

**3000 EMPIRE AVE – SB 35 APPLICATION – ATTACHMENT B**

**RESPONSE TO CITY COMMENTS ON CONSISTENCY WITH OBJECTIVE STANDARDS (JUNE 21, 2023)**

All responses are indicated in dark blue text. Only items which are identified as “Not Consistent” include responses. Through the NOI review, the City has confirmed that the Project is consistent with the stated objective standards.

<b>BURBANK MUNICIPAL CODE (BMC) - ARTICLE 8. INDUSTRIAL USES AND STANDARDS: DIVISION 2.</b>	<b>Consistency Analysis</b>	<b>Consistency Determination</b>
<b>General Plan Consistency.</b> (Section 10-1-808.5)	According to the City’s 2035 General Plan, the Project site has a land use designation of Regional Commercial, which has a maximum residential density of 58 units per acre. Per the Regional Commercial land use designation, 114 units (Baseline rounded up to 115 due to Bonus Density Law) would be allowed on the Project Site (1.97 acres). The Project proposes to construct 340 new dwelling units. The Applicant is also proposing a 100% affordable housing project. Pursuant to Section 65915(f)(3)(D)(ii) and 65915(p)(3)(A) of CA Government Code, 100% affordable housing projects within ½ mile of transit are not subject to maximum density or parking requirements.	<b>The proposed density exceeds the maximum density in the Burbank2035 General Plan; however, 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.</b>
<b>Uses in The M-2 Zone</b> (Section 10-1-809)	Multifamily residence is not a listed use in the list of allowable uses for the M-2 Zone in BMC Section 10-1-503. However, the Regional Commercial land use designation of the 2035 General Plan Land Use Map has a listed maximum residential density standard of 58 units per acre. 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.	<b>Consistent.</b>
<b>Structure Height.</b> (Section 10-1-812(A))	In the M-2 Zone, the maximum height of a structure within 300 feet of a Residentially-zoned parcel shall be of 50 feet as measured from grade.  The Applicant is proposing a new 7-story multi-family Bonus Density rental housing project (77'-4.5" feet in height). However, any	<b>Consistent with Bonus Density Request.</b>

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	<p>concessions, incentives, or waivers of development standards requested under the Density Bonus Law in Government Code Section 65915 are deemed consistent with objective standards.</p>	
<p><b>Open Space.</b> (Section 10-1-812(B))</p>	<p>Projects that are adjacent to or abutting residential zones (R-1 zone) shall provide 20-foot-wide open space, which may be satisfied by the width of the right-of-way. The proposed Project is approximately 200 feet away from adjacent residential uses, therefore no open space is required.</p>	<p><b>Consistent.</b></p>
<p><b>Yards.</b> (Section 10-1-812(C))</p>	<p>The minimum required setback from a street-facing property line is 5 feet or 20% of the proposed building height, whichever is greater. The proposed 7-story building is 77'-4.5" feet in height, therefore the minimum setback is 15'-6" feet from the street-facing property line. In addition, a minimum of 50 percent of front and exposed side yards must be landscaped, and one tree shall be planted for every 40 linear feet of street frontage. Additional standards are listed in BMC 10-1-812(C)).</p> <p>However, any concessions, incentives, or waivers of development standards requested under the Density Bonus Law in Government Code Section 65915 are deemed consistent with objective standards.</p>	<p><b>TBD.</b></p> <p><b>Please provide more information on landscaping within required yards per BMC Section 10-1-812(C)).</b></p> <p><b>Government Code Section 65915(d)(2)(D), allows a 100 percent affordable Project to request: "Four incentives or concessions for a project meeting the criteria of subparagraph (G) of paragraph (1) of subdivision (b). If the project is located within one-half mile of a major transit stop, the applicant shall also receive a height increase of up to three additional stories, or 33 feet." Pursuant to this section, the Project includes a request for one incentive to permit a reduction in the front yard setback, allowing for a</b></p>

