

STAFF REPORT



COMMUNITY DEVELOPMENT

DATE: July 25, 2023

TO: Justin Hess, City Manager

FROM: Patrick Prescott, Community Development Director
VIA: Fred Ramirez, Assistant Community Development Director
Scott Plambaek, Planning Manager
Amanda Landry, Senior Planner
BY: Joseph Onyebuchi, Associate Planner

SUBJECT: Adoption of a Resolution and Consideration of the Community Development Director's Determination and Approval of the Streamlined Ministerial Design Review for a Multifamily Residential Project at 910 South Mariposa Street, Pursuant to Burbank Municipal Code Title 10, Chapter 1 (Zoning), Division 12 (Streamlined Ministerial Approval Process) and Senate Bill 35 (CA Government Code Section 65913.4)

RECOMMENDATION

Adopt A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURBANK CONFIRMING THE COMMUNITY DEVELOPMENT DIRECTOR'S DETERMINATION THAT PROJECT NO. 23-0002305, LOCATED AT 910 SOUTH MARIPOSA STREET, IS CONSISTENT WITH ALL OF THE OBJECTIVE ZONING, SUBDIVISION, AND DESIGN REVIEW STANDARDS APPLICABLE TO THE PROJECT AND APPROVING THE PROJECT'S STREAMLINED MINISTERIAL DESIGN REVIEW AND VESTING TENTATIVE TRACT MAP (Attachment 1).

EXECUTIVE SUMMARY

The Project is a 23-unit, three-story townhome development on a 1.01-acre site located at 910 South Mariposa Street. It was submitted to the City as a Senate Bill (SB) 35 Residential Streamlined Ministerial Approval Process Application pursuant to SB 35 (Government Code Section 65913.4) and subject to the corresponding requirements in Burbank Municipal Code (BMC) Title 10, Chapter 1 (Zoning), Article 19 (Zoning Procedures and Amendments), Division 12 (Streamlined Ministerial Approval Process).

Applications that are eligible for streamlined review pursuant to SB 35 and that comply with the City's objective design and development standards (i.e., zoning, general plan, and subdivision standards) do not require any discretionary permit (such as a conditional use permit or development review) and are not subject to environmental review pursuant to the California Environmental Quality Act (CEQA).

Staff reviewed the SB 35 application and associated materials and determined that the Project satisfies the applicable eligibility requirements and is in compliance with applicable objective design review, subdivision, and development standards. In addition, in compliance with SB 35, the City was able to obtain Enforceable Agreements with the applicable local tribes (Attachment 2).

Therefore, the Community Development Director recommends that the Council adopt the attached Resolution (Attachment 1) and confirm the Director's determination that the Project is consistent with all of the applicable objective zoning, subdivision, and design review standards applicable to the Project based on its underlying M-1 (Limited Industrial) zoning and Rancho Commercial *Burbank2035* General Plan land use designation and ministerially approve the Streamlined Ministerial Design Review of the Project.

BACKGROUND

Project Site and Surrounding Context

The 1.01-acre Project site is located at 910 South Mariposa Street, in the M-1 (Limited Industrial) Zone and has a *Burbank2035* General Plan Land Use designation of Rancho Commercial. The Project site is currently developed with commercial stables consisting of one-story open barn structures, sheds, and open corrals, all of which are proposed to be demolished to accommodate the new residential housing development.

General Property and Surrounding Land Use Information	
Project Site Address	910 South Mariposa Street
Cross Streets	East side of South Mariposa Street between Valleyheart Drive and Morningside Drive
Assessor's Identification Number	2443-004-017
General Plan Designation	Rancho Commercial (Maximum 0.60 FAR; 20 dwelling units per acre with discretionary approval)
Zoning	M-1 (Limited Industrial) Zone
Property Size	Project net lot area is approximately 1.01 acres (43,995 square feet)
Current Development	Commercial stables consisting of one-story open barn structures, sheds, and open corrals
Street Classification and Width	South Mariposa Street and West Valleyheart Drive – Local Street (per <i>Burbank2035</i> General Plan Mobility Element and <i>City of Burbank Complete Our Streets Plan</i>)
Surrounding Neighborhood: North	M-1 (Limited Industrial) Zone, developed with commercial office uses with surface parking

