the City of Brentwood. In conformance with the GMP, this results in a threshold of significance of 25.2 VMT per capita or 15% below the existing citywide average. For comparison, the County-wide residential VMT per capita is 19.4, which would imply a significance threshold of 16.5. Per the GMP, however, the less stringent threshold may be used.

¹ For reference, the source script for this version of the model is “cctamodel20201014.rsc”.

PROJECT ANALYSIS

PROJECT SCREENING

The GMP Implementation Guide lists five screening criteria to which projects may be compared. Projects meeting at least one screening criterion may be considered to have less than significant VMT impacts, and further analysis is not required. The proposed Bridle Gate Project does not meet any of the criteria for a presumption of less than significant impacts, as discussed below.

1. CEQA Exemption – Any project that is exempt from CEQA is not required to conduct a VMT analysis. The proposed Project is not exempt from CEQA and thus does not meet this criterion.
2. Small Projects – Small projects are defined as having 10,000 square feet or less of non-residential space or 20 residential units or less, or otherwise generating less than 836 VMT per day. The proposed Project consists of 286 single family residential units and thus does not meet this criterion.
3. Local-Serving Uses – Projects that consist of Local-Serving Uses primarily draw users and customers from a relatively small geographic area that will lead to short-distance trips and trips that are linked to other destinations. This screening criterion applies to commercial or retail uses. Since the proposed Project is a residential project, this screening criterion is not applicable.
4. Projects Located in Transit Priority Areas (TPAs) – Projects located within a TPA can be presumed to have a less-than-significant impact absent substantial evidence to the contrary. The proposed Project is not located within a TPA and thus does not meet this criterion.
5. Projects Located in Low VMT Areas – Residential and employment-generating projects located within a low VMT-generating area can be presumed to have a less-than-significant impact absent substantial evidence to the contrary. For a residential project, a low VMT area is defined as cities and unincorporated portions within CCTA’s five subregions that have existing home-based VMT per capita that is 85% or less of the existing County-wide average. The proposed Project is located within the city limits of Brentwood, in which the home-based VMT per capita is above the County-wide average. Therefore, the proposed Project does not meet this criterion.

PROJECT VMT ANALYSIS

BASELINE ANALYSIS

Because the proposed Project is in a Transportation Analysis Zone (TAZ) that is currently vacant, analysis of the Project’s VMT effects was conducted using the CCTA Travel Demand Model. The Project was analyzed for a 2020 condition for consistency with the scenario year used for the baseline VMT calculation. As noted previously, the scenario roadway network has been modified to reflect the presence of the Sand Creek Road extension to the west and the removal of non-emergency vehicular access through the intersection of St. Regis Avenue and San Jose Avenue.

The model run was conducted using the 2020 version of the CCTA model script and outputs were summarized using the VMT tabulation script and summary spreadsheet provided by CCTA (the calculation spreadsheet is available upon request).

The threshold of significance is 85% of the baseline VMT per capita for the City of Brentwood, or 25.2 VMT per capita. As shown in **Table 1**, while the Project TAZ home-based VMT is lower than the baseline average for the City of Brentwood, it exceeds the threshold of significance by about 9.5%.

TABLE 1: PROJECT VMT AVERAGE RATES AND THRESHOLDS OF SIGNIFICANCE
TABLE 1: HOME-BASED VMT PER RESIDENT

GEOGRAPHIC AREA	AVERAGE VMT PER RESIDENT	85% AVERAGE VMT PER RESIDENT
TAZ WITH PROJECT	27.9	n/a
CITY OF BRENTWOOD	29.6 ^a	25.2
CONTRA COSTA COUNTY	19.4	16.5

^a Threshold of significance based on direction from City of Brentwood (email from Raney Planning and Management dated 1/12/2023). This threshold has been selected to be consistent with previous VMT studies for projects in Brentwood (see TJKM, "VMT Analysis for the Orchard Grove Residential Development", January 2022).

VMT REDUCTION STRATEGIES

Applicable site-level VMT reduction measures listed in the guide published by the California Air Pollution Control Officer’s Association (CAPCOA) were evaluated for potential incorporation into the Project. Applicable strategies are listed in **Table 2**.