		<p>zero foot setback in lieu of the otherwise required 15 foot, six inches setback.</p> <p>As the incentive reduces the front yard to zero feet, no landscaping may be provided in the front yard.</p> <p>Exact quantities of landscaping and tree planting will be finalized during the plan check process. The Project is consistent with this standard.</p>
<p><b>Masonry Wall.</b> (Section 10-1-812(D))</p>	<p>A six (6) foot high decorative masonry wall shall be erected along every property forming a boundary with a residential zone, except that along the front setback area of such residential zone the wall shall be reduced to three (3) feet. The Project does not adjoin any residentially zoned properties, therefore this standard does not apply.</p>	<p><b>Consistent.</b></p>
<p><b>Off-Street Parking.</b> (Section 10-1-812(E))</p>	<p>Yards may be used for off-street parking if consistent with this article. The Project does not propose off-street parking in any yard areas.</p>	<p><b>Consistent.</b></p>
<p><b>Additional Standards.</b> (Section 10-1-812(F))</p>	<p>Project was reviewed for compliance with Articles 11 – 16 of Chapter 1 – Zoning of the BMC.</p>	<p><b>TBD; refer to the tables below.</b></p>
<p><b>BURBANK MUNICIPAL CODE (BMC) - ARTICLE 11. GENERAL PROPERTY DEVELOPMENT REGULATIONS.</b></p>	<p><b>Consistency Analysis</b></p>	<p><b>Consistency Determination</b></p>
<p><b>Lot to Have Frontage.</b> (Section 10-1-1103)</p>	<p>Every building shall be on a lot which has frontage of at least 20 feet on a public or private street. The Project Site is on a property which has 322.5 feet of public street frontage.</p>	<p><b>Consistent.</b></p>
<p><b>Frontage On Alleys.</b> (Section 10-1-1104)</p>	<p>Alleys shall not be considered public streets for street frontage requirements. The proposed building frontage does not face the alley.</p>	<p><b>Consistent.</b></p>

<p><b>Open Storage Areas Must Be Enclosed.</b> (Section 10-1-1108)</p>	<p>Open storage areas in commercial and industrial zones shall have an opaque masonry wall surrounding the storage area at least six (6) feet in height and in good repair, except where the storage area is bounded by a building. The proposed project does not include open storage areas.</p>	<p><b>Consistent.</b></p>
<p><b>Commercial And Industrial Design Standards.</b> (Section 10-1-1113.1)</p>	<p>With the exception of pedestrian entry, the Project, as proposed, is consistent with the objective design standards of BMC Section 10-1-1113.1 including roof design, plane breaks, and window treatment. The pedestrian entry must be redesigned to be recessed.</p>	<p><b>Not consistent.</b></p> <p><b>The Project’s design has been modified so that the pedestrian entry at the southwest corner of the Project is recessed from the frontage along Empire Avenue. The Project is consistent with this standard.</b></p>
<p><b>Art in Public Places.</b> (Section 10-1-1114)</p>	<p>Project will have to comply with Art in Public Places regulations if not considered an exempted development project in accordance with BMC Section 10-1-1114(K) - DEVELOPMENT PROJECTS EXEMPT FROM THIS SECTION.</p>	<p><b>TBD.</b></p> <p><b>The Project will comply as required during building permit plan check.</b></p>

<p><b>BURBANK MUNICIPAL CODE (BMC) - ARTICLE 12. GENERAL YARD AND SPACE STANDARDS</b></p>	<p><b>Consistency Analysis</b></p>	<p><b>Consistency Determination</b></p>
<p><b>Yards Open and Unobstructed.</b> (Section 10-1-1201)</p>	<p>Every yard shall be open, unoccupied, and unobstructed vertically except for projections and encroachments authorized by this Zoning Code.</p> <p>The Project, as proposed, is not meeting the required street-facing setback, which is determined by taking a percentage of the total proposed building height. The required encroachment and projection standards would also not be in compliance. The Applicant has requested a deviation from the maximum building height standard. Under the Density Bonus Law in Government Code Section 65915, any concessions, incentives, or waivers of development standards requested are deemed consistent with objective standards.</p>	<p><b>Consistent.</b></p>

