

PLANNING COMMISSION RESOLUTION NO. 24-007

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRENTWOOD APPROVING AN AMENDMENT TO CONDITIONAL USE PERMIT NO. 00-09 (CUP 00-09-A2) TO ALLOW A MODIFICATION TO THE EXISTING ARCO GAS STATION AND CARWASH LOCATED AT 2250 BALFOUR ROAD (APN 010-100-037).

WHEREAS, on June 5, 2001, the Planning Commission adopted Resolution No. 01-46 approving Conditional Use Permit No. 00-09 for a gas station development with a convenience store (including an off-sale liquor license) and an automated car wash on a 1.29-acre parcel located at the southeast corner of Balfour Road and future John Muir Parkway (Parcel 1 of Tentative Subdivision Map 8550); and

WHEREAS, On May 17, 2022, the Planning Commission approved an amendment to Conditional Use Permit No. 00-09 (CUP 00-09-A1) to allow modifications to the existing ARCO gas station and carwash by adopting Resolution No. 22-008; and

WHEREAS, On May 17, 2023, the amendment to Conditional Use Permit No. 00-09 (CUP 00-09-A1) expired after actual construction or alteration under valid permits had not begun and no request for an extension of time was received;

WHEREAS, on July 12, 2023, Gurmeer Uppal submitted an application to amend Conditional Use Permit No. 00-09 (CUP 00-09-A2), to allow a modification to the existing ARCO gas station and carwash located at 2250 Balfour Road in order to allow for additional improvements to the carwash, including the addition of a central vacuum system with shade canopies, expansion of the existing carwash tunnel to allow for the installation of a car wash conveyor system, and relocation of the existing trash enclosure; and

WHEREAS, the City of Brentwood published a public hearing notice in the Brentwood Press and mailed it to all property owners within 300 feet of the site on February 9, 2024, and the applicant also posted the project site with the required signage in accordance with City policies and Government Code Section 65090; and

WHEREAS, the Planning Commission held a public hearing on February 20, 2024, reviewed said amendment request, studied the compatibility of this request with adjacent land uses, and considered this request in accordance with the conditional use permit criteria established in Section 17.830.005 of the Brentwood Municipal Code.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Brentwood:

- A. Hereby finds that:

1. With respect to the California Environmental Quality Act, the City previously prepared a Mitigated Negative Declaration (MND) in accordance with the requirements of the California Environmental Quality Act (CEQA) for the original ARCO development. The environmental effects of the development on the proposed project site were analyzed in the MND, the proposed amendment falls within the scope of the original MND, and there is no new information or substantial changes that require additional environmental review. All mitigation measures in the MND not addressed by the standard conditions of approval were included as project-specific conditions of approval. No further environmental review is required at this time, and
2. With respect to the conditional use permit findings pursuant to Brentwood Municipal Code Section 17.830.005
 - a. The location, size, design and operating characteristics of the proposed development must be compatible with and must not adversely affect the livability of appropriate development of abutting properties and the surrounding neighborhood. Consideration shall be given, but shall not be limited to:
 - i. The harmony in scale, bulk, coverage, and density.

One of the primary concerns in reviewing a conditional use permit application is the effect of the proposed use on surrounding properties, such as compatibility with the scale, bulk, coverage, and density of both existing and proposed land uses on surrounding lots. This particular project entails only minor exterior modifications to the existing carwash. The project is already consistent with and compatible with existing and proposed land uses around the subject site, as the project site was determined to meet all applicable setback, height, and floor area ratio requirements at the time of original approval. Approval of the requested amendment would not change the scale, bulk, coverage, or density/intensity of development on the subject site. The modernization of the carwash equipment has no impact on these factors.

- ii. The availability of public facilities and utilities.

The site is served by the appropriate public facilities and utilities, including water, sewer, garbage, and electricity needed to serve the existing and proposed use.

- iii. The harmful effect, if any, upon desirable neighborhood character or the planned specialization of retail, commercial, or community service areas.

