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**SUBJECT:** Conditional Use Permit and Design Review for Popeye’s restaurant with drive-through

**DEPARTMENT:** Community Development

**STAFF:** Erik Nolthenius, Planning Manager  
Miguel Contreras, Associate Planner

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### **TITLE/RECOMMENDATION**

An application for a Conditional Use Permit (CUP 23-006) and a Design Review (DR 23-003) to construct (and operate beyond 10:00 p.m.) a 2,735 square foot Popeye’s drive-through restaurant and associated site improvements on a 3.4-acre parcel located at 7820 Brentwood Boulevard (APN 016-150-106).

Staff recommends that the Planning Commission adopt Resolution No. 24-031 denying Conditional Use Permit No. 23-006, and adopt Resolution No. 24-032 denying Design Review No. 23-003.

Based on direction provided by the Planning Commission at a public hearing on April 16, 2024, the recommendation is to deny the application, which 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).

### **OWNER/APPLICANT**

Centro Development Properties, LLC

### **GENERAL PLAN**

Brentwood Boulevard Specific Plan (BBSP)

### **ZONING/SURROUNDING LAND USES**

Mixed Use, Commercial/Office/Industrial/Residential (COIR)

#### Surrounding Land Uses

**North:** Vacant property and two drive-through restaurants (Taco Bell and KFC) with Nancy Street beyond.

**East:** Susan Street with a single-story condominium neighborhood (Brentwood Villa) beyond.

**South:** Village Drive with a mix of commercial and apartment units beyond.  
**West:** Brentwood Boulevard with NAPA Auto Parts and large vacant parcels.



### PREVIOUS ACTION(S)

Previous actions related to this agenda item that were taken by the Planning Commission and City Council are listed below. To view prior actions and materials, and Brentwood Municipal Code references in the staff report, as applicable:

- Visit [www.brentwoodca.gov/meetings](http://www.brentwoodca.gov/meetings), and select the meeting date(s) desired to see the reference materials and videos.
- Visit [www.brentwoodca.gov/municipalcode](http://www.brentwoodca.gov/municipalcode) to research references to the Brentwood Municipal Code and search by the code section(s) cited.

The Brentwood Boulevard Specific Plan was approved by the City Council on March 27, 2012.

On April 16, 2024, the project, as proposed, was brought before the Planning Commission during a public hearing. The Planning Commission did not approve the project and instead directed the applicant to work with staff and return with a project that did not include a drive-through feature. This is explained in detail below.



## **BACKGROUND**

On April 16, 2024, the project, as proposed, was brought before the Planning Commission during a public hearing. During the public hearing the Planning Commission expressed concerns regarding the inclusion of the proposed 21-vehicle drive-through component, finding this to be in conflict with the BBSP's stated vision and in particular goal #4, which seeks to transform the historical auto-oriented corridor into a more traditional boulevard that gives prominence to all modes of transportation (i.e., not solely to vehicles). The Commission also expressed a desire to improve the proposed open space with additional seating and vegetation. After deliberation, the Commission indicated that it was unable to make findings for approval of the Conditional Use Permit (and by default the Design Review since the drive-through component is integral to the design) and therefore directed the applicant to redesign the project without a drive-through component and to beautify the proposed open space area.

On April 17, 2024, staff spoke with the applicant via telephone. The applicant indicated that the plans would be reviewed and the open space component would be modified. The applicant also indicated, however, that while the drive-through component would be reviewed for possible improvements, it would more than likely be retained, as removing it would make the project financially unviable.

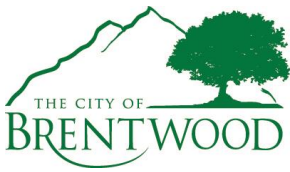
## **PROJECT DESCRIPTION**

On June 11, 2024, the applicant submitted an updated set of plans (attached) with the following changes:

- Addition of three benches and four tables in the open space area.
- Addition of approximately 147 square feet of landscaping within the open space area.

## **ANALYSIS**

Except for the above mentioned changes, the resubmitted project is the same as the original (as described in the attached April 16, 2024 staff report), including the drive-through feature. The Planning Commission previously stated that it could not make the required BMC Section 17.830.005 CUP findings with the drive-through and directed the applicant to redesign the project without the drive-through. Since the applicant has not done so, staff has prepared a resolution denying the proposed CUP with draft findings for the Commission's consideration. It should be noted that if the Commission still intends to deny the project with the drive-through as proposed, the Commission would need to provide additional evidence to support denial of the



project due to failure to make the finding required by BMC Section 17.830.005.A(ii)(a)(3) and possibly 17.830.005.A(ii)(a)(5).

### **DATE OF NOTICE**

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 July 26, 2024. The applicant also posted the project site with the required signage. The City has not received any public comments regarding this project.

### **ENVIRONMENTAL DETERMINATION**

The recommendation to deny 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).

### **ATTACHMENT(S)**

1. Resolution for denial No. 24-031
2. PC Staff Report 04.16
3. Revised Project Plans
4. Updated Project Description
5. Original Project Plans
6. Popeye's Local Traffic Analysis