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June 21, 2023

Greg Mirza-Avakyan  
City of Burbank  
275 East Olive Ave  
Burbank, CA 91502

**Re: 3000 W. Empire Ave – SB 35 Application.**

Dear Mr. Mirza-Avakyan:

Our firm represents ABS Properties Inc. (“ABS”), the applicant of a housing development located at 3000 W. Empire Avenue in the City of Burbank (the “City”). The project includes the demolition of all existing structures on the site and the new construction of a seven-story affordable multifamily residential building with 337 units (the “Project”).

On November 29, 2021, ABS submitted a Notice of Intent (“NOI”) to Submit an SB 35 Streamlined Ministerial Application which was accepted by the City. The City reviewed the application and provided a SB 35 NOI response letter on December 28, 2021. ABS submitted additional information in response on June 2, 2022. The City provided a second SB 35 NOI response letter on June 6, 2022. On January 6, 2023, ABS provided additional information to the City.

In December 2021, City staff confirmed that they reached out to the California Native American Tribes that are traditionally and culturally affiliated with the geographic area within which the Project site is located (the “Tribes”) to request initiation of the required tribal consultation process. As of April 27, 2023, the City has confirmed that they have entered into an enforceable agreement with two Tribes, the Fernandeano Tataviam Band of Mission Indians and the Gabrieleño Band of Mission Indians - Kizh Nation, so the tribal consultation process has been satisfied in accordance with Government Code Section 65913.4(b).

On April 27, 2023, the City issued a letter which provided an SB 35 Eligibility Criteria and Consistency Analysis, verifying which objective standards the Project is or is not consistent with, and confirmed that the NOI application is considered complete. As such, ABS has prepared responses to any identified inconsistencies and submits to the City a full SB 35 Application, enclosed with this letter and described below.

**1. NUMBER AND TYPE OF UNITS.** *The project must be a multifamily housing development that contains at least two residential units and complies with the minimum and maximum residential density range permitted for the site, plus any applicable density bonus.*

The Project is consistent with this criteria. The Project is considered a multi-family housing development and proposes 337 new rental housing units. Of the total units, four (4) units will be proposed as unrestricted manager's units and 333 units will be restricted as affordable.

The Project includes a request to utilize the state density bonus, which permits unlimited density for 100 percent affordable projects. Therefore, the Project complies with the density limitations for the site plus the applicable density bonus.

Additionally, Government Code Sections 65915(d)(2)(D), allows a 100 percent affordable Project to request: *"Four incentives or concessions for a project meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop, the applicant shall also receive a height increase of up to three additional stories, or 33 feet."* Pursuant to this section the Project includes a request for one incentive to permit a reduction in the front yard setback, allowing for a zero foot setback in lieu of the otherwise required 15 foot, six inches setback. This incentive will allow for the Project to expand the building envelope to accommodate the 337 proposed units, including the 333 affordable units. The additional area will permit a more efficient construction design, therefore reducing the construction costs of the Project and facilitating the provision of affordable units.

**2. AFFORDABILITY.** *If more than 10 residential units are proposed, at least 10 percent of the project's total units must be dedicated as affordable to households making below 80 percent of the area median income. If the project will contain subsidized units, the applicant has recorded or is required by law to record, a land use restriction for the following minimum durations, as applicable:*

*i. 55 years for rental units.*

*ii. 45 years for homeownership units.*

The Project is consistent with this criteria. The SB 35 application states that the Project would provide four manager's units and 333 affordable rental units for 55 years, comprised of 6 units as Very Low Income, 260 Low Income Units (per HUD/TCAC) and 67 Moderate Income Units (per HCD). As the only unrestricted units are for managers, the Project is considered 100 percent affordable.

**3. URBAN INFILL.** *The project must be located on a legal parcel or parcels within the incorporated City limits. At least 75 percent of the perimeter of the site must adjoin parcels that are developed with urban uses. For purposes of SB 35, "urban uses" means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. Parcels that are only separated by a street or highway shall be considered adjoined.*

The Project is consistent with this criteria. The Project site is located within an existing legal parcel located in the City of Burbank, for which the boundaries include an urbanized area or urban cluster, as designated by the United States Census Bureau (see Attachment A and A1). The Project site is located within an existing urbanized area. The Project site abuts industrial and commercial uses to the east, north, and west and Metro link rail tracks, the Lockheed Drainage Channel, and Interstate 5 Freeway to the south.

