



August 29, 2022

**SENT VIA EMAIL AND US MAIL**

Janna M. Boelke  
Worthe Real Estate Group  
100 Wilshire Blvd Suite 1600  
Santa Monica, CA 90401

**Subject: 3201 W. Olive Avenue (APNs: 2483-023-419, 420, 421, 422, 431 and 432 & 2484-024-401)**  
SB 35 Project - Notice of Intent (NOI) to Submit Application (Project No. 22-0004002)

Dear Janna M. Boelke:

On June 24, 2022, the City of Burbank received your Notice of Intent (NOI) to submit an application for Streamlined Ministerial Approval Process for a proposed mixed use residential and commercial project located at 3201 W. Olive Avenue (**Proposed Project**). The NOI was reviewed for eligibility requirements and compliance with Senate Bill (SB) 35, pursuant to Section 65913.4 of the California (CA) Government Code. In addition, since the receipt of your NOI on June 24, 2022, the City has 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.

You have indicated in the SB 35 eligibility checklist submitted with the NOI application that you intend for the Proposed Project to comply with all SB 35 eligibility criteria, including, but not limited to the City's objective design and development standards, affordability provisions, and labor provisions pursuant to CA Government Code Section 65913.4. After reviewing the application and items that you submitted, City Staff has determined that your application **is not consistent with the City's objective standards and also requires additional information to be provided for several SB 35 eligibility criteria listed below in this letter.** Once all necessary materials are provided, Staff will resume processing of your NOI and confirm the completeness of the resubmittal. Below is a list of all criteria per CA Government Code 65913.4 that the Proposed Project must meet to qualify for ministerial approval under SB 35.

On August 23, 2022, the Community Development Director presented the Proposed Project to City Council for review and consideration of three site eligibility requirements per Government Code Section 65913.4, subsections (a)(2)(A-C) in accordance with Burbank Municipal Code Section 10-1-19302(A)(3). After deliberation, the City Council voted 4-0 to adopt the City Council resolution affirming the Director's determination that the Proposed Project met the site eligibility requirements as provided for under Government Code Section 65913.4 and BMC Section 10-1-19302(A)(3).

## SB 35 Eligibility Criteria and Consistency Analysis

The City received a Notice of Intent (NOI) for the Proposed Project on June 24, 2022. As a part of the NOI the proposed Project shall demonstrate consistency with all SB 35 eligibility criteria per CA Government Code 65913.4. Please find the NOI consistency analysis 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.

**Analysis: Consistent.** The Proposed Project is a mixed-use development that would consist of 144 new rental residential units; therefore, it is considered a multi-family housing development. The Applicant shall clarify on the project description and plans if the Proposed Project would have a manager's unit on-site in addition to the residential units and the number proposed affordable, deed restricted units resulting from the density bonus request. It is important to note that the applicant shall verify the lot area as defined in BMC Section 10-1-203 (Definitions) and the maximum allowable base density under the Project site's zoning regulations and general plan land use designations as well as the resulting allowable density increase per the density bonus request.

- 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.

**Analysis: Consistent.** Applicant has indicated in the submitted cover letter to the SB 35 NOI Application that the Proposed Project would provide 15 very-low income affordable rental units. The Applicant shall clarify on the project description and plans if the Proposed Project would have a manager's unit on-site and state whether any of the residential units are subsidized, which would be subject to the 55 years rental unit minimum duration restriction.

- 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.

**Analysis: Consistent.** The Project site consist of existing legal parcels located in the City of Burbank (see **Attachment A**), for which the boundaries include an urbanized area or urban cluster, as designated by the United States Census Bureau (see **Attachment B**). The Project site is located within an existing urbanized area. The Project site abuts residential use to the north, commercial use to the south, commercial use to the east, and a mixed-use residential with commercial development to the west. An aerial map (see **Attachment C**) shows the location of the Project site with respect to the neighboring properties.

- 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.

**Analysis: Consistent.** The zoning of the Project site is MDC-2 (Media District Limited Commercial) with a General Plan Land Use Designation of Media District Commercial. The Project is a proposed mixed-use residential development that includes 144 rental residential units with 1,058 square feet of commercial ground-floor area. The MDC-2 zoning allows residential above commercial with an approval of a Conditional Use Permit in accordance with BMC Section 10-1-502 [Uses in All Zones (Except Residential Zones)]. Additionally, the Media District Commercial land use designation allows for a mix of residential and nonresidential uses in accordance with BMC Section 10-1-2109.5 (General Plan Consistency) – a maximum residential density of 58 dwelling units per acre is allowed with discretionary approval. Furthermore, the Project would include at least two-thirds of the total development building square footage for residential uses. The total building footage of the mixed-use development is approximately 131,724 square feet and the residential area is proposed at 130,666 square feet or 99 percent of the total building area.

**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.
  - g) Complete Our Streets Plan

**Analysis: Not Consistent.** The Applicant has indicated on the SB 35 NOI Application that the Project would comply with the objective standards. The Applicant has also indicated that the California State's Density Bonus Law (Govt. Code Section 65915) would be applied to this Project, which would allow for increased density, incentives, waivers and reduced parking standards. City Departments' comments are provided as **Attachment D** at the end of this letter. **Attachment D** includes a review of objective development standards in Title 10 (Zoning) of the Burbank Municipal Code. The Applicant would be required to comply with all applicable objective standards provided by all City Departments. In the NOI resubmittal, the Applicant shall provide a response letter explaining how each objective standard that is determined not consistent have been addressed.

**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:

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

- ii. The project is located within an architecturally and historically significant historic district.
- iii. On-street parking permits are required but not offered to the occupants of the project.
- iv. 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.