<p><b>Yards Cannot Serve Other Buildings or Lots.</b> (Section 10-1-1203)</p>	<p>No yard or open space area shall be used to meet the requirements of this chapter for more than one (1) structure, nor shall a yard or open space on one (1) lot be used to meet yard or open space requirements on any other lot unless the two (2) lots are owned by the same person and are developed as a single parcel.</p> <p>This Section does not apply to this Project.</p>	<p><b>Consistent.</b></p>
<p><b>Undedicated Streets.</b> (Section 10-1-1205)</p>	<p>All land within the undedicated portion of a partially dedicated or future street shall remain open and unobstructed. Such land shall not be counted in meeting any yard and open space requirements of this chapter.</p> <p>The Project would require street dedication and the Applicant would have to show that the required street dedication area remains open and unobstructed.</p>	<p><b>TBD.</b></p> <p><b>The Project complies with the dedication, as shown on the Project plans. The Project is consistent with this standard.</b></p>
<p><b>Access to Utility Poles</b> (Section 10-1-1206)</p>	<p>Whenever a utility pole is situated on a lot, required yard areas shall be maintained to provide unobstructed access to the pole.</p> <p>If applicable, utility poles situation on the lot shall be required to provide unobstructed access.</p>	<p><b>Consistent.</b></p>
<p><b>Miscellaneous Encroachments.</b> (Section 10-1-1211)</p>	<p>The Project requires compliance with BMC Section 10-1-1211 because the Project site is zoned non-residential. The Project, as proposed, is not meeting the required street-facing setback, which is determined by taking a percentage of the total proposed building height. The Applicant has requested a deviation from the maximum building height standard. Under the Density Bonus Law in Government Code Section 65915, any concessions, incentives, or waivers of development standards requested are deemed consistent with objective standards.</p>	<p><b>Consistent.</b></p>

<b>BURBANK MUNICIPAL CODE (BMC) - ARTICLE 13. GENERAL HEIGHT STANDARDS. DIVISION 1.</b>	<b>Consistency Analysis</b>	<b>Consistency Determination</b>
<b>Exception to Building Height Limits</b> (Section 10-1-1301)	<p>Skylights, fire and parapet walls, chimneys, ventilating fans, antennas (except personal wireless telecommunication facilities), tanks, flagpoles, penthouses or roof structures for housing elevators, lofts, stairways, air conditioning or similar equipment and similar appurtenances usually required to be placed above a building to operate and maintain it may be erected up to 15 feet above the height limits, but no penthouse or roof structure shall be allowed for the purpose of providing additional floor area. The Applicant has requested a deviation from the maximum building height standard. Under the Density Bonus Law in Government Code Section 65915, any concessions, incentives, or waivers of development standards requested are deemed consistent with objective standards. Therefore, the project is consistent with this Section.</p>	<b>Consistent.</b>
<b>Corner Cutoff</b> (Section 10-1-1303)	<p>No structure, object, or feature, including but not limited to fences, walls, and hedges, may be erected or maintained in any zone below a height of ten (10) feet and above a height of three (3) feet above the finished ground surface within a corner cutoff area. The corner cutoff area is defined by a horizontal plane making an angle of 45 degrees with the front, side, or rear property lines as the case may be, and passing through points as follows:</p> <p>At intersecting streets, ten (10) feet from the intersection at the corner of a front or side property line. At the intersection of an alley with a street or another alley, ten (10) feet from the edges of the alley where it intersects the street or alley right-of-way. At the intersection of a driveway with a street or alley, five (5) feet from the edges of the driveway where it intersects the street or alley right-of-way.</p> <p>The applicant shall provide the corner-cutoff areas on the site plan as applicable.</p>	<b>TBD.</b>  <b>The Project is not located on a corner, as it abuts other private properties on both sides. This standard is not applicable.</b>

