

STAFF REPORT



COMMUNITY DEVELOPMENT

DATE: November 26, 2024

TO: Justin Hess, City Manager

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

SUBJECT: Adoption of a Resolution to Confirm the Community Development Director's Determination and Approval of the Streamlined Ministerial Design Review for a 40-Unit Multifamily Residential Project at 910 South Mariposa Street, Pursuant to Burbank Municipal Code Title 10, Chapter 1 (Zoning), Article 19, 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. 24-0002257 A 40-UNIT MULTIFAMILY RESIDENTIAL PROJECT LOCATED AT 910 SOUTH MARIPOSA STREET IS CONSISTENT WITH ALL APPLICABLE OBJECTIVE ZONING, SUBDIVISION, AND DESIGN REVIEW STANDARDS AND APPROVING THE PROJECT'S STREAMLINED MINISTERIAL DESIGN REVIEW AND VESTING TENTATIVE TRACT MAP 84060 (Attachment 1).

EXECUTIVE SUMMARY

The Project is a 40-unit, five-story multifamily development on a 1.01-acre site located at 910 South Mariposa Street. The Project was submitted to the City as a Senate Bill (SB) 35 Residential Streamlined Ministerial Approval Process Application pursuant to SB 35 (Cal. Gov. Code § 65913.4¹) and subject to the corresponding requirements in Burbank

¹ All references to California Government Code Section 65913.4 refer to the law as it existed on the date of the submittal of the Notice of Intent Application (NOI) (December 26, 2023).

Municipal Code (BMC) Title 10, Chapter 1 (Zoning), Article 19 (Zoning Procedures and Amendments), Division 12 (Streamlined Ministerial Approval Process).

Eligible SB 35 applications 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 all SB 35 eligibility requirements and complies with applicable objective design review, subdivision, and development standards. In addition, in compliance with SB 35, tribal consultations were completed and Enforceable Agreements were executed with the applicable local tribes (Attachment 2).

Therefore, the Community Development Director (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 objective zoning, subdivision, and design review standards applicable to the Project based on its underlying M-1 (Limited Industrial) zoning, the applicable Multifamily Residential Only Development in Nonresidential Zones standards provided in BMC §§ 10-1-621 through 10-1-624 and the Rancho Commercial *Burbank2035* General Plan land use designation and permissible density, 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. A temporary wholesale business is currently in operation on the Project site.

An existing entitlement for a 23-unit townhome project was approved for this site on July 25, 2023, however that Project has not been constructed at this time. The proposed Project reviewed in this staff report is a separate and unrelated application.

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	Temporary structures related to a registered wholesale business (Butterfly Pergola)

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

Project Description

The Project proposes the construction of one five-story multifamily residential structure containing a total of 40 condominium units ranging in size from 946 square feet to 2,122 square feet. The Project proposes a unit mix consisting of 30 two-bedroom units and 10 three-bedroom units.

The Project includes six affordable units, designated as for-sale units for three very low-income households and three moderate-income households that will be deed restricted as affordable for 55-years. Additionally, there are 45 parking spaces within an enclosed semisubterranean parking level; private open space in the form of patios and upper-level balconies; 16,358.8 square feet of common open space located on the ground level of the site and on the fifth floor (i.e., rooftop) of the building; and a 37-foot wide by 144-foot deep public dedication of the existing property for future public right-of-way along South Mariposa Street, which will be comprised of a sidewalk, planting strip, as well as north and southbound vehicular travel lanes. In addition to an expanded street width, the dedicated land for public right-of-way will facilitate the future 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. The Project also includes an application for a Vesting Tentative Tract Map No. 84060 to facilitate the creation of condominium units (Attachment 1, Exhibit C).

