



December 28, 2021

SENT VIA EMAIL AND US MAIL

ABS Properties, Inc.
5500 W. Hollywood Blvd.
4th Floor, West Wing
Los Angeles, CA 90028

Subject: 3000 W. Empire Avenue (APN: 2464-001-019)
SB 35 Project - Notice of Intent (NOI) to Submit Application (Project No. 21-0007030)

Dear Samir Srivastava:

On November 29, 2021 the City of Burbank received your Notice of Intent (NOI) to submit an application for Streamlined Ministerial Approval Process for a proposed multi-family residential project located at 3000 W. Empire 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 November 29, 2021 the City has reached out to the Tribes to request initiation of the required 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 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 **incomplete**. 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.

SB 35 Eligibility Criteria and Consistency Analysis

The City received a Notice of Intent (NOI) for the proposed Project on November 29, 2021. 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 Project is considered a multi-family housing development and proposes 340 new rental housing units. The Applicant shall clarify on the Project description and plans if one of proposed units is considered a manager's unit.

- 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 SB 35 NOI application that the Project would provide affordable rental units for 55 years. The Applicant is proposing a 100% affordable rental housing project consisting of 340 dwelling units. The Applicant shall clarify on the Project description and plans if one of proposed units is considered a manager's unit.

- 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 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**). 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 Locked Drainage Channel, and Interstate 5 Freeway to the south. An aerial map provided as **Attachment B** 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. Analysis: Consistent. According to the City's Burbank2035 General Plan (2013) and the General Plan's Land Use Diagram (General Plan, Exhibit LU-1), 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, typically (i.e., when not being processed as an SB 35 approval) with discretionary approval.

According to the City's Zoning Map (2019), the Property is zoned M-2 General Industrial Zone (Zoning Code Art. 8, Div. 2). 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. However, in zoning districts that do not list residential as a permitted or conditional use in the Zoning Table, the Planned Development process is an existing option within the City's Zoning Code for applicants to seek discretionary approval for residential uses in any of the City's non-residential zones including the M-2 Zone. Nevertheless, 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 residential use of the Proposed Project is consistent with the General Plan, the Proposed 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.

Analysis: Incomplete. The Applicant has indicated on the SB 35 NOI Application that the Project would comply with the objective standards. The Applicant has also indicated in the Application 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 comments are provided as **Attachment D** at the end of this letter and are based on the review of the applicable objective standards. Along with City Department comments, **Attachment D** includes a review of objective development standards in Title 10 (Zoning) of the Burbank Municipal Code. Comments from Burbank Water and Power - Water Division, the Fire Department, the Police Department and the City's Housing Division will be provided upon the submittal of an official SB 35 application. The Building Division indicated that the submitted drawings do not have enough architectural detail to provide a review at this time.

- 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:

- a. 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.

Analysis: Consistent. The Proposed Project is located approximately 0.32 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 Proposed Project is within one-half mile of public transit, (see **Attachment C**) and therefore, no parking is required.

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.

Analysis: Incomplete-Additional Information Required. Project application indicates that the Project site is not located on prime farmland or farmland of statewide importance, as designated by the California Department of Conservation. Please provide a map showing location of the Project site in relation to existing farmland areas as designated by the California Department of Conservation. Please produce an exhibit using the California Important Farmland Finder through the California Department of Conservation.

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

Analysis: Consistent. The wetlands map included in the application materials shows the Project site outside designated Wetland Areas. See **Attachment E** for reference.

- 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.

Analysis: Consistent. An exhibit included in the application materials shows that the Project site is outside designated high fire hazard severity zones. See **Attachment F** for reference.

- 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.

Analysis: Incomplete-Additional Information Required. An exhibit included in the application materials (**Attachment G**) shows that the Project site is outside designated hazardous waste zones. However, this exhibit is not produced by the Department of Toxic Substances Control, as required by the NOI checklist.

- 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: Incomplete-Additional Information Required An exhibit included in the application materials (**Attachment H**) shows that the Project site is outside designated earthquake fault zones. However, this exhibit is not produced by the State Geologist. Please produce an exhibit using the Fault Activity Map of California using the California Geological Survey.

