

March 11, 2019

VIA HAND DELIVERY

Mr. David Crompton  
Principal Planner – Town of Danville  
510 La Gonda Way  
Danville, California 94526

RE: The Collection by Trumark Homes  
2550 Camino Tassajara, Danville, CA 94506 (APN# 217-010-008-1)

Dear Mr. Crompton:

On behalf of Trumark Homes (“Trumark”), I am providing this letter to you as an update to the January 17, 2019 letter originally submitted as supplement to the application offered for our proposed development of the 5.05 net acre site known as the Akabane Nursery in the Town of Danville (“Town”). It is my understanding that you have been working with Heide Antonescu and Garrett Hinds with respect to the design of our project. I was asked to provide additional information regarding the number of units we believe are permitted on the property and the applicability of a “density bonus” calculation.

The 5.05 acre Akabane Nursery property carries a land use designation of Residential - Single Family - Low Density (1-3 units per acre) under the Danville 2030 General Plan. With this designation, the property may be considered for a single family residential project containing up to 15 units. Although  $5.05 \text{ acres} \times 3 \text{ units/acre} = 15.15 \text{ units}$ , we understand that the Town’s position is that the project site’s development yield under the Town’s 2030 Plan would round down to a maximum allowable development density of 15 units.

For a 15 unit single family project to meet the Town’s Inclusionary Housing Ordinance requirements, it would be required to provide one below market rate unit (“BMR”), which may be either a for-sale BMR or a for-rent BMR. The BMR’s affordability would be required to be maintained for a minimum period of twenty years through an affordable housing agreement that would be required to be executed between the developer and the Town.

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If the BMR were to be sold by the developer, standard practice would be for the Town to require the BMR to be sold to a qualifying moderate income household (i.e., a household determined by the Town to have a gross annual household income of  $\leq 110\%$  of area median income for a four-person household - currently  $\leq \$104,400$  per published 2018 incomes for the Alameda County and Contra Costa County area). The maximum allowable sales price for a for-sale BMR would be the price determined to be affordable for a qualifying moderate income household where housing costs did not exceed 35% of gross household income - in the range of \$445,000 and \$455,000 given current median income figures.

If rented, the BMR standard practice would be for the Town to require the BMR to be rented to a qualifying moderate income household (i.e., a household determined by the Town to have a gross annual income of  $\leq 110\%$  of area median income - as adjusted by household size) and to set rents at, or below, 35% of the qualifying households gross household income.

As provided for under Town's inclusionary housing regulations, the project developer would have the option to satisfy their inclusionary obligation by incorporating a minimum of four attached or detached accessory dwelling units ("ADUs") for primary units constructed in the project. Providing ADUs to satisfy the inclusionary housing obligation requires a project to provide ADUs that would equal, or exceed, a 25% match of the primary residences developed in the project. Current inclusionary housing regulations direct that ADUs used to satisfy a project's inclusionary housing obligation be a minimum of 650 square feet in size for developments with lots averaging eight thousand square feet or more - which the Town believes would apply to a project on the Akabane Nursery project.

In practice, Town has typically waived a development's inclusionary housing requirements for projects that invoke density bonus. In waiving the inclusionary housing obligation, Town is recognizing that a density bonus project would integrate comparatively more BMRs into a project and/or would have BMRs provided that serve households with a lower household income condition than required to be served under inclusionary housing regulations.

When a project invokes density bonus, the manner that the project calculates its maximum allowable baseline development density (referred to as "Baseline Units") is altered. Specifically, and reflecting rounding rules set forth in both the State regulations and in Town's local density bonus regulations, any fraction of a unit yielded in the baseline development density calculation rounds up to the next full Baseline Unit. For the subject 5.05 acre project area, this altered development density calculation would yield 16 Baseline Units rather than the 15 unit maximum development density calculation for a project that did not invoke density bonus. The rounding rules (i.e., the directive to round any fraction of a unit up to the next full Baseline Unit) also applies to the required minimum number of BMRs provided in a density bonus project (here forward identified as the project's "Target Units") and the maximum

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allowable extra units that may be added to the project (here forward identified as the project's "Bonus Units").

By selecting low income units as the project's Target Units for its density bonus project, we will be required to provide a minimum of two low income BMRs. Specifically, the project will be required to provide the equivalent of 10% of the project's Baseline Units - rounded up to the next full Target Unit - as its low income BMRs. The density bonus regulations would allow a project with two low income BMRs to add up to four market rate units as the project's Bonus Units - being a 20% development bonus above the allowable number of Baseline Units - rounded to the next full unit.

In summary, for a project involving the 5.05 acre Akabane Nursery property, a density bonus project providing two BMRs for low income households as its Target Units has the right to secure a project with up to 20 total units - being 16 Baseline Units (two as BMRs) plus four Bonus Units.