**Analysis: Consistent.** The Proposed Project is providing 192 residential parking stalls (includes 34 tandem parking) for 144 residential units. In addition, the Proposed Project is within one-half mile of public transit as defined by Section 102(r) of the HCD Guidelines (See **Attachment E**).

**Section 102 of the HCD Guidelines defines public transit as the following:**

“Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge a set fare, run on fixed routes, and are available to the public.

The City Community Development Department’s Planning and Transportation Planning Divisions have determined that the Proposed Project would be consistent with both criteria.

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

- 1. 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.

**Analysis: Consistent.** The Project site is not located on prime farmland or farmland of statewide importance, as designated by the California Department of Conservation (See **Attachment F**).

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

**Analysis: Consistent.** The Project site is outside designated Wetland Areas according to the National Wetlands Inventory of the U.S. Fish & Wildlife Service (See **Attachment G**).

- 3. A very high fire hazard severity zone, as determined by the California 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 California 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.

**Analysis: Consistent.** The Project site is outside the very high fire hazard severity zone as determined by the California Department of Forestry and Fire Protection (See **Attachment H**).

- 4. 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.

**Analysis: Consistent.** The Project site is not located on a hazardous waste site according to the California Department of Toxic Substances Control (See **Attachment I & J**).

- 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.

**Analysis: Consistent.** The Project site is not located in an earthquake fault zone as determined by the State Geologist (See **Attachment K**).

6. 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.

**Analysis: Consistent.** The Project site is not located on a flood plain as determined by FEMA (See **Attachment L**).

7. 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.

**Analysis: Consistent.** The Project site is not located on floodway as determined by FEMA (See **Attachment L**).

8. 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.

**Analysis: Consistent.** The Project site is not located on lands identified for conservation in an adopted natural community conservation plan according to the California Department of Fish & Wildlife (See **Attachment M**).

9. 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).

**Analysis: Not Consistent.** Applicant has provided a map from NOAA Fisheries. The federal and state endangered species lists covered a wide range of species; therefore, provide other maps/information that show the Project site is not on a habitat for protected species typically found within the vicinity of the

Proposed Project. Please refer to the U.S. Fish & Wildlife Service, which has map resources related to threatened and endangered species active critical habitat.

- j. Lands under conservation easement.

**Analysis: Consistent.** The Project site is not located on a conservation easement according to the National Conservation Easement Database (See Attachment N).

11. 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.

**Analysis: Consistent.** The Project site is currently vacant with some vegetative ground cover along the Olive Avenue frontage; therefore, the Proposed Project would not require the demolition of any existing housing.

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

**Analysis: Consistent.** The Project site has been vacant for at least the past 10 years and there were no existing housing on the property during this period.

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

**Analysis: Consistent.** The Project site is not located in a historic district and there are no Federal, State, or locally designated historic structures on the site (per Appendix D of City of Burbank Historic Preservation Plan, November 1999). The Proposed Project would not require the demolition of a historic structure that was placed on a national, state, or local historic register.

14. 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.

**Analysis: Consistent.** The Project site is currently vacant; therefore, the Proposed Project would not require the demolition of any mobile housing. The Proposed 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:

1. The project is financed with low-income housing tax credits (LIHTC) and satisfies the prevailing wage requirements identified in item 9 below.
2. The project satisfies the prevailing wage and skilled and trained workforce requirements identified in items 9 and 10 of this Eligibility Checklist.

**Analysis: Not Consistent.** The Project site consists of multiple parcels. The Applicant would need to clarify how the multiple parcels would be combined to develop the Proposed Project. If a subdivision of a

parcel is proposed that is subject to the Subdivision Map Act, then the applicant would be required to comply with (a) or (b) of this eligibility criteria.

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

1. The entirety of the project is a public work as defined in Government Code section 65913.4(8)(A)(i).
2. 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.
3. The project includes 10 or fewer units AND is not a public work AND does not require subdivision.

**Analysis: Not Consistent.** The applicant submitted a letter certifying the commitment to comply with the Prevailing Wage requirement. In the letter, the applicant is to certify that either (a), (b), or (c) is true. The signed letter is also to be notarized to verify the signee of the letter.

**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).

**Analysis: Not Consistent.** The Proposed Project would require the use of skilled and trained workforce. Please submit a signed and notarized letter certifying the pledge to hire skilled and trained workforce, as defined in Government Code Section 65913.4(8)(B)(ii).

Should you have any questions, please feel free to contact David Kim, Associate Planner at (818) 238-5250.

Sincerely,



David Kim  
Associate Planner

CC: Patrick Prescott, Community Development Director  
Fred Ramirez, Assistant Community Development Director – Planning  
Scott Plambaeck, Planning Manager  
Joseph H. McDougall, City Attorney  
Iain MacMillan, Senior Assistant City Attorney

### **Attachments**

Attachment A – Land Survey of Project Site  
Attachment B – 2010 US Census – Urbanized Area Reference Map: Los Angeles–Long Beach–Anaheim, CA.  
Attachment C – Aerial Map of Project Site  
Attachment D – City Comments on Preliminary Application and Conceptual Design  
Attachment E – Map of BurbankBus

- Attachment F – Dept. of Conservation Farmland Map
- Attachment G – U.S. Fish & Wildlife Service – National Wetlands Inventory
- Attachment H – CAL FIRE - Very High Fire Hazard Severity Zone Map
- Attachment I – Dept. of Toxic Substances Control - Site\_Facility Search
- Attachment J – DTSC - Excel Sheet of Cortese List
- Attachment K – Earthquake Fault Zone Map
- Attachment L – FEMA Flood Map
- Attachment M – Map of Conservation Plans in the State
- Attachment N – NCED Map