<p><b>BURBANK MUNICIPAL CODE (BMC) - ARTICLE 14. GENERAL OFF-STREET PARKING STANDARDS. DIVISION 1, 2, 3, &amp; 4.</b></p>	<p><b>Consistency Analysis</b></p>	<p><b>Consistency Determination</b></p>
<p><b>Parking Space Dimensions.</b> (Section 10-1-1401)</p>	<p>Parking stall requirement for residential uses is 8'-6" by 18'-0". The bay width for a 90-degree, two-way double loaded aisles is 63'-4". The minimum width of parking spaces adjacent to walls, columns, or other vertical obstructions shall be 10'-0".</p> <p>The Applicant shall provide applicable parking stall, bay, aisle dimensions on the site/parking plan for review.</p>	<p><b>TBD.</b></p> <p><b>Additional details will be added to the plans during plan check as the plans are drafted as construction documents. The Project is consistent with this standard.</b></p>
<p><b>Computation of Required Parking.</b> (Section 10-1-1402)</p>	<p>The Applicant is proposing a 100% affordable housing project. Pursuant to Section 65915(f)(3)(D)(ii) and 65915(p)(3)(A) of CA Government Code, 100% affordable housing projects within ½ mile of transit are not subject to minimum parking requirements. Therefore, this Section does not apply to the Project.</p>	<p><b>Consistent.</b></p>
<p><b>Ingress And Egress; Backing Into Highway</b> (Section 10-1-1403)</p>	<p>Off-street parking shall be easily accessible from and to a street or other dedicated public right-of-way. The parking shall be so arranged that it shall not be necessary to back into a major or secondary highway to exit from the parking area.</p> <p>The Project meets this standard.</p>	<p><b>Consistent.</b></p>
<p><b>Tandem Parking</b> (Section 10-1-1404)</p>	<p>Tandem Parking is not allowed for residential uses in Industrial Zones. The proposed Project does not include any tandem parking stalls; therefore, this Section is not applicable to this Project.</p>	<p><b>Consistent.</b></p>
<p><b>Bicycle Parking Spaces</b> (Section 10-1-1405.5)</p>	<p>Bicycle parking facilities shall be installed in a manner which allows adequate space for access when the facilities are occupied, and shall be located so as to minimize the blocking of any public sidewalks or right-of-way. An encroachment permit from the Public Works Department is required for any encroachment into the public right-of-way.</p> <p>Bicycle parking facilities shall be located on a hard paved surface and shall be painted with a protective coating to prevent rusting and shall be well maintained.</p> <p>The Project does provide bicycle parking;</p>	<p><b>TBD.</b></p> <p><b>Additional details will be added to the plans during plan check as the plans are drafted as construction documents. The Project is consistent with this standard.</b></p>

	however, additional information would need to be provided to review this standard.	
<b>BURBANK MUNICIPAL CODE (BMC) - ARTICLE 14. GENERAL OFF-STREET PARKING STANDARDS. DIVISION 1, 2, 3, &amp; 4.</b>	<b>Consistency Analysis</b>	<b>Consistency Determination</b>
<b>Spaces Required</b> (Section 10-1-1408)	The Burbank Municipal Code does not list required parking for residential uses in nonresidential zones; however, there are minimum required parking ratios within CA Government Code Section 65915 depending on the number of bedrooms proposed within a residential unit. The Applicant is proposing a 100% affordable housing project. Pursuant to Section 65915(p)(3)(A) of CA Government Code, 100% affordable housing projects within ½ mile of transit are not subject to any parking requirements.	<b>Consistent.</b>
<b>Must Serve One Use; Exceptions.</b> (Section 10-1-1411)	Off-street parking for one use shall not be considered as providing required off-street parking for any other use, except as expressly authorized by Article 14 of Title 10 of the BMC. The Project is proposing onsite parking for the proposed residential uses, and this parking will be used by any other use. Therefore, the Project is consistent with this standard.	<b>Consistent.</b>
<b>Location of Parking Areas</b> (Section 10-1-1412)	For single or multiple family dwellings, off-street parking shall be located on the same lot or building site as the building it is required to serve.  The proposed parking spaces would serve the residential units located on the same lot.	<b>Consistent.</b>
<b>Parking Structures</b> (Section 10-1-1419)	A front yard or street side yard setback averaging five (5) feet or 20 percent of building height,	<b>Consistent.</b>