State Density Bonus Law

The Project also includes a request for density bonus incentives pursuant to State Density Bonus Law (Cal. Gov. Code § 65915(d)).² Based on State law, the Project is proposing six affordable units and is eligible for up to three incentives because 15% of all proposed dwelling units are set aside for very low-income units and 15% of the total number of units are set aside for moderate income units. California Density Bonus law also permits a qualifying development to request waivers or reductions in certain development standards. The applicant’s incentive and waiver requests include deferred payment of

² 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 and/or granting of development incentives, concessions, or waivers, 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.

development impact fees to 24 months after the issuance of a Certificate of Occupancy (BMC § 10-1-640(A)(3)), relief from the requirement to limit encroachments of balconies into the required front yard (BMC §§ 10-1-640(A)(1); 10-1-1211), relief from development standards for height (BMC § 10-1-624(D)), and relief from development standards for plane breaks and modulation (BMC § 10-1-624(G)).

SB 35 Timeline and Review Process

Below is an overview of the Project’s milestones, beginning with the SB 35 Notice of Intent (NOI) application through the formal application review:

<u>910 South Mariposa Street Project Timeline</u>	
<u>Date</u>	<u>Action</u>
12/26/2023	SB 35 NOI Submittal
12/28/2023	Tribal Consultation Process Initiated
01/19/2024	Tribal Consultation Process Concluded with the Fernandefio Tataviam Band of Mission Indians (Attachment 2, Exhibit A)
02/28/2024	Tribal Consultation Process Concluded with the Gabrieleño Band of Mission Indians – Kizh Nation (Attachment 2, Exhibit A)
04/18/2024	Applicant Notified Project was Eligible for Application Submittal under SB 35
05/10/2024	SB 35 Application Received
07/01/2024	City Determined Application was Incomplete and Inconsistent with Objective Standards
10/04/2024	Formal Application Resubmitted
11/4/2024	Formal Application Deemed Complete (Attachment 5)

SB 35 Project NOI Submittals & Tribal Consultation

On December 26, 2023, 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 December 28, 2023 (Cal. Gov. Code § 65913.4(b)). The City initiated consultation with two Native American Tribes: Fernandefio Tataviam Band of Mission Indians and the Gabrieleño Band of Mission Indians – Kizh Nation. The City finalized enforceable agreements with the Fernandefio Tataviam Band of Mission Indians on January 19, 2024 (Attachment 2, Exhibit A) and with the Gabrieleño Band of Mission Indians – Kizh Nation on February 28, 2024 (Attachment 2, Exhibit A). On April 18, 2024, the Applicant was notified that tribal enforceable agreements were executed, and the SB 35 NOI application process was complete (Attachment 3).

SB 35 Formal Project Application

On May 10, 2024, the City received the formal SB 35 Application from the Project Applicant. After a thorough review, staff found that the application was incomplete. On July 1, 2024, staff sent a letter to the Project Applicant confirming the application was incomplete and the Project remained inconsistent with certain objective standards. In this letter, staff noted the following two missing application items and seven inconsistencies with applicable objective standards (Attachment 4):

Incomplete Application Items:

- Application was missing a biologist report evidencing site eligibility under California Government Code § 65913.4(a)(6)(J), and related fees to engage an independent third-party consultant peer review of this report. This documentation was required to address assertions made in an ongoing legal action that the Project Site contains habitat for sensitive species, and therefore does not satisfy SB 35 site eligibility requirements.
- Application was missing an electrical load schedule and secondary service schematic so that staff could determine the extent of the electrical load requirements (BMC § 8-2-203).

Inconsistencies with Objective Standards:

- Driveway widths and parking stalls did not comply with Burbank Standard Plan BT-400.
- Fire apparatus access roads did not comply with applicable local and State fire codes.
- Utility meter locations and utility service requirements were not confirmed with Burbank Water and Power (BWP).
- Utility easement requirements were not confirmed with BWP.
- Plans omitted a pedestrian ramp required as part of the City's Complete Streets Objective Development Standards (CSODS).
- Plans omitted bicycle racks required as part of the CSODS.
- Portions of equestrian path did not comply with CSODS requirements for specified surface finishes and separation from pedestrian zones.