The most feasible and quantifiable strategy was determined to be an increase in intersection density, listed as Measure T-17. Under the previously considered site plan, the Project incorporated an additional intersection to achieve the intersection density needed to demonstrate mitigation. The most recent iteration of the Project site plan carries forward this intersection density. Taking credit for this previously incorporated measure would reduce the VMT per capita by approximately 10%, as documented in **Table 3**, resulting in a VMT per capita below the threshold of significance. Therefore, the proposed project is found to have a less-than-significant impact with mitigation.

Other potential mitigation measures considered and their corresponding VMT reductions include:

T-4 "Integrate Affordable Housing" (28.6% VMT reduction): The project is proposing 10% affordable housing, but the documented effectiveness of this measure applies only to multifamily units.

TABLE 2: APPLICABLE MITIGATION STRATEGIES

STRATEGY	MAXIMUM MITIGATION EFFECTIVENESS
T-1 INCREASE RESIDENTIAL DENSITY	30.0%
T-4 INTEGRATE AFFORDABLE HOUSING	28.6%
T-9 IMPLEMENT SUBSIDIZED TRANSIT PROGRAM	5.5%
T-15 LIMIT RESIDENTIAL PARKING SUPPLY	13.7%
T-16 UNBUNDLE RESIDENTIAL PARKING COSTS	15.7%
T-17 IMPROVE STREET CONNECTIVITY	30.0%
T-19-A. CONSTRUCT OR IMPROVE BIKE FACILITY	0.8%
T-21-A IMPLEMENT CARSHARE PROGRAM	0.15%
T-22-A-C. IMPLEMENT BIKESHARE OR SCOOTER SHARE PROGRAM	0.02-0.07%
T-23 IMPLEMENT COMMUNITY BASED TRAVEL PLANNING	2.3%

Source: CAPCOA. *Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity*, December 2021.

TABLE 3: MITIGATION SUMMARY

FORMULA	A = (B-C)/C x D
A – PERCENT VMT REDUCTION	9.97%
B - INTERSECTION DENSITY WITH MITIGATION	Area = 135 acres (0.21 square miles) Intersections with mitigation = 13 Intersection density with mitigation = 61.6 per square mile
C - AVERAGE INTERSECTION DENSITY	36
D – ELASTICITY OF VMT TO DENSITY	-0.14
VMT PER CAPITA AFTER MITIGATION	27.9 x (1-.0997) = 25.08

Sources: CAPCOA (2021) and DKS Associates.

APPENDIX



Additional Intersection Circled in Red

FACILITIES:
 WATER:
 SEWER:
 STORM DRAIN:
 GAS & ELECT:
 TELEPHONE:
 CABLE:
 FIRE PROTECT:

NOTE:
 THIS WESTING
 PERSUANT TO
 RESERVES TH
 MAP.

OLD REFUR
 PTR, SURV
 REQUIRE FIE
 TOTAL GROS
 MILE LISTE
 IN THE

BE
 CON
 SAN
 BA
 THE
 SH
 STA
 DIST

- It should be noted that the new affordable housing component of the Project would likely further reduce the project's VMT.

Attachment C

Updated VMT Assessment Peer Review

Memorandum

To: Megane Brown-Allard
Rod Stinson

From: Chris Gregerson, P.E., T.E., PTOE, PTP
Ben Huie, P.E.

Re: **FINAL Vehicle Miles Traveled (VMT) Assessment Peer Review**
Bridlegate, City of Brentwood

Date: November 8, 2024

This memorandum documents a peer review completed by Kimley-Horn of a VMT assessment for the proposed Bridlegate Residential development in Brentwood, CA dated October 11, 2024, completed by DKS Associates¹. This latest version of the VMT assessment was prepared in response to an update in the Project site plan resulting in a 269-lot alternative configuration. A previous VMT analysis with a different site plan was reviewed by Kimley-Horn on November 15, 2022 and the original VMT assessment prepared by DKS Associates and dated February 18, 2022. This memorandum summarizes the comments prepared by Kimley-Horn that address any changes to analysis or results not previously reviewed or approved as a part of legacy Project VMT analyses.

