

PLANNING COMMISSION RESOLUTION NO. 24-033

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRENTWOOD APPROVING A CONDITIONAL USE PERMIT (CUP 24-001) TO ALLOW FOR A DRIVE-THROUGH ASSOCIATED WITH A DUTCH BROS COFFEE BUILDING ON A ±0.86-ACRE PARCEL LOCATED IN BETWEEN BLACK ANGUS AND SPROUTS AT THE STREETS OF BRENTWOOD (APN 019-910-010).

WHEREAS, QDB Coffee Inc. DBA Dutch Bros Coffee, (the "Applicant") submitted an application to the City of Brentwood requesting approval of a conditional use permit (CUP 24-001) to allow for a coffee shop, known as Dutch Bros Coffee, to be located in between Black Angus and Sprouts at The Streets of Brentwood (APN 019-910-010); and

WHEREAS, the Applicant concurrently submitted a request for a Design Review (DR 24-003) to allow for a new 1,106 square foot building with a drive-through and associated site improvements; and

WHEREAS, collectively, DR 24-003 and CUP 24-001 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 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 proposed project is also exempt from the California Environmental Quality Act ("CEQA") as it qualifies as a Class 32 categorical exemption under the CEQA Guidelines section 15332, as it is characterized as in-fill development, meeting the following conditions: i) the project is consistent with the existing General Plan designation and all applicable General Plan policies, as well as with the applicable zoning designation and regulations, ii) the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses, iii) the project site has no value for endangered, rare, or threatened species, iv) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and v) the site can be adequately served by all required utilities and public services. Traffic and circulation have been reviewed to ensure circulation is kept onsite and does not spill out into the right-of-way. Additionally, the project will comply with the City's noise regulations as set forth in the Brentwood Municipal Code Chapter 9.32 and the City's General Plan; and

WHEREAS, additionally the City previously prepared and adopted a Mitigated Negative Declaration (MND) for the overall development of the commercial center known as The Streets of Brentwood, in conjunction with the approval of DR 06-008 on October 3, 2006. The MND identified and adequately discussed the potential impacts associated with the proposed project in accordance with the requirements of the California Environmental Quality Act (CEQA), and there does not exist any evidence under CEQA Guidelines Section 15162 supporting the need for additional environmental review for this project, which is within the scope of the buildout analyzed in the MND; and

WHEREAS, the Planning Commission of the City of Brentwood considered this design review 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.

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, the proposed project is exempt from CEQA as it qualifies as a Class 32 categorical exemption under the CEQA Guidelines section 15332, as it is characterized as in-fill development, meeting the following conditions: i) the project is consistent with the existing General Plan designation and all applicable General Plan policies, as well as with the applicable zoning designation and regulations, ii) the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses, iii) the project site has no value for endangered, rare, or threatened species, iv) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and v) the site can be adequately served by all required utilities and public services. Traffic and circulation have been reviewed to ensure circulation is kept onsite and does not spill out into the right-of-way. Additionally, the project will comply with the City's noise regulations as set forth in the Brentwood Municipal Code Chapter 9.32 and the City's General Plan.

Additionally, the City previously prepared and adopted a Mitigated Negative Declaration (MND) for the overall development of the commercial center known as The Streets of Brentwood, in conjunction with approval of that project (DR 06-008) on October 3, 2006. The MND identified and adequately discussed potential impacts associated with the entirety of the proposed development of The Streets, including the parcel on which Dutch Bros is proposed. The MND was completed in accordance with the requirements of the California Environmental Quality Act (CEQA), and there does not exist any evidence under CEQA Guidelines Section 15162 supporting the need

for additional environmental review for this project, which is within the scope of the buildout analyzed in the MND.

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 Streets of Brentwood development. The building is designed to comply with the development standards for the zoning district and the architecture has been modified to be consistent with The Streets of Brentwood.

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 as the project is located within the existing and developed Streets of Brentwood commercial center.

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

The Project would not have a harmful effect upon the neighborhood character given that the intent of the PD-6 zoning district is to develop both general and regional commercial developments and drive-through uses are a feature of both types of commercial developments. Further, there would be no harmful effect upon the neighborhood character with approval of this permit due to the location of the use within an approved commercial development and the fact that the drive-through would be adequately screened and is not located near any residential homes.

4. Generation of traffic and the capacity of surrounding streets;

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 as envisioned by the General Plan. Additionally, Sand Creek Road is a major east-west arterial street and is able to handle expanding traffic needs. Further, the project site is designed to have an approximately 580-foot drive-through queue which consists of two lanes and can accommodate up to 27 vehicles. The queue is adequate to ensure that all cars can queue onsite. Due to the location of the drive-through, there is no potential for any vehicle spill over onto Sand Creek Road.

5. *Other relevant impacts of the development; and*

The location, size, design, and operating characteristics for the proposed project are the same as envisioned for the overall purpose and intent of The Streets of Brentwood commercial development. This project will help to complete the commercial development and provide a use which will draw customers into The Streets of Brentwood.

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, as documented in Planning Commission Resolution No. 24-034, analyzing the design review (DR 24-003) application that was submitted as part of this project. Said findings are incorporated herein as if stated here in full.

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, screening and overall site planning is well thought out to provide an attractive, useful and convenient shopping area, in that the site is designed so that the drive-through will not impact other parcels and will provide an added business to The Streets of Brentwood to further the complete build out of the center.

B. Hereby approves this conditional use permit (CUP 24-001), provided that the accompanying Design Review application (DR 24-003) is approved, subject to the above findings and the conditions set forth in Exhibit "A" attached to and incorporated into this resolution.

C. This permit shall terminate on August 6, 2025, unless actual construction or alteration under valid permits, or the actual operation of the business authorized hereby, 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.

- D. 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

**EXHIBIT "A" TO
PLANNING COMMISSION RESOLUTION NO. 24-033
CONDITIONS OF APPROVAL FOR
CONDITIONAL USE PERMIT NO. 24-001 FOR A DRIVE-THROUGH
DUTCH BROS COFFEE**

1. The Permittee, including all successors in interest (collectively "Permittee") shall comply with each and every condition set forth in this Permit. Conditional Use Permit No. 24-001 ("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 or caused to be performed.
2. The proposed project shall be operated in substantial conformance with the project description, dated "Received June 7, 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. 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.
4. Permittee shall maintain the project site in a clean and orderly manner at all times.
5. No signage is approved as part of this conditional use permit. The Permittee is required to submit an application for a sign permit for review and approval in accordance with the master sign program for the Streets of Brentwood prior to installation of any signage.
6. The drive-through window shall be open only during the hours between 5:00 a.m. – 11:00 p.m. every day of the week. Any requests to open between 11:01 p.m. – 4:59 a.m. shall be at the discretion of the Community Development Director, who may refer any requested change to drive-through window hours to the Planning Commission for subsequent review at a public hearing for consideration and approval.
7. If operation of this use results in conflicts pertaining to noise, traffic, vehicular overflow 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 of approval to mitigate such impacts, or may revoke said conditional use permit.

8. The Permittee will 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 this Permit, 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.