	<p>whichever is greater, shall be provided for above-grade parking structures. In no event shall this setback be less than three (3) feet in any one place. When abutting or adjacent to R-1 or R-2 zones, above-grade parking structures shall be set back 20 feet from the residential property line. When abutting or adjacent to R-3 or R-4 zones, above-grade parking structures must be set back ten (10) feet from the residential property line. Public rights-of-way may be used in this calculation.</p> <p>The Applicant has requested a deviation from the maximum building height standard. Under the Density Bonus Law in Government Code Section 65915, any concessions, incentives, or waivers of development standards requested are deemed consistent with objective standards. Therefore, the project is consistent with this Section.</p>	
<p><b>BURBANK MUNICIPAL CODE (BMC) - ARTICLE 14. GENERAL OFF-STREET PARKING STANDARDS. DIVISION 1, 2, 3, &amp; 4.</b></p>	<p><b>Consistency Analysis</b></p>	<p><b>Consistency Determination</b></p>
<p><b>Lighting (Section 10-1-1420)</b></p>	<p>All lighting shall be arranged to prevent glare or direct illumination on adjoining properties and streets.</p> <p>Applicant to provide a lighting plan and show location of all proposed on-site lighting including the exterior of the building.</p>	<p><b>TBD.</b></p> <p><b>Additional details will be added to the plans during plan check as the plans are drafted as construction documents. The Project is consistent with this standard.</b></p>

<p><b>BURBANK MUNICIPAL CODE (BMC) - ARTICLE 16. GENERAL VECHICULAR ACCESS STANDARDS.</b></p>	<p><b>Consistency Analysis</b></p>	<p><b>Consistency Determination</b></p>
<p><b>Access To Street (Section 10-1-1601)</b></p>	<p>Every lot shall be provided with permanent vehicular access to a street or an alley upon which it abuts.</p> <p>The proposed Project provides permanent vehicular access to the street which it abuts, therefore the Project is consistent with this standards.</p>	<p><b>Consistent.</b></p>

<b>Curb Cuts</b> (Section 10-1-1602)	No vehicular access way shall be located nearer than 30 feet to the ultimate curb lines of an intersecting street, nor be provided with a curb cut of more than 30 feet. The applicant shall provide additional detail to demonstrate compliance with this standard.	<b>TBD.</b>  <b>The plans have been updated to show the curb cut dimensions. The Project is consistent with this standard.</b>
<b>Driveway Width</b> (Section 10-1-1603)	Every driveway shall be at least 10 feet wide, and a maximum as approved by the Director. The proposed project provides a driveway that exceeds the minimum driveway width.	<b>Consistent.</b>
<b>Driveway Slopes</b> (Section 10-1-1604)	The slope of a driveway or driveway ramp shall not exceed a grade of 20 percent. A grade transition shall be provided at each end of a driveway or driveway ramp in accordance with standards prescribed by the Public Works Director.	<b>Consistent.</b>
<b>BURBANK MUNICIPAL CODE (BMC) - ARTICLE 16. GENERAL VEHICULAR ACCESS STANDARDS.</b>	<b>Consistency Analysis</b>	<b>Consistency Determination</b>
	The proposed Project proposed a driveway slope that is less steep than the maximum allowed by Code.	
<b>Protective Barrier in Nonresidential Zones</b> (Section 10-1-1605)	Where a vehicular access is provided to a street in a nonresidential zone, a barrier consisting of a three (3) foot high masonry wall, or such other protective barrier as may be approved by the Director, shall be constructed along the remaining street frontage of the lot to prevent unchanneled motor vehicle ingress or egress to the property.  The Project is not proposing a barrier; therefore, the Project is consistent with this requirement.	<b>Consistent.</b>
<b>Turn-Around Areas</b> (Section 10-1-1606)	A 24-foot turning radius shall be provided for access to driveways and right-angle parking stalls.  The provided parking plan does not provide back-up radius dimension.	<b>TBD.</b>  <b>Additional details will be added to the plans during plan check as the plans are drafted as construction documents. The Project is consistent with this standard.</b>

