

# STAFF REPORT



## COMMUNITY DEVELOPMENT

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**DATE:** December 13, 2022

**TO:** Justin Hess, City Manager

**FROM:** Patrick Prescott, Community Development Director  
VIA: Fred Ramirez, Assistant Community Development Director–  
Planning  
Scott Plambaeck, Planning Manager  
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**BY:** Joseph Onyebuchi, Associate Planner

**SUBJECT:** Adoption of a Resolution Affirming the Community Development Director’s Determination that the Property Located at 910 South Mariposa Street Meets the Site Eligibility Requirements for a SB 35 Project (SB 35 Notice of Intent to Submit Application – Project No. 22-0006774) Pursuant to Burbank Municipal Code Section 10-1-19302(A)(3)

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### **RECOMMENDATION**

Adopt A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURBANK AFFIRMING THE COMMUNITY DEVELOPMENT DIRECTOR’S DETERMINATION THAT THE PROPERTY LOCATED AT 910 SOUTH MARIPOSA STREET MEETS THE SITE ELIGIBILITY REQUIREMENTS FOR A SB 35 PROJECT (PROJECT NO. 22-0006774 - SB 35 NOTICE OF INTENT TO SUBMIT AN APPLICATION) PURSUANT TO BURBANK MUNICIPAL CODE SECTION 10-1-19302(A)(3).

### **EXECUTIVE SUMMARY**

On October 27, 2022, the Community Development Director (the “Director”) received a Notice of Intent to Submit an Application (NOI Application) for a California State Senate Bill 35 (SB 35) Project from Butterfly Gardens LLC, under the provisions of California Government Code Section 65913.4. The proposed Project is located at 910 South Mariposa Street (Attachment 2). The Project scope includes demolition of all existing commercial structures on the site and the new construction of six three-story residential structures, containing a total of 21 townhomes ranging from 1,178 to 1,689 square-feet in

size and a total of 42 enclosed parking spaces and five open parking spaces, accessed from a two-way driveway from South Mariposa Street. The six structures consist of:

- Four triplex buildings located along the northern portion of the site, each containing two, two-bedroom units, and one three-bedroom unit;
- One fourplex containing four, three-bedroom units, located along the southern portion of the site; and
- One fiveplex containing five, three-bedroom units, located along the southern portion of the site.

The Project also includes 8,050 square-feet of combined common and private open space, proposed in the form of patios and/or upper-level balconies.

In accordance with Burbank Municipal Code (BMC) Section 10-1-19302(A)(3), the Director has 60 days from receipt of a submitted NOI Application to submit it to the City Council for their consideration of the Project's site eligibility under the criteria listed in California Government Code Section 65913.4(a)(2)(A)-(C). Based on the analysis, as presented in this report, the Director recommends that the City Council adopt a Resolution (Attachment 1) and confirm that the Project site meets the following site eligibility requirements for a SB 35 project pursuant to California Government Code Section 65913.4, subsections (a)(2)(A)-(C):

1. The Project site is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau;
2. At least 75 percent of the perimeter of the Project site adjoins parcels that are developed with urban uses. Parcels that are only separated by a street or highway shall be considered to be adjoined; and
3. The Project site is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.

## **BACKGROUND**

### **Project Description**

The Project site is one acre (43,560 square-feet) in size and is currently improved with commercial stables consisting of one-story open barn structures, sheds, and open corrals. The Project proposes demolition of the existing structures and the new construction of six three-story residential structures, containing a total of 21 townhomes ranging from 1,178 to 1,689 square-feet in size and a total of 42 enclosed parking spaces and five open parking spaces. The Project proposes four triplex buildings located along the rear of the site, each containing two, two-bedroom units, and one three-bedroom unit. One fourplex containing four, three-bedroom units and one fiveplex containing five, three-

bedroom units is proposed along the southern portion of the Project site. The Project design also includes 8,050 square-feet of combined common and private open space, proposed in the form of patios and/or upper-level balconies only, and will be accessed from a two-way driveway from South Mariposa Street.