On October 4, 2024, the Project Applicant resubmitted the SB 35 Application, which addressed staff's comments including the submittal of a biologist report (Attachment 9, Exhibit A), electrical load schedule, and secondary service schematic. The Project's SB 35 Application was deemed complete on November 4, 2024 (Attachment 5). During the same period, the Project was also being reviewed to ensure consistency with objective zoning, subdivision, and design review standards pursuant to California Government Code § 65923.4(a)(1). Staff's analysis of the Project's consistency with the City's objective zoning standards is provided further in this report.

Ministerial Design Review

Following submission of a complete SB 35 Application and staff's review for compliance with applicable objective standards, the Council shall undertake ministerial design review to confirm the Director's determination that the Project is consistent with applicable objective standards (BMC § 10-1-19302(C)). The Council's review under this process must be objective and strictly focused on the project's compliance with the criteria required for an SB 35 streamlined project, which have been adopted prior to the Project's NOI submittal and are broadly applicable to other developments within the City.

ANALYSIS

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.” (Cal. Gov. Code § 65913.4(a)(5)). Objective standards applicable to the Project can be found in the Burbank2035 General Plan, BMC, and other adopted City rules and regulations governing similar types of land development.

Consistency with Objective Standards

Following thorough review, the Director has determined that the Project is consistent with the applicable objective standards found in State law, Titles 4 through 11 of the BMC, as well as adopted City rules, regulations, and fees. Complete comments addressing these City standards are included (Attachment 6). An analysis of the Project’s conformance with all applicable zoning, general plan, and subdivision standards is also provided in Attachment 1, Exhibit B. The following section provides an overview of the Project’s compliance with some of the major objective design review and development standards found in State law, the BMC, adopted City rules, regulations and fees, and the Burbank2035 General Plan goals and policies. A full analysis of all State and local objective standards criteria is included (Attachment 1).

Consistency with State Law – California Government Code § 65913.4(a) (a full analysis of all State law requirements is included in Attachment 1):

- Site Eligibility: The Project satisfies the following site eligibility requirements under Government Code § 65913.4(a)(2):

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. Therefore, the Project is consistent with this site requirement.

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 § 65913.4(m) 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. The

lot that abuts the Project Site to the north has been analyzed in depth to address specific concerns about its eligibility. A commercial business (Applied Invention, LLC) is located to the north of the site at 820 South Mariposa Street and has been in operation at this location since 2015. The business moved to its current site in 2017 and has a business license that describes the use as general office. Additional classifications from the National American Industry Classification System (NAICS) have been identified to classify the business at this location. The NAICS codes that have been used for Applied Invention, LLC include systems engineering (5413301) and computer vision (518210-20). Industries with NAICS codes that begin with 54 are professional, scientific, and technical services sector companies comprising of establishments that specialize in performing professional, scientific, and technical activities for others.

This description reflects the general office designation listed on the business license for Applied Invention, LLC. Furthermore, the City's Building and Safety Division categorizes Applied Invention, LLC as a "Miscellaneous Business Service" based on the company's own description of who they are: "Applied Invention is a multidisciplinary innovation company that partners with corporations to design and build new technologies to help them grow and adapt to rapidly changing environments." The business in operation to the north of the subject site at 820 South Mariposa Street can be confirmed as an urban (commercial) use consistent with applicable State law.

All other parcels that surround the Project Site have been confirmed to meet site eligibility requirements. These urban uses include a Single-Family residential neighborhood located west of the Project Site, the Los Angeles Equestrian Center located to the east of the site at 480 West Riverside Drive, and Studio Horse Rental at 914 South Mariposa Street. Therefore, the Project site satisfies this requirement.

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 Project site is zoned M-1 (Limited Industrial) and has a General Plan Land Use Designation of Rancho Commercial. The Project site's Rancho Commercial Land Use Designation allows for single-family residential properties and a variety of low-intensity multi-family residential and commercial uses in accordance with BMC § 10-1-801.5 (General Plan Consistency). The proposed Project is 100% residential. Therefore, the Project Site satisfies this requirement.