**4. ZONED OR PLANNED RESIDENTIAL USES.** *The project must be located on a site that is either zoned or has a General Plan designation for residential or residential mixed-use development, including sites where residential uses are permitted as a conditional use. If the multifamily housing development is*

*a mixed-use development, at least two-thirds of the project's square footage must be designated for residential use.*

The Project is consistent with this criteria. According to the City's Burbank2035 General Plan (2013) and the General Plan's Land Use Diagram, the General Plan designation for the property is Regional Commercial. This designation allows for a maximum FAR of 1.25 and 58 units per acre, with discretionary approval.

According to the City's Zoning Map (2019), the Property is zoned M-2 General Industrial Zone. Pursuant to Section 10-1-808.5 of the Burbank Municipal Code, in the M-2 Zone, all uses shall be consistent with the maximum floor area ratio (FAR) and maximum residential density, as prescribed in the General Plan, which allows a 1.25 FAR and 58 units per acre. Pursuant to Section 10-1-809, in the M-2 Zone, uses are allowed as set forth in Section 10-1-502 of the Municipal Code, where residential is not listed as a permitted use in the M-2 Zone. Pursuant to CA Government Code Section 65913.4(b)(5)(A), in the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective zoning and subdivision standards if the development is consistent with the standards set forth in the general plan. As the Project is consistent with the General Plan designation permitting residential, the Project is consistent with this provision.

**5. CONSISTENT WITH OBJECTIVE STANDARDS.** *The project must meet all objective zoning and design review standards in effect at the time the application is submitted.*

*i. If the project is consistent with the minimum and maximum density range allowed within the General Plan land use designation, it is deemed consistent with housing density standards.*

*ii. Any density bonus or any concessions, incentives, or waivers of development standards or reduction of parking standards requested under the Density Bonus Law in Government Code section 65915 are deemed consistent with objective standards.*

*iii. Objective standards are those that require no personal or subjective judgment and must be verifiable by reference to an external and uniform source available prior to submittal. Sources of objective standards include, without limitation:*

*a) Burbank 2035 General Plan,*

*b) Burbank Municipal Code,*

*c) Media District Specific Plan,*

*d) Burbank Center Plan Area,*

*e) North San Fernando Master Plan,*

*f) Rancho Commercial Recreation Master Plan.*

The Project is consistent with this criteria. The City provided an analysis of the Project's consistency with aforementioned objective standards as part of the NOI review. Many of the standards are marked as "consistent" in the City's analysis. This application includes a response to the City's

consistency analysis (Attachment B) to address any of the items which were considered “inconsistent” in the NOI review with explanations as to how the Project establishes consistency.

**6. PARKING.** *The project must provide at least one parking space per unit; however, no parking is required in the project meets any of the following criteria:*

*The project is located within one-half mile of public transit as defined by Section 102(r) of the HCD Guidelines.*

*b. The project is located within an architecturally and historically significant historic district.*

*c. On-street parking permits are required but not offered to the occupants of the project.*

*d. There is a car share vehicle as defined by Section 102(d) within one block of the development. A block can be up to 1,000 linear feet of pedestrian travel along a public street from the development.*

The Project is consistent with this criteria. The Project is located approximately 0.30 miles from a pedestrian entrance to the Regional Intermodal Transportation Center (RITC) located at the northwest corner of Empire Avenue and North Hollywood Way. The Project is within one-half mile of public transit, (see Attachment C) and therefore, no parking is required. The Project provides 54 parking spaces.

**7. LOCATION.** *The project must be located on a property that is outside each of the following areas:*

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

The Project is consistent with this criteria. The attached map (Attachment D) demonstrates that the Project site is located within area considered to be “Urban and Built Up Land” which is not prime farmland or farmland of statewide importance.

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

The Project is consistent with this criteria. The wetlands map (Attachment E) included in the application materials shows the Project site outside designated Wetland Areas.

*c. A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. This does not apply to sites excluded from the specified hazard zones by the City, pursuant to subdivision (b) of Section 51179, or sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.*

The Project is consistent with this criteria. The map included in this application (Attachment F) shows that the Project site is outside designated high fire hazard severity zones.

*d. A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed-uses.*

The Project is consistent with this criteria. The maps (Attachment G1 and G2) included in the application materials show that the Project site is not a hazardous waste site.

*e. A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.*

The Project is consistent with this criteria. The map (Attachment H) included in the application materials shows that the Project site is outside of any earthquake fault zones.

*f. A flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.*

The Project is consistent with this criteria. The map (Attachment I1) included in the application materials shows that a portion of the Project site is within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.