General Property and Surrounding Land Use Information	
South	M-1 (Limited Industrial) Zone, developed with commercial use (Studio Horse Rental)
West	R-1-H Zone, developed with residential dwelling units
East	Outside of Burbank City limits, developed with commercial and recreation uses (Los Angeles Equestrian Center)

Project Description

The proposed Project includes six, three-story residential structures for sale containing a total of 23 townhome units ranging in size from 1,329 square feet to 2,030 square feet. Of the six proposed structures there are:

- o Two fourplex buildings containing four three-bedroom units;
- o One fourplex building containing three four-bedroom units and one three-bedroom unit;
- o Two triplex buildings containing one two-bedroom, one three-bedroom, and one four-bedroom unit; and
- o One fiveplex building containing four four-bedroom units and one three-bedroom unit.

The Project includes two affordable units for sale designated for low-income households that will be deed restricted as affordable units for 55-years. Additionally, there are 44 enclosed parking spaces and two open guest parking spaces; private open space in the form of patios, upper-level decks and/or roof decks for all units; 3,857 square feet of common open space located at the northwest corner of the site; and a 37-foot wide by 144-foot deep public dedication along South Mariposa Street, portions of which will be developed as part of a street widening. The Project also includes a Vesting Tentative Tract Map (No. 84060) application to facilitate the creation of condominium units (Attachment 1, Exhibit F).

State Density Bonus Law

The Project also includes a request for density bonus concessions or incentives pursuant to California Government Code Section 65915(d)¹. Based on State law, the Project is eligible for one incentive or concession because 10% of all proposed dwelling units are set aside for low-income households. The Project includes a request for one concession to be exempt from the building height requirement in BMC 10-1-806(A). This section establishes a maximum height of 35 feet for structures that are between 50 and 150 feet from any property zoned for residential use. The Project includes two buildings that meet this distance requirement, however both buildings exceed the maximum height requirement. Building CT-400, located at the northwest corner of the site, proposes a height of 42 feet 9 inches and Building CT-500 located at the southwest corner of the site, proposes a height of 42 feet 9 inches. The concession would allow both structures to provide stairways which provide access to the private opens space in the form of roof decks.

¹ State Density Bonus Law encourages applicants to construct affordable housing units in exchange for an increase in density in a residential or mixed-use housing project, if the project includes a certain percentage of affordable units. The levels of affordability include very-low income, low-income, or moderate-income households and vary by county/region.

SB 35 Notice of Intent (NOI) and Site Eligibility

Below is an overview of the Project's SB 35 Notice of Intent process and site eligibility analysis:

910 South Mariposa Street Project Timeline	
Date	Action
10/27/2022	SB 35 NOI Submittal
11/7/2022	Tribal Consultation Process
12/13/2022	City Council affirms CDD Director's Determination that Project met site eligibility requirements under SB 35
3/13/2023 & 3/31/2023	Enforceable Agreements Signed
4/19/2023	Applicant Notified Project was Eligible for Application Submittal under SB 35
4/24/2023	SB 330 Preliminary Application Received
4/25/2023	SB 35 Application Received
6/7/2023	City Determined Application Was Incomplete
6/16/2023	Complete Application Submitted
7/13/2023	Formal Application Deemed Complete (Attachment 5)

SB 35 Project NOI Submittals & Tribal Consultation

On October 27, 2022, the Project Applicant, Butterfly Gardens, LLC., submitted a NOI to Submit a Streamlined Ministerial and Eligibility Checklist application. The City notified the Native American Tribes that are traditionally and culturally affiliated with the geographic area of the proposed Project on November 7, 2022, in compliance with AB 168². The City initiated consultation with two Native American Tribes: Fernandeno Tataviam Band of Mission Indians (Tataviams) on December 12, 2022, and the Gabrieleno Band of Mission Indians-Kizh Nation on December 16, 2022. On March 13, 2023, the City finalized an enforceable agreement with the Fernandeno Tataviam Band of Mission Indians (Attachment 2) and an enforceable agreement was finalized with the Gabrieleno Band of Mission Indians-Kizh Nation on March 31, 2023 (Attachment 2).