The proposed modifications will be located within and upon an existing development. As part of this application, the applicant was required to submit an acoustical analysis for the proposed modifications in order to verify that the project could comply with City's noise standards. The acoustical analysis concluded that the noise levels associated with the daily operation of the newly remodeled carwash would not exceed the daytime (7:00 a.m. to 10:00 p.m.) noise level standard of 55 dBA at the nearest noise-sensitive residential receivers to the southwest. Staff recommends that the project be conditioned to include a noise analysis prior to commencing operation to verify compliance with the City's noise standards. In addition, staff recommends that the project be conditioned to limit the hours of the carwash to 7:00 am to 10:00 pm in order to comply with the nighttime hours identified in the BMC noise regulations (Chapter 9.32.030(B)(1)). As conditioned, there would be no harmful effect upon the desirable neighborhood character.

iv. Generation of traffic and the capacity of surrounding streets.

The proposed project will be located within and upon an existing commercial building site that includes developed vehicular traffic access to and from the development. In addition, the project site is served by both east-west and north-south roadways, Balfour Road and John Muir Parkway, which provide adequate access to the development. The parking requirement for the development has been calculated at one space per 200 square feet for the convenience store retail use per BMC Section 17.620.012(G). Using this calculation, the total number of required parking spaces would be 14. The result of the improvements proposed as part of the application will increase the parking on the site to 19 spaces (14 general parking spaces and five designated for vacuum use) and provide adequate parking in compliance with the Brentwood Municipal Code. The requested additional features are not projected to generate any significant amount of additional traffic.

v. Any other relevant impact of the development.

The location, size, design, and operating characteristics for the proposed project are the same as envisioned for the overall purpose and intent of Subarea General Commercial of the PD-20 zone, particularly since gas stations, convenience stores, and carwashes are listed as conditionally permitted uses;

therefore, there are no adverse effects to the livability of abutting properties.

- vi. The criteria set forth in Chapter 17.820 for design and site development review if applicable.

The proposed project has been reviewed against the criteria set forth in Chapter 17.820 for design and site development review. The project including modifications to the carwash and vacuum system, additional vacuum units, two new shade canopies, and relocation of the trash enclosure, has been designed in a manner that is sensitive to nearby developments in that the project entails the use of the existing building with only minor exterior modifications proposed. As proposed, the project will relocate the existing vacuum stations and trash enclosure further away from the closest residential uses. The minor exterior changes have been designed to match the existing building continuing to provide a consistent design, which is harmoniously related to other facilities in the immediate area. The quality of the building design is reflective of and appropriate to the commercial and residential developments within nearby centers and neighborhoods serving to protect the value of, private and public investments in the immediate area. Finally, the project is consistent with the General Plan General Commercial land use designation and conforms to the applicable Planned Development 20, Subarea General Commercial, development standards. As designed, the project meets criteria set forth in Chapter 17.820 for design and site development review.

- b. The location, design, landscaping and screening, and overall site planning of the proposed development will provide an attractive, useful and convenient living, working, shopping or community-service area.

The project will be contained within and upon an existing building and improved site, which has previously been developed with particular attention to the location, design, landscaping and screening, and overall site planning. The ARCO development provides an attractive, useful and convenient living, working, shopping and community service area as developed.

- B. Hereby determines that Planning Commission Resolution No. 01-46 remains in full force and effect, except as modified herein.
- C. Hereby approves an amendment to Conditional Use Permit No. 00-09 (CUP 00-09-A2), subject to the conditions of approval listed in Exhibit

"A," attached hereto and made a part of this resolution, and all City standards applicable to this project.

This permit shall terminate on February 20, 2025, unless actual construction or alteration under valid permits begins prior to that date. However, such period of time may be extended by the Planning Commission upon the filing of an extension request at any time before said period expires.

The above actions are final unless an appeal is filed pursuant to Chapter 17.880 of the Brentwood Municipal Code within ten (10) calendar days following Planning Commission action.