Peer Review Comments

A. Introduction

- No comment, Kimley-Horn finds this section accurate, clear, and concise.

B. Background on Senate Bill 743 and VMT Metrics

- No comment, Kimley-Horn finds this section accurate, clear, and concise.

C. Methodology and Analysis Standards

- Syntax: Remove “utilizes” or “follows” from last sentence of first paragraph
- Kimley-Horn agrees that an acceptable version of the CCTA TDM was selected for analysis purposes. Kimley-Horn also agrees that other methods of determining the project’s VMT, such as using online tools for estimating VMT, are not consistent with the required VMT methodology and provide inaccurate estimates of the project’s VMT.
- Kimley-Horn agrees with the selection and identification of the threshold of significance to be 15% below the City of Brentwood average VMT per capita, i.e. 25.2.

D. Project Screening

- No comment, Kimley-Horn finds this section accurate, clear, and concise.

E. Project VMT Analysis

- For clarity, please move the footnote “a” in Table 1 to append the 25.2 value (instead of the City average of 29.6)
- Kimley-Horn identified no changes to the previously reviewed and approved reduction strategies identified in the analysis. No comment.

¹ VMT Assessment for Bridle Gate Residential Project - Updated, DKS Associates, October 11, 2024.

- It should be noted that the new affordable housing component of the Project would likely further reduce the project's VMT.

Attachment D

Updated Noise Assessment

October 11, 2024

Doug Chen, RCE, LS
ADSCO/Legacy Builders Inc
4021 Port Chicago Hwy
Concord CA 94520
dchen@seenohomes.com

Subject: Bridle Gate Residential Project – Response to Noise Comments from the August 27, 2024 City Council Hearing – City of Brentwood, California

Dear Mr. Chen:

At your request, Saxelby Acoustics has prepared this letter to reaffirm to the City Council that the noise study¹ prepared for this project meets all requirements of the City of Brentwood. Additionally, our study was peer reviewed by the City’s CEQA noise consultant (Bollard Acoustical Consultants) and also found to meet all requirements.

Saxelby Acoustics conducted noise monitoring at three locations on the project site to ensure that noise levels at the proposed future residential uses would be accurately predicted. The noise model was also adjusted upwards by 2 dBA to account for future growth in traffic volumes on the adjacent roadways, including SR-4. Noise levels were mapped on the future uses using the SoundPLAN noise model, the leading sound prediction model used worldwide to map exterior noise. A sound wall was designed to ensure that exterior noise levels would remain at or below 63 dBA Ldn, 2 dBA lower than the City’s 65 dBA exterior noise standard. For the Alternate Map (9/19/2024), the exterior noise levels would remain at or below 63 dBA for the lots adjacent to the potential second access to Sand Creek Road should that be considered, between lots 149 and 153, provided the sound wall is maintained 8 feet above pad elevation for the wrapped sections. Additionally, windows with a sound transmission class (STC) rating of 34 were recommended to ensure that interior noise levels meet the City’s 45 dBA Ldn interior noise standard.

Our study also assessed potential off-site noise and vibration levels due to increased traffic, construction, and operation of the project and found that the project would meet the City’s standards, as well as the requirements of CEQA, with standard mitigation measures.

Thank you for your thoughtful consideration, I hope this information is helpful, please don’t hesitate to contact us with any additional comments.

Sincerely,

Saxelby Acoustics LLC



Luke Saxelby, INCE Bd. Cert.
Principal Consultant
Board Certified, Institute of Noise Control Engineering