BURBANK MUNICIPAL CODE (BMC) - ARTICLE 6. DIVISION 5.	Consistency Analysis	Consistency Determination
<p><b>Affordable Housing Incentives</b> (Section 10-1-633 thru 10-1-653)</p>	<p>The Project proposes to construct 340 new dwelling units. The Applicant is also proposing a 100% affordable housing project. Pursuant to Section 65915(f)(3)(D)(ii) and 65915(p)(3)(A) of CA Government Code, 100% affordable housing projects within ½ mile of transit are not subject to maximum density or parking requirements. In addition to these deviations from BMC Standards, the applicant will request incentives/concessions and/or waivers from development standards, including maximum height, setback, and any additional standards that cannot be accommodated per the requirements of the BMC.</p> <p>In addition, the Inclusionary Requirement shall apply to any project involving new construction of five or more residential dwelling units. For rental projects, at least 15 percent of all newly constructed dwelling units shall be rented to Very Low, Low and Moderate Income Households, at an Affordable Rent. <u>Out of the 15 percent, a minimum of five percent of units shall be Very Low Income;</u> the remaining ten percent of the units shall be Low Income. The proposed Project does not provide a sufficient amount of Very Low Income units. As proposed, the Project will also require the applicant to enter into a Density Bonus Housing Agreement and Inclusionary Housing Agreement with the City.</p>	<p><b>Not Consistent.</b></p> <p><b>Per this standard, a Project must provide 15% of it's base density as Very Low, Low or Moderate income rents. Per the Regional Commercial land use designation, 114 units (115 units for density bonus project) would be allowed on the Project Site (1.97 acres). Of the 115 base density units, five percent (5%), or 6 units, would be required to be Very Low Income, and ten percent (10%), or 12 units, would be required to be Low Income.</b></p> <p><b>The Project is consistent with this standard as it provides 337 units, with 4 unrestricted manager's units, 67 Moderate Income Units, and 260 Low Income units, and 6 Very Low Income units.</b></p> <p><b>The Project will comply with this standard by recording an agreement during plan check.</b></p>
<p><b>BURBANK MUNICIPAL CODE (BMC) - ARTICLE 6. DIVISION 5.</b></p>	<p><b>Consistency Analysis</b></p>	<p><b>Consistency Determination</b></p>

<b>BURBANK 2035 General Plan</b>	<b>Consistency Analysis</b>	<b>Consistency Determination</b>
<p>Policy 4.8 Locate parking lots and structures behind buildings or underground. Do not design parking lots and structures to face streets or sidewalks at ground level. Use alternatives to surface parking lots to reduce the amount of land devoted to parking.</p>	<p>Project is designed to locate at-grade parking spaces behind the proposed residential building.</p>	<p><b>Consistent.</b></p>
<p>Policy 3.14 Prohibit gated communities, private streets, private driveways, and other limited-access situations, except where special findings can be made.</p>	<p>The Project does not propose any of the specific site-design features mentioned in Policy 3.14.</p>	<p><b>Consistent.</b></p>