**Existing and Surrounding Land Uses**

| <b>General Property and Surrounding Land Use Information</b> |   |
|--|---|
| <b>Project Site Address</b>                                  | 910 South Mariposa Street   |
| <b>Cross Streets</b>   | Northeast side of South Mariposa Street between Valleyheart Drive and Morningside Drive                         |
| <b>Assessor’s Parcel Number</b>                              | 2443-004-017  |
| <b>General Plan Designation</b>                              | Rancho Commercial (Maximum 0.60 FAR; 20 units per acre with discretionary approval)                             |
| <b>Zoning</b>  | M-1 (Limited Industrial) Zone   |
| <b>Property Size</b>   | Project net lot area is one acre (43,560 square-feet)   |
| <b>Current Development</b>                                   | Commercial stables consisting of one-story open barn structures, sheds, and open corrals                        |
| <b>Street Classification and Width</b>                       | South Mariposa Street and West Valleyheart Drive – Local Street (per City of Burbank Complete Our Streets Plan) |
| <b>Surrounding Neighborhood:</b>                             | M-1 (Limited Industrial) Zone, developed with commercial office uses with surface parking                       |
| <b>North</b>   |   |
| <b>South</b>   | M-1 (Limited Industrial) Zone, developed with commercial use (Studio Horse Rental)                              |
| <b>West</b>  | R-1-H Zone, developed with residential dwelling units   |
| <b>East</b>  | Outside of Burbank city limits, developed with commercial and recreation uses (Los Angeles Equestrian Center)   |

**Overview of the California SB 35 Streamlined Ministerial Approval Process**

SB 35 became effective in 2018 and established a streamlined ministerial approval process for qualifying housing projects that met certain specified criteria (SB 35 Projects), and applies to cities that have not made sufficient progress toward meeting their regional housing need assessment (“RHNA”) allocation. The City of Burbank is subject to SB 35. If subject to SB 35, cities are limited to evaluating SB 35 Projects against the objective zoning standards, objective subdivision standards, and objective design review standards that are in effect at the time a NOI to submit a SB 35 Project is submitted to the City. Additionally, SB 35 streamlines the processing of SB 35 Projects by establishing strict processing timelines. The City’s review process for a proposed SB 35 Project is codified in BMC Section 10-1-19302 et seq and generally includes:

1. **Submittal of a Notice of Intent to Submit a SB 35 Application (NOI Application).** The first step is for a prospective applicant to submit a NOI Application to the City for a potentially eligible SB 35 project.
2. **Tribal Consultation.** Within 30 days of the receipt of an NOI Application, the City must begin the notification and consultation process with the California Native American tribes that are traditionally and culturally affiliated with the geographic area of the Project site about the proposed development, as outlined in California Government Code Section 65913.4(b).
3. **City Review of NOI Application.** Within 60 days of receipt of an NOI Application, the City reviews the application and presents it to Council for consideration of site eligibility requirements.
4. **Submittal of a SB 35 Project Application.** After completing the NOI Application, which includes the tribal consultation process and the preparation of enforceable agreement(s) with each of the responding tribes and the City, an applicant may submit a SB 35 project application for City's ministerial review.
5. **City Council Ministerial Review / Public Oversight.** Per BMC Section 10-1-19302(C), the review and final determination of a SB 35 project is made by the City Council at a noticed public hearing. This determination must be made within 90 days for projects with 150 or fewer units and 180 days for projects with more than 150 units.

### **SB 35 Notice of Intent to Submit an Application (NOI) and Tribal Consultation**

On October 27, 2022, Butterfly Gardens LLC submitted an NOI Application to the Director. As noted above, the NOI Application submittal triggered a 60-day review process for the City to determine whether the Project meets the site eligibility requirements as noted in SB 35. To meet the review timeline established in BMC Section 10-1-19302(A)(3), the NOI Application is being presented before City Council for consideration of the Project's site eligibility requirements at the December 13, 2022, City Council Meeting.

Additionally, the NOI Application triggered a 30-day tribal notification and consultation process. In compliance with SB 35, City staff sent a letter to the California Native American tribes that are traditionally and culturally affiliated with the geographic area of the Project site on November 7, 2022, providing formal notice of the NOI Application (Attachment 7). In the case of this NOI Application, each California Native American tribe that received a formal notice had 30 days from the receipt of that notice to follow-up with the City and request to engage in consultation regarding the NOI Application.