SB 35 Site Eligibility Review and Determination

On December 13, 2022, Council adopted a Resolution that affirmed the Community Development Director's determination that the Project site met the site eligibility requirements for an SB 35 Project. On April 19, 2023, following the finalization of the enforceable agreements, the City sent a letter to the Applicant confirming the application was eligible for SB 35 streamlined ministerial processing (Attachment 3).

SB 330

² Assembly Bill (AB) 168, which took effect on September 25, 2020, advises that projects with pending applications under SB 35 should engage in tribal consultation to ensure compliance with the requirements of AB 168. Tribal consultation was initiated once a preliminary SB 35 application was submitted. The City obtained a list of tribes to be notified from the Native American Heritage Commission and sent a notice to each tribe with details of the proposed Project and an invitation to consult with the City regarding cultural resources. See HCD Guidelines Section 301(a)(2)(A).

On April 24, 2023, the Project Applicant submitted a preliminary application (Attachment 4) for the Project under SB 330 (Housing Crisis Act of 2019; CA Government Code Section 65589.5). SB 330 aims to increase residential unit development and creates an expedited permitting process for eligible housing and mixed-use development projects. Under SB 330, filing a valid preliminary application vests ordinances, policies and standards including fees, in effect at the time of filing, which is similar to the vesting that occurs upon receipt of an NOI under SB 35. If the Project is processed under SB 330, certain ordinances and policies cannot be applied to the Project. One example being that SB 330 bans jurisdictions from downsizing or otherwise adopting standards that would lessen housing intensity on sites zoned or planned for residential use and limits the City's ability to change development standards to a housing development project during the application process. Once an SB 330 preliminary application is filed, the Project Applicant must file the development project application within 180 calendar days.

SB 35 Formal Project Application

On April 25, 2023, the City received the SB 35 application from the Project Applicant. After a thorough review, staff found that the application was incomplete, and on June 7, 2023, sent a letter to the Project Applicant confirming the project application was deemed incomplete. On June 16, 2023, the Project Applicant resubmitted the SB 35 application, which addressed staff's comments. Upon further review by staff, the Project's SB 35 application was deemed complete on July 13, 2023 (Attachment 5).

Ministerial Design Review

Pursuant to BMC 10-1-19302(C), the Council shall undertake ministerial design review and public oversight as provided for in California Government Code Section 65913.4(d). The Council's review of an SB 35 application includes the review of the Community Development Director's determination on a project's compliance with applicable objective standards. Furthermore, the Council's review under this process must be objective and strictly focused on the project's compliance with the criteria required for a project, which have been adopted prior to the application's submittal to the City and are applicable to other developments within the City.

The following section provides an overview of the Project's compliance with objective design review and development standards in the BMC, and the Burbank 2035 General Plan goals and policies. An analysis of the Project's conformance with the applicable zoning, general plan, and subdivision standards is also provided in Attachment 1, Exhibit B. The Project is consistent with the applicable objective standards found in Titles 4 through 11 of the BMC and comments addressing those standards can be found in Attachment 7.

Consistency with City's Objective Zoning Standards

The Project site is zoned M-1 (Limited Industrial) and is subject to all M-1 Zone objective design review and development standards. These standards include but are not limited to objective criteria pertaining to maximum residential density, building height with concessions, open space, building setbacks, landscaping, and required on-site parking.

Objective Standards Defined

State law defines objective standards as “standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development Applicant or proponent and the public official before submittal.” Objective standards applicable to the Project can be found in the Burbank 2035 General Plan, and the City objective design review and development standards contained in the BMC and other Council-adopted fees, rules and regulations.

The objective standards applied to the Project were limited to standards found in the Burbank 2035 General Plan (the General Plan), BMC, and other adopted City rules and regulations governing similar types of land development.

An overview of the Project’s conformance with some of the major applicable objective standards is provided below.