If we were to decide to incorporate more low income Target Units into a project than the minimum match of 10% of the number of Baseline Units, we would have the right to secure a density bonus of up to a 35% match to the number of Baseline Units. For a project with 16 Baseline Units, a project maximizing the allowable density bonus through provision of low income BMRs as the project Target Units has the right to develop up to 22 total units, being 16 Baseline Units (four as BMRs) plus a maximum of six Bonus Units.

Trumark currently does not contemplate the need for a concession, incentive or waiver from the Town's development requirements; however, Trumark reserves the right to add or request concessions, incentives or waivers if deemed necessary by Trumark or Town staff.

The table contained on page 7 below depicts the density bonus rights and obligations for a project providing between a 10% match and a 35% match of low income BMR Target Units to the project's Baseline Units.

For this project we have elected to propose a density bonus that would provide ADUs for low income households as the project's BMR Target Units. Town's Density Bonus Ordinance states that an inclusionary unit or a "second unit" (a term interchangeable with "ADU") may count toward the total of required Target Units in a Density Bonus project (see Section 32-74.4(a) - *Minimum Requirements; Calculations; Continued Affordability*).

Our decision to provide ADUs as the project's BMR Target Units ties into current housing conditions that are set forth in narrative of the Town 2014-2022 Housing Element. The narrative, contained on pages 92-95 of Section IV - Housing Resources of the Housing Element, serves to outline Town's determination that ADUs  $\leq$ 550 square feet in size command a market

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value (i.e., the fair market rental value of such units) that would make them appropriate (i.e., affordable) for low income one- or two-person households.

Provision of housing opportunities for low income households is, and continues to be, a challenge for most jurisdictions - including the Town.

Reflecting published income levels for the Alameda County and Contra County Area for 2018, one-person low income households would be households with a gross annual household income ranging between \$40,700 and \$62,750 (roughly 56% to 86% of median income for one-person households for the area). This range in income supports corresponding maximum rental monthly rents ranging from \$1,017 to \$1,569 to set rents at  $\leq 30\%$  of gross household income. The corresponding data for two-person low income households would be households with a gross annual household income ranging between \$46,500 and \$71,700, where monthly rents would range from \$1,162 to \$1,792 to set rents at  $\leq 30\%$  of gross household income.

Trumark proposes a density bonus project that would pair eight of the Baseline Units (i.e., 50% of the Baseline Units) with Target Units in the form of ADUs of  $\leq 550$  square feet in size. The size of the Target Units would make them appropriate for one- or two-person low income households. In union with the provision of a minimum of eight ADUs of  $\leq 550$  square feet in size, we request two Bonus Units. The request would take the overall project to 16 Baseline Units (eight equipped with an ADU of  $\leq 550$  square feet in size) and two Bonus Units - for a project with a total of 18 primary units and a minimum of eight ADUs of  $\leq 550$  square feet in size paired to eight of the primary units.

With the adoption of the Town 2014-2022 Housing Element, Town estimated that it would see development of sixty ADUs of  $\leq 550$  square feet in size during the eight year planning period, split between ADUs provided to meet Town's inclusionary housing regulations for the development of new single family residential projects and ADUs created individually on properties with existing single family residences (i.e., created for reasons other than to meet inclusionary housing requirements).

By establishing that the development of sixty ADUs of  $\leq 550$  square feet in size during the planning period was reasonable to expect, Town avoided the need leading up to the adoption of the Town 2014-2022 Housing Element to designate a minimum of an additional three acres in Town for Residential - Multiple Family - High / Medium Density (20-25 units per acre) use. As it was, the 111 unit Regional Housing Needs Allocation - or "RHNA" assignment to Town for low income households for the 2014-2022 planning period still lead to Town's designation of two acres of additional land for Residential - Multiple Family - High / Medium Density (20-25 units per acre) use through the adoption of the Town 2030 General Plan.

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The provision of eight ADUs of  $\leq 550$  square feet in the project would constitute a measurable portion of the 60 ADUs (slightly more than 13%) anticipated during the eight year RHNA planning period that were projected to be sized at  $\leq 550$  square feet and would constitute housing that would meet slightly more than 7% of the total low income household assignment for the planning period.

The use of ADUs to meet a project's commitment to provide low income Target Units raises the issue of how minimum terms of affordability for such units could be secured and how occupancy of such units by target households (i.e., low income households) could be assured. ADUs end up on individually owned single family residential properties, with the concern that such ownership makes it difficult to ensure the continuous occupancy of the ADU by a qualified low income household.

This challenge is reflected in the provision within Town's Inclusionary Housing Ordinance to require projects depending on ADUs to meet their inclusionary obligation to pair 25% of primary units with ADUs - in contrast to the requirement that only 10% of the primary units must be provided as BMRs where a project does not depend on ADUs. Applying a 2.5 times "multiplier" to projects depending on ADUs (i.e., the 25% standard is 2.5 times higher than the 10% standard applicable to single family residential BMRs) acknowledges more units would be needed to provide a comfort level that, on average, at least the equivalent of 10% of the single family residential units in a project paired with ADUs would be occupied ADU units at any one time - and that the occupying household in the ADU would meet the target low income affordability standards under inclusionary requirements.