- *No Habitat for Protected Species:* In compliance with Government Code § 65913.4(a)(6)(J), the Project Site does not contain habitat for protected species. The Applicant submitted a biologist report (Attachment 9, Exhibit A), prepared by a certified wildlife biologist, that found that the Project Site does not contain habitat as defined by Government Code § 65913.4(a)(6)(J) due to the overwhelming dominance of non-native, invasive, and ornamental plants. The report further

detailed that no special-status species are present on the Project Site, nor would they occur on the subject site due to a lack of habitat, disturbance, and habitat fragmentation. While a portion of tree canopies from adjacent Mexican elderberry and western sycamore trees overhangs the Project Site by approximately five to 15 feet, this area was found to lack integrity as habitat and is not considered habitat for protected species because it is highly disturbed, there is no ability to regenerate onsite, and there is no value as habitat for special-status species because it is only two trees in a developed area dominated otherwise by non-native species. An independent peer review conducted by a third-party consultant hired by the City also confirmed this analysis (Attachment 9, Exhibit B). As such, the record contains substantial evidence that the Project Site satisfies the habitat requirement in Government Code § 65913.4(a)(6)(J).

Consistency with City's Inclusionary Housing Regulations

In accordance with BMC §§ 10-1-644 to 10-1-655, a housing development project that proposes five or more units must set aside a certain number of units of the housing project as affordable units. In for-sale residential housing projects, a minimum of 15% of the units (not including any density bonus units) are required to be sold to low and/or moderate-income households. The Project is setting aside 6 affordable units, which exceed the 15% minimum requirement and include 15% of all proposed dwelling units are set aside for very low-income units and 15% of the total number of units are set aside for moderate income units. The affordable units would be deed-restricted for a minimum of 55 years. An affordable housing agreement would be required to be recorded, ensuring the Project would provide the required affordable units. Therefore, Project complies with the City's inclusionary housing affordability unit requirements.

Consistency with City Objective Standards:

The Project site is zoned M-1 (Limited Industrial) and would otherwise be subject to all M-1 Zone objective design review and development standards. However, since this is a residential project in a non-residential zone, the Project is subject to the development standards listed in BMC §§ 10-1-621 through 10-1-624 (Multifamily Residential-Only Development in Nonresidential Zones). These standards include but are not limited to objective criteria pertaining to lot coverage, building height, private open space, common areas and amenities, building setbacks, plane breaks and modulations, building orientation and design, landscaping, and required parking areas and driveways. Pursuant to BMC § 10-1-806(G), these standards supersede development standards in BMC § 10-1-806 for M-1 zoned sites.

- Residential Density: In the M-1 Zone, all uses must be consistent with the allowable maximum residential density as prescribed in the General Plan pursuant to the General Plan consistency table listed in BMC § 10-1-801.5. The General Plan Land Use Designation for the Property is Rancho Commercial, and the maximum density is 20 dwelling units per acre. Pursuant to California Government Code § 65915, the Applicant proposes 15% of the Project's total units to be designated for very low-income and 15% of the Project's total units for moderate-income households and therefore requests a 100% density bonus increase. The state-mandated 100% density bonus increase allows a maximum of 40 dwelling units on the Project Site.