- **Residential Density:** In the M-1 Zone, all uses must be consistent with the maximum residential density as prescribed in the General Plan. The General Plan Land use designation for the Property is Rancho Commercial and the maximum density is 20 dwelling units per acre. However, pursuant to California Government Code Section 65915, the Applicant proposes 10% of the Project’s total units to be designated for low-income households and therefore requests a 20% density bonus. The 20% density bonus would allow up to 24 dwelling units on the Project site. The proposed Project application is for 23 dwelling units.
- **Building Height:** Maximum height in the M-1 Zone is determined by a Project’s distance from the closest lot line of any property zoned for residential use (BMC 10-1-806(A)(1)). The Application proposes six three-story townhomes ranging from 70 to 280 feet from the single-family dwellings located west across Mariposa Street. The maximum building height for structures 50 feet to less than 150 feet from residentially zoned property is 35 feet. Further, structures that are 150 feet to less than 300 feet from residentially zoned property can have a maximum height of 50 feet. Roof and architectural features are permitted to exceed the maximum height by 15 feet. The Project proposes two buildings on the west side of the Project site – one fourplex with a 32 foot 5 inch top-of-plate height and one fiveplex with a 33 foot 5 inch top-of-plate height. However, the two buildings also feature roof decks, accessed by stairs that exceed the maximum height requirement by 7 feet 6 inches and 7 feet 9 inches, respectively. The roof deck and stair access are considered a structural element of the building and do not meet the definition of a roof or architectural element. Pursuant to State Density Bonus Law, the Project is eligible for one concession or incentive and is therefore requesting a concession to allow an exemption from the maximum building height requirement to facilitate the development of the proposed housing units allowed under the City’s zoning and General Plan allowable density. Therefore, the proposed increased height is permitted and complies with state and local objective standards.
- **Open Space:** Each lot, which abuts or is adjacent to an R-1-H zoned lot must provide open space not less than 20 feet wide along the area that abuts the residential property.

Public right-of-way may be included within the calculation of open space. Mariposa Street is a 30-foot-wide right-of-way that abuts R-1-H zoned lots located west of the Project site. In addition to the existing right-of-way, the Applicant is proposing to dedicate a 37-foot-wide section adjacent to Mariposa Street, along the site's western lot line. The application also includes an approximate 7-foot-wide landscaped area adjacent to the dedicated area. Therefore, a total of 74 feet of open space is provided within the area adjacent to the R-1-H zoned lots.

The Project Application proposes 967 square feet of common open space to include community amenities such as a barbecue island, dining tables, fire pit, and lounge furniture. Additionally, each unit has private open space in the form of roof decks, upper-level decks, and/or patios.

- **Building Setbacks:** The M-1 Zone requires that all structures must be set back a minimum of 5 feet from the front lot line or 20% of the building height, whichever is greater. As discussed above, the Project Applicant is proposing one fourplex at 42 feet 9 inches and one fiveplex at 42 feet 6 inches. The Project is therefore required to provide a front yard setback of at least 8 feet 6 inches. Further, the M-1 Zone permits the front yard setback to be averaged meaning that portions of the proposed structure that are oriented at varying distances from the front lot line can be averaged to meet the minimum setback required. The average setback for both Building CT-400 and Building CT-500 is 9 feet 5 inches and therefore the minimum front setback requirement is met.
- **Landscaping:** The M-1 Zone requires a minimum of 50% of front and exposed side yards to be landscaped. The Project site does not have any exposed side yards and proposes landscaping for the entire front yard.
- **Parking:** Pursuant to California Government Code Section 65913.4(e)(2), the parking requirement for this Project is one parking space per unit. The Project Application proposes two garage parking spaces for every unit except for Plan 3 units where one garage parking space is provided resulting in a total of 44 garage parking spaces provided on site, which exceeds the state law parking requirement. Additionally, the Application proposes two open surface parking spaces located within the southern portion of the site between the fiveplex and fourplex buildings. The garage parking spaces are approximately 8 feet 6.25 inches in width and 19 feet in length, while the two open parking spaces are approximately 8 feet 9.5 inches in width and 18 feet in length and meet the minimum parking space dimensions pursuant to BMC Section 10-1-1401.
- **Architectural Design and Site Plan Features:** The Application proposes a Spanish Colonial style architecture for its multifamily residential development. The proposed buildings feature notable architectural elements such as red clay roof tiles, wood support beams, and stucco as the primary finish. The design is accented with multi-colored ceramic tile for window finishes as well as metal balconies and awnings. Secondary elements such as recessed windows and wooden boxed bay windows provide visual variation across all building facades and a dormer design is utilized to screen the stairs leading to the roof decks further enhancing the visual variation along the buildings' roof