In anticipation of the Town's desire to be able to minimize the amount of ongoing oversight and management of the eight proposed ADUs, we request that the affordable housing agreement ultimately executed for the project to regulate the development and use of the ADUs not include a requirement that they be continuously rented or have their occupancy subjected to an income eligibility review.

The rationale for these two requests is that in providing eight ADUs of  $\leq 550$  square feet in the project, Trumark is providing four times the minimum number of low income units necessary to secure four Bonus Units in the project. As indicated above, we are seeking two Bonus Units through the application as opposed to the four Bonus Units density bonus regulations would allow us to pursue. With eight ADUs of  $\leq 550$  square feet provided in the project, the assumption is the ADUs would be a permanent provision of affordable housing and that they would meet the test to qualify as "affordable by design" units in terms of the anticipated income characteristics of the likely occupants of the ADUs.

The anticipated affordability ADUs of  $\leq 550$  square feet ties back to their relative small size, their relationship to the primary residence on the lot they are located, and to the established

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nature of how ADUs have been utilized in the Bay Area in the recent past by individual property owners. The summary contained in the Danville 2014-2022 Housing Element of the research paper entitled "*Yes in My Backyard: Mobilizing the Market for Secondary Units*," June 2012, (prepared by the University of California Center for Community Innovation) expands upon these concepts as follows:

- Secondary units can be anticipated to rent for less than other rental units because of the informal way they are often supplied and managed;
- Most secondary units are small - roughly two-thirds can be anticipated to be either studios or one-bedroom units;
- Secondary units will generally be occupied by people using them as housing (the cited study revealed this to be the case for 85% of the units surveyed);
- Secondary units can be anticipated to have roughly a 50%/50% split of occupant-households between occupant-households that are strangers who pay rent to the homeowner household and occupant-households being occupants that are staying for free or else are friends or family, who are likely to be receiving reduced rent;
- By far, the most common means by which secondary unit occupants find their housing are either already knowing the homeowner household, or Craigslist (meaning a measurable number of these units would not be revealed through a rental advertisement study);
- The average occupied secondary unit can be anticipated to contain 1.5 adults - but is unlikely to have children (0.2 on average for the cited study);
- Secondary units are disproportionately likely to house young adults; the average age of the adults residing in them can be anticipated to be under 40 years of age (it was 39 for the cited study - as compared to 50 for the average age for homeowner households in the study area); and
- As supported by analysis of rental unit advertisements on Craigslist, the average secondary unit can be anticipated to be advertised at a rental rate that makes it affordable to low income households (for the cited [households], just under one half of the secondary units were occupied by a low income household)."

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The following summarizes information included in annual progress reports Danville has passed on to the State Department of Housing and Community Development for the current RHNA planning period, underscoring success to date as to the number (and size) of ADUs delivered in the planning period.

Portion of 2014-2022 Housing Element Planning Period	≤550 sq. ft.	551 - 1,000 sq. ft.	>1,000 sq. ft.	Annual Subtotals
Completed 1/1/15 through 12/31/15	1	7	2	10
Completed 1/1/16 through 12/31/16	3	5	1	9
Completed 1/1/17 through 12/31/17	5	7	2	14
Completed 1/1/18 through 12/31/18	2	9	3	14
Applied, Approved, Issued, Under Construction as of 12/31/18	3	11	4	18
Totals	14 (21.5%)	39 (60.0%)	12 (18.5%)	65 (100%)

Portion of 2014-2022 Housing Element Planning Period	RSFD	NSFD	NSFA	NMF	ADUs
Completed 1/1/15 through 12/31/15	13	48	9	21	10
Completed 1/1/16 through 12/31/16	15	4	0	0	9
Completed 1/1/17 through 12/31/17	23	11	0	0	14
Completed 1/1/18 through 12/31/18	21	15	0	0	14
Applied, Approved, Issued, Under Construction as of 12/31/18	33	24	2	144	18
Totals (100% is 343 units - which excludes RSFD as they are not net new units)	105 n/a	102 (29.7%)	11 (3.2%)	165 (48.1%)	65 (19.0%)

Key for Terms:

- RSFD - Replacement Single Family Detached
- NSFD - New Single Family Detached
- NSFA - New Single Family Attached
- NMF - New Multiple Family
- ADU - Accessory Dwelling Unit

TRUMARKHOMES

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Thank you for your cooperation and we look forward to working with you and your department on the successful completion of this project.

Sincerely,



John C. Willsie  
General Counsel, Trumark Homes LLC

cc: Heide Antonescu  
Garrett Hinds