- Building Height:** Maximum height for the Project is determined by the Project's distance from the closest lot line of any property zoned for residential use (BMC § 10-1-624(D)). The Applicant proposes one five-story multifamily residential building that is located approximately 76 feet from the closest R-1-H lot located across Mariposa Street. A 40-foot maximum height is permitted for any multifamily property that is within 149 feet distance from the closest residential lot. Therefore, the maximum height permitted for this structure is 40 feet. Pursuant to State Density Bonus Law, the Project is eligible for three incentives or concessions and additional waivers. The Project is requesting a waiver of development standards for height to allow a maximum height of 63.71 feet to accommodate the building envelope necessary to facilitate the development of the proposed number of housing units allowed under State Density Bonus Law and the City's zoning and General Plan allowable density. The proposed increased height is a permitted waiver under State Density Bonus Law and its approval ensures the Project's compliance with State and local objective standards.
- Private Open Space and Common Areas:** BMC §§ 10-1-624(A) and (K) require a minimum of 70 square feet for designated private open space area per unit. The Project proposes patios and balconies for each proposed unit and meets this standard. BMC §§ 10-1-624(A) and (L) require a minimum of 100 square feet of common area per unit. The Project proposes 40 units, and the common area requirement is 4,000 square feet. The Project proposes approximately 7,997 square feet of common area within a proposed recreational open space area located at the rear of the site and a seating area located within the site's interior. The common areas propose community amenities such as a barbecue island, dining tables, fire pit, pool, and lounge furniture. The Project also proposes landscaped area within the fire lane and within the front and side yards. Therefore, the Project complies with applicable private open space and common area standards.
- Building Setbacks:** BMC § 10-1-624(A) requires the front minimum setback for all structures (excluding fully subterranean, semi-subterranean and above grade parking structures) to be at least five feet from the front lot line or 20% of the building height, whichever is greater. This standard also permits the setback to be averaged. The Project proposes a building height of 63.7 feet and the setback requirement is 12.75 feet. The Project provides an average setback of 26.5 feet along the first floor, 30.12 feet along the second, third, and fourth floors, and 61.48 feet along the fifth floor. Therefore, the setback requirement is met. BMC § 10-1-624(E)(4) permits encroachments into required setback areas by various structural components such as balconies. The Project also requests an incentive under State Density Bonus Law to provide relief from BMC §§ 10-1-624(E), which outlines maximum encroachments of various structures or objects, including balconies, into setback areas. The incentive would permit certain balconies to encroach within 1.5 feet of the proposed front property line. Therefore, the Project will comply with applicable setback requirements.

- Landscaping: BMC § 10-1-624(E)(7)(a) 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 approximately 940.1 square feet of landscaping for the entire front yard. Therefore, the Project complies with this landscaping standard.
- Parking: Pursuant to California Government Code § 65913.4(e)(2), the parking requirement for this Project is one parking space per unit. The Project Application proposes a semi-subterranean parking facility with 45 parking spaces, which includes one parking space for every unit and five additional semi-subterranean parking spaces that may be used by guests. The total of 45 garage parking spaces proposed onsite exceeds the State law parking requirement. The garage parking spaces are approximately 9 feet in width and 18 feet in length and meet the minimum parking space dimensions pursuant to BMC § 10-1-624(I). Therefore, the Project complies with the City's applicable parking standards.
- Building Orientation and Design/Architectural Design and Site Plan Features
The Project proposes one five-story building with a front façade oriented toward South Mariposa Street. The Project incorporates design elements of Spanish Colonial style architecture for its multifamily residential development. The proposed buildings feature architectural elements such as red clay roof tiles and stucco as the primary finish. Additional elements such as recessed windows, arched windows, and plane breaks provide visual variation across all building facades. Each elevation provides fenestration at all five 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.

The Application proposes one 20-foot-wide entry driveway, located along the northern portion of the site. A 26-foot-wide fire lane is located along the northern edge of the site and provides a buffer between the proposed building, proposed common open space, and the commercial property located to the north of this site. A walkway bounds the site to the south providing a buffered pedestrian pathway that connects users to both proposed common open space areas. Overall, the design of the Project complies with the architectural and vegetation requirements as noted in BMC § 10-1-630.

Consistency with the Burbank2035 General Plan Objective Standards

The Project has been reviewed for conformance with the Burbank2035 General Plan and is consistent with the applicable goals and policies outlined therein. The Objective Standards Consistency Matrix (Attachment 1, Exhibit B) demonstrates how the Project complies with the applicable objective policies that are outlined in the Burbank2035 General Plan, including the following provisions:

- Maximum Allowable Density: The maximum allowed density for the Rancho Commercial Land Use Designation is 20 dwelling units per acre. The Project qualifies for a 100% density bonus increase pursuant to California Government Code §§ 65915(f)(2) and 65915(v)(2), because 15% of the total number of units proposed

are affordable to very low-income and an additional 15% of the total number of units are affordable to moderate income households.