form. Each elevation provides fenestration at all three levels ensuring that residents and pedestrians alike are not surrounded by blank walls. The primary colors for the exterior finishes are complementary and include a combination of neutral and earth tone colors. Overall, the design of the Project complies with the architectural and vegetation requirements as noted in BMC Section10-1-630.

The Application proposes one 26-foot-wide entry driveway, which serves as the central spine for the development. The driveway and proposed hammerhead turnarounds provide vehicular garage access to each building which are situated on either side of the driveway toward the edges of the site. The Application arranges these units within common open space and paseo spaces located along the northern, eastern, and southern edges of the Project site providing an appealing pedestrian experience within the development.

Consistency with the Burbank2035 General Plan Objective Standards

The Project has been reviewed for conformance with Burbank2035 General Plan and is consistent with the applicable goals and policies outlined therein. The maximum allowed density for the Rancho Commercial land use designation is 20 dwelling units per acre. The Project qualifies for a 20% density bonus pursuant to California Government Code Section 65915(f)(1), because 10% of the units proposed are affordable to low-income households. As referenced in the Objective Standards Consistency Matrix in Attachment 1, Exhibit B, the proposed Project is consistent with the applicable objective policies that are outlined in the Burbank2035 General Plan. The matrix in Attachment 1, Exhibit B demonstrates how the Project complies with the General Plan Mobility Element portion of the General Plan, as discussed below:

- Street, Equestrian and Pedestrian Improvements: The Application proposes to dedicate an approximate 37-foot wide by 144-foot-long strip of land abutting Mariposa Street. The dedicated area will be comprised of a sidewalk, planting strip, as well as north and southbound vehicular travel lanes. The dedicated land for public right-of-way will facilitate the development of a bridle path along this segment, which is identified as a Long-Term Priority Project in the City of Burbank's Complete Our Streets Plan.

Subdivision

The Project Applicant has submitted a Vesting Tentative Tract Map No. 84060 to create one common lot ("Lot 1") with 23 condominium units. The Applicant proposes to sell the individual condominium units while having the future Homeowners' Association maintain the common areas of the Project site. The processing of the Vesting Tentative Tract Map is subject to a ministerial process as part of the SB 35 Streamlined Ministerial Approval Process. Furthermore, the City can only apply objective subdivision standards (Attachment 1, Exhibit A) when analyzing the Vesting Tentative Tract Map. Further, the processing of the Vesting Tentative Tract Map like the other Project requests are exempt from the requirements of the CEQA. As previously noted, the proposed Vesting Tentative Tract Map No. 84060 was determined to be consistent with all objective subdivision standards as well as in compliance with all objective general plan standards applicable to similar types of land subdivisions. Staff has included objective standard conditions for the Vesting Tentative Tract Map No. 84060 approval, including payment of prevailing wages and use of a skilled and trained workforce as

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required by California Government Code 65913.4(a)(9), that are included as part of the Project's Conditions of Approval as noted in Attachment 1, Exhibit A.

Offsite Improvements

The Project site is located within the City's General Plan Rancho Commercial land use designation, and the Rancho neighborhood, which is one of the few areas within Los Angeles County where homeowners may keep horses on their residential properties. South Mariposa Street is designated as an Equestrian Priority Street within the *City of Burbank Complete Our Streets Plan*. The Project's dedication of a 37 foot wide by 144-foot-long portion of land along Mariposa Street will allow for the expansion of the public right-of-way along Mariposa Street that will include new street improvements, such as a planting strip and sidewalk as well as the development of a barrier-separated bridle path for horses and riders in the area south across the Mariposa Equestrian Bridge and east toward the Los Angeles Equestrian Center (Attachment 6). In addition, staff has noted that there is sufficient capacity to connect existing sewer system (Attachment 9).