The Project has been designed to be setback from the floodplain and will be constructed such that any structures will be designed in accordance with applicable regulations and, as required, will obtain a City of Burbank "Flood Plain Development Permit" pursuant to Part 59 and Part 60 of subchapter B of Chapter I of Title 44 of the Code of Federal Regulations. A copy of the Letter of Map Revision, dated February 14, 2012, indicated on the map is included as Attachment I2.

*g. A floodway as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.*

The Project is consistent with this criteria. The map (Attachment I1) included in the application materials shows that the Project is not located within a floodway. The map includes a layer key which demonstrates that the floodway designation does not apply.

*h. Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.*

The Project is consistent with this criteria. The map (Attachment J) included in the application materials shows that the Project site is outside of any lands identified for conservation.

*i. Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).*

The Project is consistent with this criteria. The map (Attachment K) included in the application materials shows that the Project site is outside of any lands identified as habitat for protected species.

*j. Lands under conservation easement.*

The Project is consistent with this criteria. The map (Attachment L) included in the application materials shows that the Project site is outside of any conversation easements.

*k. A site that would require demolition of housing that is:*

- *Subject to recorded restrictions or law that limits rent to levels affordable to moderate, low, or very-low income households.*
- *Subject to rent control.*
- *Currently occupied by tenants or that was occupied by tenants within the past 10 years.*

The Project is consistent with this criteria. The Project site is currently developed with an 82,670-square-foot commercial/industrial building with on-grade surface parking which will be demolished. The Project would not require the demolition of any housing.

*l. A site that previously contained housing occupied by tenants that was demolished within the past 10 years.*

The Project is consistent with this criteria. The Project site is currently developed with an 82,670-square-foot commercial/industrial building with on-grade surface parking which will be demolished. The Project would not require the demolition of any housing that was occupied by tenants.

*m. A site that would require demolition of an historic structure that is on a local, state, or federal register.*

The Project is consistent with this criteria. The Project site is currently developed with an 82,670-square-foot commercial/industrial building with on-grade surface parking which will be demolished. The site is not located in a historic district and there are no Federal, State, or locally designated historic structures on the site.

*n. A parcel of land or site governed by the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act.*

The Project is consistent with this criteria. The Project site is currently developed with an 82,670-square-foot commercial/industrial building with on-grade surface parking which will be demolished and the Project would not require the demolition of any housing. The Project is not located on an existing parcel of land or site that is governed under the Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act.

**8. SUBDIVISIONS.** *The project does not involve an application to create separately transferable parcels under the Subdivision Map Act. However, a subdivision is permitted if either of the following apply:*

*a. The project is financed with low-income housing tax credits (LIHTC) and satisfies the prevailing wage requirements identified in item 9 below.*

*b. The project satisfies the prevailing wage and skilled and trained workforce requirements identified in items 9 and 10 of this Eligibility Checklist.*

This criteria is not applicable. The Project does not involve subdivision of a parcel, therefore, this criterion does not apply.

**9. PREVAILING WAGE.** *The project proponent must certify that at least one of the following is true:*

*a. The entirety of the project is a public work as defined in Government Code section 65913.4(8)(A)(i).*

*b. The project is not in its entirety a public work and all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area.*

*c. The project includes 10 or fewer units AND is not a public work AND does not require subdivision.*

The Project is consistent with this criteria. The SB 35 application includes a notarized letter certifying the commitment to comply with the Prevailing Wage requirement (Attachment M).

**10. SKILLED AND TRAINED WORKFORCE.** *If the project consists of 75 or more units that are not 100 percent subsidized affordable housing, the project proponent must certify that it will use a skilled and trained workforce, as defined in Government Code Section 65913.4(8)(B)(ii).*

This standard is not applicable. The Project will include 100 percent affordable subsidized housing and will satisfy the Prevailing Wage requirements as applicable.

Enclosed with this letter is the full application for a SB 35 Streamlined Ministerial Review to determine the Project's consistency with all applicable objective standards, as required by State law. This package includes the required application forms, plans and supplemental information for the Project. These materials demonstrate that the Project, as fully submitted, is consistent with all objective standards.

With this submittal, we look forward to the City's review of the full SB 35 application and ultimate approval by the City Council.

June 21, 2023

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Sincerely,

*Dave Rand*

of RAND PASTER & NELSON, LLP

DR

cc: Fred Ramirez, Assistant Community Development Director  
Scott Plambaek, Planning Manager