

PLANNING COMMISSION RESOLUTION NO. 24-004

A RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE REMOVING OIL AND GAS DEVELOPMENT USES AS CONDITIONALLY PERMITTED USES IN PLANNED DEVELOPMENT DISTRICTS 17 AND 55, REQUIRING OIL AND GAS DEVELOPMENT USES TO BE EXPRESSLY LISTED AS PERMITTED OR CONDITIONALLY PERMITTED USES IN A DISTRICT TO BE PERMITTED OR ELIGIBLE FOR CONDITIONAL USE PERMITS, AMENDING OIL AND GAS PRODUCTION REGULATIONS, AND FINDING THE ACTION EXEMPT FROM CEQA

WHEREAS, the City of Brentwood regulates oil and gas development within the City via Brentwood Municipal Code (BMC) Chapter 17.680, entitled "Oil and Gas Production," and designates oil and gas development as conditionally permitted uses in Planned Development Districts 17 and 55; and

WHEREAS, due to the density of residential development in Planned Development Districts 17 and 55 and the presence of other sensitive uses in those districts, including public parks, daycare facilities, and preschools, as well as the significant adverse local health, safety, aesthetic, noise, and other impacts of oil and gas development, oil and gas development is no longer appropriate as a conditionally permitted use in those districts; and

WHEREAS, the City now wishes to remove oil and gas development uses as conditionally permitted uses in Planned Development Districts 17 and 55, such that oil and gas development uses are not permitted or conditionally permitted uses in any district within the City, and to adopt a more robust set of regulations of oil and gas development activities to better protect public health and safety should a future Council decide to designate oil and gas development uses as permitted or conditionally permitted uses in any district; and

WHEREAS, the Planning Commission recommended adoption of a proposed ordinance enacting a permanent ban on oil and gas development operations in the City of Brentwood on May 2, 2023; and

WHEREAS, following the Planning Commission's resolution, the California Supreme Court decided *Chevron USA, Inc. et al v. County of Monterey, et al.* (2023) 15 Cal.5th 135, which held that an ordinance prohibiting certain methods and practices of oil and gas production impermissibly conflicted with state law; and

WHEREAS, in light of the recent decision, staff recommended a revision of the proposed ordinance; and

WHEREAS, staff presented an informational update to the City Council on October 10, 2023, and informed the City Council that the revised proposed ordinance

would be returned to the Planning Commission for its review and recommendation;
and

WHEREAS, there are presently no active oil and gas drilling or production operations within City limits, and no approved requests for land use entitlements to construct or operate such oil and gas drilling or production facilities; and

WHEREAS, this action is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the CEQA Guidelines, which provides that CEQA only applies to projects which have the potential for causing a significant effect on the environment, and the categorical exemption set forth in Section 15308 of the CEQA Guidelines for Class 8 – Actions by Regulatory Agencies for the Protection of the Environment; and

WHEREAS, the Planning Commission gave notice as required by law of a public hearing to consider the proposed Ordinance, including publication in the Brentwood Press on January 5, 2024; and

WHEREAS, on January 16, 2024, the Planning Commission held a noticed public hearing to receive and consider both oral and documentary evidence relating to the proposed Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Brentwood does hereby resolve as follows:

SECTION 1. With respect to Brentwood Municipal Code Section 17.870.008, which provides:

No rezoning of property or text amendment shall occur which is inconsistent with the city's community development plan. In making a decision, the planning commission and council shall consider the consistency of the proposed action to the community development plan and other applicable city plans, and shall consider whether the proposed action is inappropriate or otherwise contrary to the public interest.

The Planning Commission finds the proposed ordinance is consistent with the City's General Plan, particularly, but not limited to, General Plan Goal IF 1 ("Maintain and improve Brentwood's infrastructure to provide high-quality services and protect health and safety") inasmuch as this action will protect public health and safety; and Goal SA 4 ("Protect citizens from dangers related to the movement, storage, and manufacture of hazardous materials"), inasmuch as this action will protect citizens from dangers related to the movement, storage, and manufacture of oil and gas.

The Planning Commission likewise finds that the changes set forth by proposed Ordinance No. ___ are in service of the public health and welfare of the residents of the city of Brentwood, and thus are not inappropriate or otherwise contrary to the public interest.

Specifically, the Planning Commission hereby makes the following findings:

- A. Oil and gas development activities can have significant and prolonged environmental and health effects, including substantial increases in localized air pollution and emissions, which can in turn result in significant long-term climate change effects.
- B. Other risks associated with such activities include adverse effects on reproductive health and birth weights, and the potential for workplace related incidents such as vehicle collisions and explosions/fires.
- C. Restricting the locations of oil and gas development activities within the City of Brentwood protects the community's ability to enjoy clean air and water, and to live and work in a healthy and thriving place.

SECTION 2. The Planning Commission finds that the proposed Ordinance is exempt from CEQA pursuant to the "common sense" exemption under CEQA Guidelines Section 15061(b)(3), as the action will not cause a change in any of the physical conditions within the area affected by the ordinance, and the categorical exemption set forth at CEQA Guidelines Section 15308 for Class 8 – Actions by Regulatory Agencies for the Protection of the Environment.

SECTION 3. The Planning Commission hereby recommends the City Council approve the proposed ordinance attached hereto and incorporated herein as Exhibit A.

ADOPTED by the Planning Commission of the City of Brentwood at its regular meeting on January 16, 2024, by the following vote:

AYES:
NOES:
ABSENT:
RECUSE:

APPROVED:

Planning Commission Chairperson

ATTEST:

Erik Nolthenius
Planning Manager