- Mobility - Street, Equestrian and Pedestrian Improvements: The Applicant 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 and a planting strip, as well as north and southbound vehicular travel lanes. The dedicated land for public right-of-way will facilitate the future 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.

Consistency with Objective Subdivision Standards

The Project Applicant has submitted a Vesting Tentative Tract Map No. 84060 to create one common lot ("Lot 1") with 40 condominium units. The Applicant proposes to create for-sale 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 when analyzing the Vesting Tentative Tract Map. Further, the processing of the Vesting Tentative Tract Map like the other Project requests are exempt from CEQA review (Cal. Gov. Code § 65913.4(d)(2)).

Staff has reviewed the proposed Vesting Tentative Tract Map No. 84060 and determined it is 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 as required by California Government Code § 65913.4(a)(8), that are included as part of the Project's Conditions of Approval (Attachment 1, Exhibit A). Therefore, staff has found that the proposed Tentative Tract Map does not create a flood hazard, results in a project that is not susceptible to inundation, will have adequate access for ingress and egress from an existing street, can be served by public facilities for sewer, water, and electricity, will have adequate water supply and be served by fire protection, has no hazardous geological conditions, and will comply with all the requirements of the BMC as noted in Title 11 (Subdivisions) including the applicable provisions of the State Subdivision Map Act.

Request for Density Bonus, Incentives/Concessions, and Waivers (Cal. Gov. Code § 65915; BMC §§ 10-1-633 et seq.):

In accordance with State and City density bonus laws, the Project Applicant is requesting a density bonus for an eligible housing development. In addition to the density bonus request, the Project is eligible for three incentives/concessions because the Project includes at least 15% of the total units for very low-income households (Cal. Gov. Code § 65915(d)(2)(C)). A concession or incentive includes a reduction in site development standards or a modification of zoning code or architectural design requirements, such as a reduction in setback or minimum square footage requirements, approval of mixed-use zoning, or other regulatory incentives or concessions that result in identifiable and actual cost reductions (Cal. Gov. Code § 65915(k); BMC § 10-1-640). Finally, the Project is

eligible for waivers of development standards that would physically prevent the Project from being built at the permitted density or with the permitted concessions or incentives (Cal. Gov. Code § 65915(e); BMC § 10-1-640). A summary of the density bonus request is provided below, along with staff's response:

- Additional Residential Units (Density Bonus Units): Pursuant to California Government Code §§ 65915(f)(2) and 65915(v)(2), the Project Applicant is requesting a 100% density bonus by providing 15% of the total proposed housing units (without including density bonus units) as very low-income affordable units, and an additional 15% of the total units as moderate-income affordable units. The Project proposes to build 40 total residential for-sale units with three units set aside as very low-income and three units set aside as moderate income. The Burbank2035 General Plan Land Use Designation of Rancho Commercial for the Project Site has a maximum density of 20 units per acre. As allowed by State law, the Project is proposing a density of 40 units per acre.

Staff Response: The increased density must be approved as it is consistent with the increased density allowed under California Government Code § 65915.

- Incentive for Fee Deferral: The first incentive request is for deferral of development impact fees to 24 months after the issuance of the Certificate of Occupancy. Deferral of the fees will allow the Applicant to construct and sell units prior to the payment of the fees and allow the existing financing for the Project to be allocated toward permitting and construction costs for the six affordable units. This incentive is permitted pursuant to BMC § 10-1-640(A)(3).

Staff Response: Approve the request, subject to the Applicant furnishing a performance bond in the total amount of the development impact fees applicable to the Project, on a form approved by the City, to guarantee payment of any fees deferred under this incentive request.

- Incentive for Relief from Maximum Encroachments: The second incentive request is to provide relief from BMC § 10-1-624(E), which outlines maximum encroachments of various structures or objects, including balconies, into setback areas. The request for relief from this standard is to permit certain balconies to be a minimum of 1 foot 6 inches from the property line after dedications. This incentive will allow the building to be designed more efficiently given the irregular shape of the lot and the angle of the front lot line relative to the proposed structure.