ADOPTED by the Planning Commission of the City of Brentwood at its regular meeting on February 20, 2024, by the following vote:

AYES:
NOES:
ABSENT:
RECUSE:

APPROVED:

Anita Roberts
Planning Commission Chairperson

ATTEST:

Erik Nolthenius
Planning Manager

**EXHIBIT "A" TO
PLANNING COMMISSION RESOLUTION NO. 24-007
CONDITIONS OF APPROVAL FOR
CONDITIONAL USE PERMIT NO. 00-09-A2**

1. The Permittee and owner, including all successors in interest (collectively "Permittee") shall comply with each and every condition set forth in the Permit. Conditional Use Permit No. 00-09-A2 (the "Permit") shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed. The Permittee shall develop the site in accordance with the approved Attachments and as modified by these Conditions of Approval.
2. The use shall be operated in substantial conformance with the project plans and project description submitted by the applicant dated "Received January 8, 2024," unless otherwise amended by the Planning Commission or the conditions of approval contained herein. Minor changes to plans and operation may be allowed subject to the approval of the Community Development Director if found to be in substantial conformance with the approved exhibits.
3. The Permittee be required to provide a noise analysis prior to commencing operation of the modified carwash with vacuum systems to verify compliance with all City noise standards. In addition, the Permittee shall implement all proposed noise control measures as stated in the acoustical analysis prepared by Saxelby Acoustics dated "Received August 15, 2023," unless otherwise amended by the Planning Commission or the conditions of approval contained herein.
4. Any future signage proposed for the project shall require approval of an administrative sign permit by the Community Development Department and shall be regulated by the Brentwood Municipal Code.
5. The hours of operation of the carwash and vacuums on the project site are limited to 7:00 am to 10:00 pm daily. The gas station and convenience store are allowed to operate 24 hours daily.
6. All applicable Standard Conditions of Approval for Commercial and Industrial Projects, dated May 2005, are hereby incorporated by reference and shall be complied with, unless modified by any of the conditions below.
7. In the event the Permittee proposes to modify the hours of operation, other aspects of the business, or modify the exterior of the building or site, the modification shall be subject to the review of the Community Development Director. The Director may approve the modification or refer it back to the Planning Commission if judged to be substantial.

8. Prior to building permit approval, the Permittee shall submit a design for a screen for the central vacuum unit for the review and approval of the Community Development Director with the intent to screen the unit from view from all angles.
9. Prior to building permit approval, the Permittee shall obtain and receive final approval for the new trash enclosure verifying that it meets all City standards with the final and design to be reviewed and approved by the Engineering Division.
10. Prior to commencement of the modified carwash and vacuum stations, the Permittee shall obtain and receive final approval of all required building permits, to the satisfaction of the Chief Building Official.
11. The Permittee shall maintain the area surrounding the use, including but not limited to the building in which the use is located, sidewalk and parking areas in a clean and orderly manner at all times.
12. Permittee shall indemnify, defend with counsel of the City's reasonable choosing, and hold harmless City and its City Council, its boards and commissions, officials, officers, employees, and agents (the "Indemnified Parties") from and against any third party claim, action, or proceeding against City and/or the Indemnified Parties to attack, review, set aside, void, or annul the City's approval of the project approved herein, including adoption of CUP 00-09-A2, and any environmental determination made with regard thereto. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, reasonable attorneys' fees, and other reasonable expenses incurred in connection with such claim, action, causes of action, suit or proceeding. The Permittee shall pay to the City upon demand or, as applicable, on a monthly basis to counsel of City's reasonable choosing, amounts owed pursuant to the indemnification requirements prescribed in this condition. City shall promptly notify the Permittee of any claim, action, or proceeding and shall engage in reasonable efforts to cooperate in the defense.
13. If operation of this use results in conflicts pertaining to parking, noise, traffic, or other impacts, at the discretion of the Community Development Director, this conditional use permit may be referred to the Planning Commission for subsequent review at a public hearing. If necessary, the Commission may modify or add conditions to mitigate such impacts, or may revoke said conditional use permit bound upon applicable findings.