## **ANALYSIS**

In accordance with BMC Section 10-1-19302(A)(3), the Director and the City Council shall consider whether the proposed Project site satisfies all of the following SB 35 site eligibility requirements:

- A. Government Code 65913.4(a)(2)(A): It is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.

*Director's Analysis:* The Project site consists of a legal parcel (APN: 2443-004-017) that is located within the City of Burbank boundary. Additionally, the City of Burbank, inclusive of the Project site, is located within a designated urbanized area as established by the United States Census Bureau (Attachment 6). Therefore, the Project is consistent with this site eligibility requirement.

- B. Government Code 65913.4(a)(2)(B): At least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

*Director's Analysis:* California Government Code Section 65913.4(k) defines "Urban uses" as: "any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses."

The Project site currently adjoins parcels that are developed with urban uses that include residential and commercial uses on all sides of the subject property (Attachment 3). Therefore, the Project is consistent with this site eligibility requirement.

- C. Government Code 65913.4(a)(2)(C): It is zoned for residential use or residential mixed-use development, or has a general plan designation that allows residential use or a mix of residential and nonresidential uses, and at least two-thirds of the square footage of the development is designated for residential use.

*Director's Analysis:* The zoning of the Project site is M-1 (Limited Industrial) Zone (Attachment 4) with a General Plan land use designation of Rancho Commercial (Attachment 5). The Project site's General Plan land use designation of Rancho Commercial allows for single-family residential properties and a variety of low-intensity multi-family residential and commercial uses in accordance with BMC Section 10-1-801.5 (General Plan Consistency). The proposed development is

100 percent residential. Therefore, the Project site satisfies this site eligibility requirement.

### **ENVIRONMENTAL REVIEW**

SB 35 Projects are statutorily exempt from the California Environmental Quality Act (CEQA) (California Public Resources Code, Division 13, 21000 et seq.) pursuant to CEQA Guidelines Section 15268 and California Government Code Section 65913.4. As a result, the Project is not subject to CEQA review and cannot be required to prepare any studies that would otherwise be required under CEQA (e.g., traffic, air quality, noise, et cetera). The City can only require an applicant to abide by objective development and design standards that are in effect at the time the SB 35 application was submitted (CA Govt. Code Section 65913.4). Further, site eligibility verification is considered a ministerial action and is therefore statutorily exempt from CEQA under Section 15268 of the CEQA Guidelines.

### **PUBLIC NOTIFICATION**

The NOI Application and the review of the Project's compliance with the City and State site eligibility requirements is not subject to the public hearing and associated public noticing requirements outlined in BMC Section 10-1-19302(E). However, in an effort to keep all interested community members informed, City staff posted a copy of the project plans on the City's planning webpage on November 16, 2022, for the public to view (link: <https://www.burbankca.gov/web/community-development/910-s-mariposa-st>).

Additionally, on November 21, 2022, City staff posted a copy of the submitted NOI Application on the City's planning webpage. Furthermore, notice of the City Council's consideration of an NOI Application at the December 13, 2022 meeting was posted on the City's planning webpage, and a message was sent out electronically to community members via the City's e-notify list.

Upon confirmation of the site eligibility, the Project applicant may submit an SB 35 Project Application that would then be subject to a ministerial review at a noticed public hearing before the City Council. Public noticing for the public hearing would be provided as outlined in BMC Section 10-1-19302(C).

### **CONCLUSION**

Based on the aforementioned Director's review and analysis, staff recommends that Council adopt a Resolution (Attachment 1) that affirms the Community Development Director's determination that the Project site at 910 South Mariposa Street meets the site eligibility requirements for a SB 35 Project (SB 35 Notice of Intent to Submit Application – Project No. 22-0006774). If the Project is determined by the City to have met the applicable SB 35 site eligibility requirements, and following the completion of the Tribal Consultation Process, the applicant may submit an SB 35 Project Application.

## **ATTACHMENTS**

Attachment 1 – Resolution

Attachment 2 – SB 35 NOI Application

Attachment 3 – Aerial Map of Project Site

Attachment 4 – Zoning Map

Attachment 5 – General Plan Land Use Designation Map

Attachment 6 – 2010 Census: Urbanized Area Reference Map

Attachment 7 – List of Notified Tribes