

PLANNING COMMISSION RESOLUTION NO. 24-031

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRENTWOOD DENYING A CONDITIONAL USE PERMIT (CUP 23-006) REQUEST TO ALLOW A NEW 2,735 SQUARE FOOT POPEYE'S RESTAURANT TO OPERATE BETWEEN THE HOURS OF 10:00 A.M. AND 12:00 A.M. AND TO FEATURE A 21-VEHICLE CAPACITY DRIVE-THROUGH LOCATED AT 7820 BRENTWOOD BOULEVARD (APN 016-150-106).

WHEREAS, Charlie Brown of C.C. Planning & Permitting Services, (the "Applicant") submitted an application to the City of Brentwood requesting approval of a Conditional Use Permit (CUP 23-006) to allow for a new 2,735 square foot Popeye's restaurant to operate between the hours of 10:00 a.m. and 12:00 a.m. and to feature a 21-vehicle capacity drive-through; and

WHEREAS, the Applicant concurrently submitted a request for a Design Review (DR 23-003) to allow for a new 2,735 square foot restaurant building; and

WHEREAS, collectively, DR 23-003 and CUP 23-006 constitute the "Project;" and

WHEREAS, the City referred the Project to various departments and agencies for review and recommendations; and

WHEREAS, the City distributed a Notice of Public Hearing to all property owners within 300 feet of the Project Site and published it in the Brentwood Press on April 5, 2024, in accordance with City policies and Government Code Section 65090, and a public hearing notice sign was posted on the site during this same timeframe; and

WHEREAS, the Planning Commission of the City of Brentwood considered this CUP 23-006 application at its regular meeting of April 16, 2024, and considered the staff report, all accompanying information, and testimony received from the applicant and other interested parties; and

WHEREAS, the Planning Commission was unable to make findings for approval of CUP 23-006 during the April 16, 2024 meeting and continued the item with direction to the applicant to resubmit the application without the drive-through component; and

WHEREAS, on June 11, 2024, the applicant submitted a revised proposal that still featured the drive-through component; and

WHEREAS, the City distributed a Notice of Public Hearing to all property owners within 300 feet of the Project Site and published it in the Brentwood Press on July 26, 2024, in accordance with City policies and Government Code Section 65090,

and a public hearing notice sign was posted on the site during this same timeframe;
and

WHEREAS; the Planning Commission of the City of Brentwood considered this CUP 23-006 application at its regular meeting of August 6, 2024, and considered the staff report, all accompanying information, and testimony received from the applicant and other interested parties; and

WHEREAS, the denial of the application, negates the need for any review under the California Environmental Quality Act (CEQA), as CEQA does not apply to projects in which a public agency rejects or disapproves per 14 CCR Section 15270(a).

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

A. Hereby finds that:

- i. With respect to the California Environmental Quality Act ('CEQA,' codified at California Public Resources Code §§ 21000, et seq., and as further governed by the State CEQA Guidelines, found at 14 CCR §§ 15000, et seq.), as set forth in CEQA Guidelines section 15270(a), "CEQA does not apply to projects which a public agency rejects or disapproves." Therefore, this action denying the Project approvals is exempt from CEQA.
- ii. With respect to the conditional use permit findings required 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:*

1. Harmony in scale, bulk, coverage and density;

The proposed drive-through use would be in harmony with the scale and bulk coverage of the greater Brentwood Plaza. Given that the proposed building is proposed to be of compatible architectural design that features a flat roof with variations in height and linear features such as pilasters. The proposed building is further compatible with the existing development as the proposed materials (stucco, metal and ornamental brick) would be comparable to the existing building.

2. The availability of public facilities and utilities;

The site is served by the appropriate public facilities and utilities including water, sewer, refuse, and electricity.

3. *The harmful effect, if any, upon desirable neighborhood character or the planned specialization of retail, commercial or community service areas;*
4. *Generation of traffic and the capacity of surrounding streets;*

A traffic analysis was submitted demonstrating that the proposed project would not generate a significant amount of traffic or impact the capacity of the surrounding streets given that the surrounding streets are designed for vehicle use and calculated to adequately handle the proposed increase in use. Additionally, Brentwood Boulevard is a major north-south arterial street and is able to handle expanding traffic needs.

5. *Other relevant impacts of the development; and*
6. *The criteria set forth in Chapter 17.820 for design and site criteria and conditional use permit criteria, if applicable.*

The Project would be in compliance with Chapter 17.820.

- 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 proposed location, design, landscaping and screening and overall site planning is well thought out to provide an attractive, useful and convenient eating area.

- B. Hereby denies this Conditional Use Permit (CUP 23-006). The Design Review portion of the project is not considered at this time since the drive-through component is an integral part of the design and the project requires approval of CUP 23-006 in order to operate.
- C. 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 August 6, 2024, by the following vote:

AYES:

NOES:

**ABSENT:
RECUSE:**

APPROVED:

Anita Roberts
Planning Commission Chairperson

ATTEST:

Erik Nolthenius
Planning Manager