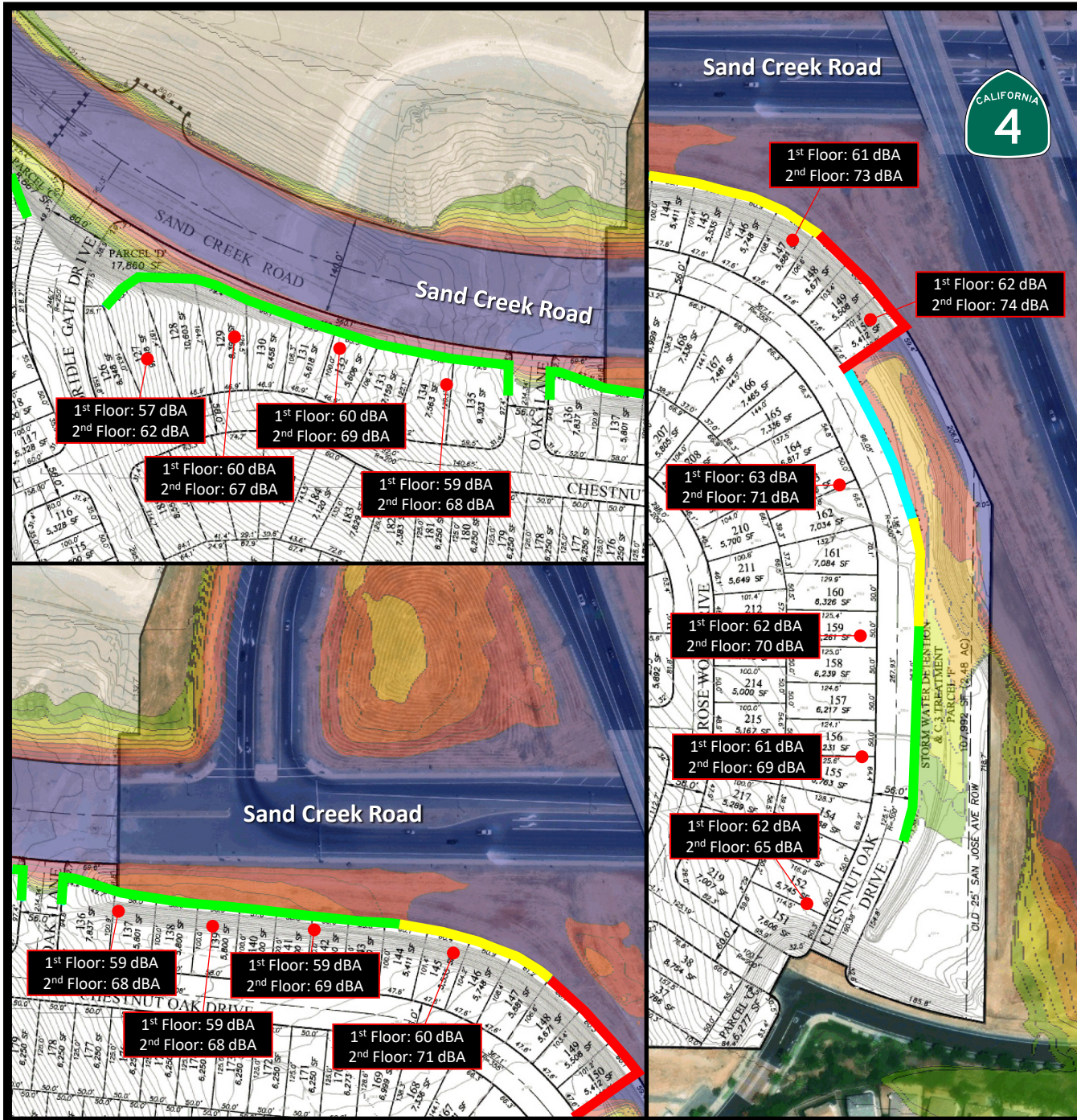
¹ *Environmental Noise Assessment, Bridle Gate Residential.* Saxelby Acoustics LLC. January 26, 2023.

Bridle Gate Residential

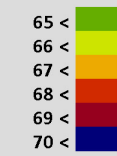
City of Brentwood, California

Figure 4

Future (2043) Transportation Noise Contours (dBA L_{dn}) – with Sound Walls



Noise Level, dB(A)

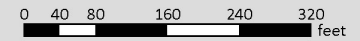


Legend

- Proposed Building
- 8-Foot Wall
- 10-Foot Wall
- 11-Foot Wall
- 12-Foot Wall

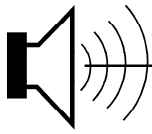


Scale 1:200



Attachment E

Updated Noise Assessment Peer Review



November 4, 2024

Mr. Rod Stinson
Raney Planning & Management, Inc.
1501 Sports Drive, Suite A
Sacramento, CA 95834

Transmitted via email: rods@raneymanagement.com

Subject: Bollard Acoustical Consultants, Inc. (BAC) Peer Review of the Bridle Gate Residential Environmental Noise Assessment update prepared by Saxelby Acoustics dated October 11, 2024.