Prevailing Wage Requirement

The proposed Project shall comply with the prevailing wage provisions identified in California Government Code Section 65913.4(a)(8) by ensuring that all construction workers associated with the Project are compensated according to the general prevailing rate of per diem wages for this type of work, as well as other labor provisions required under this state law.

Standard Conditions of Approval

SB 35 allows approval of ministerial processing to include standard conditions of approval if those conditions are objective and broadly applicable to development within the locality, regardless of streamlined approval, and such conditions implement objective standards that have been adopted prior to submission of a development application. Standard Conditions of Approval, pursuant to SB 35, are included in Attachment 1, Exhibit A.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) (Division 13, commencing with section 21000) of the Public Resources Code) does not apply to projects qualifying for the Streamlined Ministerial Approval Process pursuant to CEQA Guidelines Section 15268. Likewise, CEQA does not apply to the ministerial review and approval of a subdivision application pursuant to Government Code 65913.4(d)(2). As a result, the Project is not subject to CEQA review and there are no unusual circumstances that would preclude the use of these exemptions. Moreover, an SB 35 project Applicant cannot be required to prepare any studies that would otherwise be required under CEQA (i.e., traffic, air quality, noise, et cetera). Pursuant to Government Code Section 65913.4, the City can only require an Applicant to comply with the objective planning standards that were in effect at the time the SB 35 notice of intent or application was submitted, whichever occurs earlier.

PUBLIC NOTIFICATION

In compliance with applicable City and State noticing requirements, Council Meeting Public Notices were mailed to property owners and tenants within a 1,000 foot radius of the Project site and a public notice was published in the Los Angeles Times newspaper ten business days

prior to the City Council hearing. In addition, the Project description sign was also posted at the Project site on July 11, 2023. As of the writing of this report, staff has received 39 comments written in opposition to the Project. (Attachment 8).

GOVERNMENT CODE 65009 NOTICE

Pursuant to Section 65009 of the California Government Code, if any individual(s) challenges the proposed Project in court, such individual(s) may be limited to raising only those issues that the individual(s) or someone else raised at the City Council public hearing for this Project held on July 25, 2023, or in written correspondence delivered to the City Council at, or prior to, the public hearing. An updated notice of public hearing on the Project was mailed out mailed to property owners and tenants within a 1,000 foot radius of the Project site on July 20, 2023, which noted the same requirements pursuant to Government Code Section 65009.

FISCAL IMPACT

If approved, the building permit and development impact fees associated with the Project would contribute to the City's General Fund. Reassessment of the property at the Project site by the Los Angeles County Tax Assessor would also result in additional tax revenue paid to the City so the Project approval would add revenue to the City's General Fund.

CONCLUSION

City staff recommends the City Council conditionally approve the Project by adopting the Resolution in Attachment 1. Based on the review and analysis discussed herein and in the documents attached to this report, it is the Community Development Director's determination that the Project meets all the findings required for approval under SB 35. The City's review of the SB 35 Application for the Project has concluded that it meets all application and development criteria pursuant to California Government Code 65913.4. The Project qualifies for the Streamlined Ministerial Approval Process under SB 35 and the City's Streamlined Ministerial Approval Process (BMC Title 10, Chapter 1, Article 19, Division 12).

Streamlined Ministerial Design Review approval for the Project is warranted as the Project is consistent with the applicable objective zoning, subdivision, and design review standards as well as the applicable requirements for a housing development project of this type under local and State Density Bonus Law, the City's Inclusionary Housing Ordinance, and the applicable provisions of the Housing Accountability Act (Government Code Section 65589.5).

ATTACHMENTS

- Attachment 1 – Resolution
- Attachment 2 – Enforceable Agreement
- Attachment 3 – SB 35 Application inclusive of the SB 35 NOI Application and City Letter
- Attachment 4 – Preliminary Application under SB 330
- Attachment 5 – SB 35 Formal Application Complete Letter
- Attachment 6 – Proposed Street Cross Section
- Attachment 7 – City Comments
- Attachment 8 – Public Correspondence
- Attachment 9 – Sewer Capacity Analysis