



Patricia E. Curtin  
Director

PCurtin@fennemorelaw.com

1850 Mt. Diablo Blvd, Suite 340  
Walnut Creek, California 94596  
PH (510) 622-7660 | FX (510) 834-1928  
fennemorelaw.com

July 21, 2023

Mayor Joel R. Bryant and Council Members  
Brentwood City Hall  
35 Oak Street  
Brentwood, CA 94513

**Re: City Council Meeting – August 8, 2023  
Response to Call for Review of Trumark’s SB 330 Trailside Project  
VTSM 9610 and DR 22-006**

Dear Mayor Bryant and Council Members:

This letter responds to Councilwoman Jolita Mendoza’s call for review of the Planning Commission’s unanimous approval of the vesting tentative map and design review for Trumark’s Trailside Project at 1777 Apricot Way. The Project consists of 62 single family homes (6 are affordable duets). The Project density is consistent with the land use designations in the General Plan and zoning.

As you are aware, to provide additional needed housing in our communities, the Legislature passed SB 330 (which included amendments to strengthen the Housing Accountability Act) to further promote housing approvals and restrict disapproval of housing projects. This Project falls within the protections of these new laws as explained in this letter.

**I. SB 330 Mandates and Housing Accountability Act.**

Since the Project is consistent with the General Plan and zoning, it was processed under the streamlining provisions of SB 330 and the protections in the Housing Accountability Act. Under these laws, the City could not deny the Project (or reduce its density) since it is consistent with the General Plan, zoning, and objective, quantifiable, written development standards. The City could only deny the Project or reduce its density if it found 1) that it would have a specific, unavoidable impact on public health or safety based on objective and written standards in place, AND 2) there was no feasible method to satisfactory mitigate the identified impact. Gov’t Code §65589.5(j). These findings could not be made.

Trumark worked diligently with the City to create a project that was consistent with the City’s plans and objective standards that resulted in no impacts on public health or safety, thereby mandating Project approval consistent with the housing laws.



Mayor Joel R. Bryant and Council Members

July 21, 2023

Page 2

The City is afforded no deference in determining if the Project is inconsistent with City plans and applicable standards. A project is deemed consistent if there is substantial evidence that allows a *reasonable person* (not the approving body) to determine consistency. Gov't Code §65589.5(f)(4). This new standard sets a higher bar to find inconsistencies. The burden of proof falls on the City to demonstrate inconsistencies.

As confirmed in the Planning Commission staff report and the CEQA Initial Study, and by the Planning Commission's approval, the Project is consistent with all applicable objective standards and will not result in any significant and adverse impacts on public health or safety. Thus, the Planning Commission was legally required to, and did, approve the Project. This same relational applies to the City Council's review of the Project.

## **II. CEQA Compliance.**

As thoroughly explained in the staff report to the Planning Commission, and as documented in the CEQA Initial Study that was prepared by the City's consultant, the Project will not result in any environmental impacts beyond those already analyzed in the General Plan EIR. In addition, the CEQA Initial Study confirmed that no adverse impacts on health or safety would result from the Project. As a result, no additional environmental review was required and the finding to support a Project denial was confirmed not to exist.

The record confirms that the Project is consistent with all applicable City plans and standards and will not result in any significant adverse impacts on health or safety. Accordingly, the City Council is also legally obligated to uphold the approval of the Planning Commission.

Very truly yours,

FENNEMORE WENDEL

A handwritten signature in blue ink, appearing to read "P E Curtin".

Patricia E. Curtin

PEC/slk

cc: Jennifer Hagen, Senior Planner  
Pamela Nieting, Director of Community Development, Trumark  
Garrett Hinds, Vice President of Architecture, Trumark