Dear Mr. Stinson,

As you are aware, Bollard Acoustical Consultants, Inc. (BAC) previously conducted an extensive peer review of the Saxelby Acoustics noise study prepared for the Bridle Gate Residential project (Initial Saxelby report dated February 18, 2022). Following that peer review, BAC reached the following conclusions:

Overall, it is BAC's professional opinion that the information provided in the Saxelby Acoustics noise study report is clearly presented, that ambient data was appropriately collected, that computations were accurately performed, and that the potential impacts were properly addressed. It is BAC's opinion that there the SoundPLAN model inputs should, nonetheless, be provided to further verify the conclusions presented therein and to support the report's recommended sound walls. In addition, justification for the assumed 1 dBA increase in Highway 4 traffic noise levels over the next 20 years should be provided and consideration should be given to utilizing a more conservative assumption if the 1 dBA assumption cannot practically be relied upon.

In response to BAC's conclusions, the Saxelby report was revised to increase the Highway 4 traffic noise increase to 2 dBA in the future (from the original 1 dBA increase), and the traffic noise modelling assumptions were provided. BAC concluded that the revised Saxelby report dated January 26, 2023, adequately addressed the noise impacts of the project and provided appropriate noise mitigation measures for mitigating all identified noise impacts.

The project site plan has since been redesigned to include a secondary access to Sand Creek Road. Saxelby Acoustics prepared a letter dated October 11, 2024 stating that the previous noise analysis had been properly prepared to address all requirements of the City of Brentwood, that the study had been peer reviewed by BAC, and that peer review found that the Saxelby analysis satisfied all of the City's requirements. BAC conclusion that Saxelby's January 26, 2023 noise analysis was adequate has not changed.

Mr. Rod Stinson
November 4, 2024
Page 2

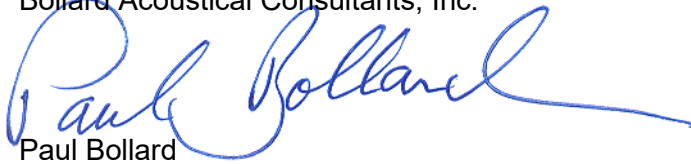
Saxelby's October 11, 2024 letter also included an updated noise contour and noise mitigation graphic (Figure 4), which shows the change in site plan indicating the location of the secondary access to Sand Creek Road.

BAC carefully reviewed Saxelby's updated Figure 4 and concluded there were no substantive changes to either predicted future traffic noise levels at the proposed residences or appreciable changes in required noise mitigation measures. The only difference noted by BAC staff was the break in the 8-foot tall San Creek Road noise barrier required to accommodate the secondary access to Sand Creek Road. BAC agrees with the wrapping of the noise barrier at that secondary access as indicated by Saxelby's updated Figure 4.

Because there were no other apparent differences in the project site plan which affected Saxelby's noise analysis, nor any changes in Saxelby's predicted noise levels or recommended mitigation measures, BAC's conclusions regarding the previous Saxelby noise study prepared for the project remain valid. Based on BAC's review of Saxelby's October 11, 2024 letter and attached updated Figure 4, it is BAC's professional opinion that the Saxelby Acoustics assessment has been properly prepared to address City of Brentwood requirements and BAC has no recommendations for modifications to the most recent Saxelby correspondence.

This concludes BAC's review and comments regarding the environmental noise analysis update prepared by Saxelby Acoustics dated October 11, 2024 for the Bridle Gate Residential project in Brentwood, CA. Please contact BAC at (530) 537-2328 or paulb@bacnoise.com with any comments or questions regarding the results of the peer review.

Sincerely,
Bollard Acoustical Consultants, Inc.



Paul Bollard
President