- Staff Response: Approve the request. The incentive will allow an expansion of the Project's building footprint so that additional permitted residential units under State Density Bonus Law can be provided, which would help offset the cost of providing affordable units.

- Waiver of Height Requirements: The first waiver request is for relief from the development standards for height. Pursuant to BMC § 10-1-624(D), the maximum height for the proposed building is 40 feet because the Project is within 149 feet

distance from the closest residential lot located across Mariposa Street. The Applicant is proposing a maximum height of 63.7 feet, to include a fourth and fifth floor, which is necessary to accommodate the increased 40 units of density as permitted under State Density Bonus Law, and to accommodate the six proposed affordable units.

Staff Response: Approve the request. The waiver is necessary to physically accommodate the necessary building envelope to accommodate the total of 40 dwelling units including the designated affordable units for very low-income and moderate-income households as permitted under State Density Bonus Law.

- Waiver of Plane Break and Modulation Requirements: The second waiver request is for relief from the development standards for plane breaks and modulation. Pursuant to BMC § 10-1-624(G)(1)(a), a plane break shall be provided along each street-facing façade exceeding 50 feet in width. The plane break shall be of at least 10% of the façade width or 20 feet, whichever is greater. The application of this standard would require the Project to include a new, unique unit type resulting in a loss of construction efficiency and would require smaller unit sizes along the front of the building.

Staff Response: Approve the request. The waiver is necessary to physically accommodate the necessary building envelope to accommodate the total of 40 dwelling units including the designated affordable units for very low-income and moderate-income households as permitted under State Density Bonus Law.

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. These improvements include a planting strip and sidewalk as well as the future 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 1, Exhibit D). Furthermore, staff from the City's Public Works Water Reclamation and Sewer System Division has determined that there is sufficient capacity to connect the proposed Project to the existing sewer system (Attachment 8).

Prevailing Wage and Skilled and Trained Workforce Requirement

The proposed Project shall comply with the prevailing wage provisions identified in California Government Code § 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. Further, the Applicant will use a skilled and trained workforce as applicable to complete the Project and comply with all related requirements under California Government Code § 65913.4(a)(8)(B)(iii).

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 to address all applicable objective zoning, design, and subdivision standards, pursuant to SB 35, are included as part of the proposed City Council Resolution (Attachment 1, Exhibit A).

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) (Division 13, commencing with § 21000) of the Public Resources Code) does not apply to projects qualifying for the Streamlined Ministerial Approval Process pursuant to CEQA Guidelines § 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 § 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 Burbank Leader newspaper ten business days prior to the City Council hearing. In addition, the Project description sign was also posted at the Project site on November 12, 2024. As of the writing of this report, staff has received six written comments in opposition to the Project (Attachment 7).

GOVERNMENT CODE 65009 NOTICE

Pursuant to California Government Code § 65009, 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 Council meeting for this Project held on November 26, 2024, or in written correspondence delivered to the Council at, or prior to, the public hearing. A notice of public meeting at which the Project is proposed to be considered was mailed to property owners and tenants within a 1,000-foot radius of the Project site on November 7, 2024, which noted the same requirements pursuant to Government Code § 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

Staff recommends that the City Council conditionally approve the Project by adopting the Resolution (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 laws, including State Density Bonus Law, the City's Inclusionary Housing Ordinance, and any applicable provisions of the Housing Accountability Act (Government Code Section 65589.5). Approval of the Project includes approval of Tentative Tract Map No. 84060.

ATTACHMENTS

Attachment 1 – Resolution
Attachment 2 – Enforceable Agreement
Attachment 3 – SB 35 NOI Completeness City Letter
Attachment 4 – Formal Application Status Review Letter
Attachment 5 – SB 35 Formal Application Complete Letter
Attachment 6 – City Comments
Attachment 7 – Public Correspondence
Attachment 8 – Sewer Capacity Analysis
Attachment 9 – Biologist Report
Correspondences