- 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.

Analysis: Incomplete-Additional Information Required. The submitted Hydrology Study Dated September 21, 2021, as well as the letter attached to the Project application form, specify that the Project site abuts a channel known as the “Lockheed Drain Channel,” and a small portion of the site is within a 100-year flood hazard area. The provided FEMA map (**see Attachment I**) indicates the location of the Project site in relation to the flood hazard area, therefore the applicant shall demonstrate the Project’s eligibility in meeting the minimum flood plain management criteria of the National Flood Insurance Program regulations *and* provide the Letter of Map Revision prepared by FEMA that was issued to the local jurisdiction, as referenced in Section 65913.4(a)(6)(G) of SB 35 and the SB 35 Guidelines.

- 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.

Analysis: Incomplete-Additional Information Required. Please provide a FEMA floodway map. If the project falls into a floodway area, please provide a no-rise certification as specified above.

- 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.

Analysis: Incomplete-Additional Information Required. Please provide a map indicating location of the Project site in relation to lands identified for conservation in an adopted Natural Community Conservation Plan pursuant to the Natural Community Conservation Planning Act, a Habitat Conservation Plan pursuant to the federal Endangered Species Act, or another adopted natural resource protection plan. The California Natural Community Conservation Plan is available at the Department of Fish & Wildlife.

- 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).

Consistent. An exhibit included in the application materials shows that the Project site is outside designated protected species habitat zones. See **Attachment J** for reference.

- j. Lands under conservation easement.

Analysis: Incomplete-Additional Information Required. Please provide a map indicating location of the Project site in relation to existing conservation easement as designated in the National Conservation Easement Database.

- 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.

Analysis: Consistent. The site is currently developed with an 82,670-square-foot commercial/industrial building with on-grade surface parking, and thus the Proposed 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.

Analysis: Consistent. The site is zoned M-2 (General Industrial) zone and has been operated as commercial use for more than 10 years.

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

Analysis: Consistent. The 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). The Proposed Project would not require the demolition of a historic structure that was placed on a national, state, or local historic register.

- 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.

Analysis: Consistent. The site is currently developed with a commercial use and thus 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:

- 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.

Analysis: Consistent. The Proposed 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.

Analysis: Incomplete – Additional Information Required. The Applicant has noted on the NOI dated November 29, 2021, that the proposed Project will comply with all labor provisions identified in SB 35, pursuant to CA Government Code Section 65913.4, including the requirements regarding payment of prevailing wages in the construction of the Project, as applicable. The applicant submitted a letter certifying the commitment to comply with the Prevailing Wage requirement (**Attachment K**). Please resubmit an original notarized, signed 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: Incomplete-Additional Information Required. Applicant indicated on the NOI application that the Project will use a skilled and trained workforce. If you intend to use 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 Greg Mirza-Avakyan, Associate Planner at (818) 238-5250.

Sincerely,



Greg Mirza-Avakyan
Associate Planner

CC: Patrick Prescott, Community Development Director
Fred Ramirez, Assistant Community Development Director – Planning
Scott Plambaek, Deputy City Planner
Joseph H. McDougall, City Attorney

Attachments

- Attachment A – 2010 US Census – Urbanized Area Reference Map: Los Angeles–Long Beach–Anaheim, CA.
- Attachment B – Aerial map showing location of Project site
- Attachment C – Aerial Map showing distance of the Project site from Regional Intermodal Transportation Center (RITC) located at the northwest corner of Empire Avenue and North Hollywood Way
- Attachment D – City Comments on Preliminary Application and Conceptual Design
- Attachment E – United States Fish and Wildlife Service Wetlands Mapper
- Attachment F – CAL FIRE - Fire Hazard Severity Zone Map
- Attachment G – Hazardous Waste Map
- Attachment H – Earthquake Fault Map
- Attachment I – FEMA Flood Map
- Attachment J – Protected Species Habitat
- Attachment K – Prevailing Wage Letter