



**CITY COUNCIL AGENDA ITEM NO. G.1**  
**09/26/2023**

---

**SUBJECT:** Call for review of a tentative parcel map and design review for Lazy Dog restaurant, approved by the Planning Commission on August 15, 2023

**DEPARTMENT:** Community Development

**STAFF:** Alexis Morris, Director of Community Development  
Miguel Contreras, Associate Planner

---

**TITLE/RECOMMENDATION**

Staff recommends that the City Council adopt a resolution affirming the Planning Commission approval of a tentative parcel map to subdivide a 5.29-acre parcel (MS 354-22) and a design review (DR 22-011) for a new sit-down restaurant known as Lazy Dog, with related site improvements, located on the south side of Sand Creek Road and the east side of State Route 4 (APN 019-110-074 and a portion of CCWD owned parcel APN 019-110-023), as conditioned by the Planning Commission.

On December 12, 2017, the City Council adopted a City-initiated Mitigated Negative Declaration (MND) (SCH# 2017102022) prepared for the subject site. The Initial Study (IS) for the MND contemplated buildout of the site based on the maximum Floor Area Ratio (FAR) of 0.45, as provided in Table 2.0.2 of the City of Brentwood General Plan Environmental Impact Report (EIR). Based on the size of the project site and the maximum FAR, the site could be developed with a maximum of 103,890 square feet of commercial space and a maximum of 520 parking spaces and remain within the envelope of what was studied in the MND. The proposed parcel map and development FAR falls below the maximum capacity that was contemplated, and therefore no further environmental review would be required.

**FISCAL IMPACT**

The project proponent, RAK Engineering, has paid a total of \$22,860.94 for applications related to the project. There are no fees associated with a call for review.

**BACKGROUND**

The item before the City Council is a call for review of the Planning Commission's decision to approve the subject applications.



**CITY COUNCIL AGENDA ITEM NO. G.1  
09/26/2023**

Robert A. Karn & Associates, Inc., is requesting approval of a tentative parcel map (MS 354-22) to subdivide a 5.29-acre parcel into two parcels and a design review (DR 22-011) for the construction of a new 9,089 square foot Lazy Dog restaurant, with a 1,508 square foot outdoor seating area, a 764 square foot waiting area, the continuation of a public trail, and related site improvements on the northern 2.78 acres of the project site and a portion of an abutting Contra Costa Water District-owned parcel. The remaining 2.52 acres to the south are being reserved for future development. The proposed project site is located immediately south of Sand Creek Road, west of the Sand Creek Crossing commercial center, east of State Route 4, and north of San Jose Avenue.

A detailed analysis of the project is included as part of the August 15, 2023, Planning Commission staff report, which is attached for the City Council's review and reference.

**PLANNING COMMISSION MEETING OF AUGUST 15, 2023**

On August 15, 2023, the Planning Commission held a public hearing to consider the referenced application. At least 10 days prior to the public hearing, the project applicant erected a sign advertising the upcoming public hearing. In addition, staff published a notice of public hearing for the project in the Brentwood Press and mailed it to all property owners within 300 feet of the site, as required by law. The City received one public comment regarding this item prior to the Planning Commission hearing that was received via email.

The public comment was submitted by the Contra Costa Water District (CCWD). In its letter, CCWD identified five items, including two that the Planning Commission incorporated into conditions of approval (numbers 19 and 23(a) of Planning Commission Resolution No. 23-014). These conditions require the applicant and the City to enter into an agreement with CCWD. Through this agreement, the City would obtain the surface right for the trail and the City would then maintain the trail with the Lighting and Landscaping Assessment District (LLAD) funding source. Additionally, through this agreement, the applicant would acquire the surface rights for the portions of CCWD's parcel that will be used for Lazy Dog's landscaping and parking. The applicant would maintain these areas and grant CCWD surface access to conduct repairs and maintenance of the Los Vaqueros Pipeline (LVP).

After the presentation of the staff report, the Commission opened the hearing and heard a presentation and testimony from the applicant. During this presentation, the applicant indicated that it would not accept conditions of approval numbers 8, 11,



**CITY COUNCIL AGENDA ITEM NO. G.1**  
**09/26/2023**

12, and 13 as drafted in Resolution No. 23-014. Conditions 8, 11, and 13 require that all rooftop equipment be screened from view by raising the parapet height to be at least six inches above the mechanical equipment and that the applicant raise the entrance tower to keep the proportionality between the parapet wall and the tower element. Condition 12 requires that all stone pilasters have a minimum of eighteen inches of depth instead of the ten and a half inches shown on the proposed project plans.

The applicant presented line-of-sight diagrams depicting that a person of average height would not be able to see the rooftop equipment within four hundred feet from the restaurant. Based on these diagrams, the applicant declared that the project would comply with the City's Design Guidelines, in that the rooftop equipment would be hidden from view and therefore the above-mentioned conditions would not be necessary. The applicant further said that raising the parapet walls, accent wall, and the tower element would exponentially increase the cost to build the project.

The applicant also stated that an increase in depth to the pilasters would necessitate adding a "brow" to the building, which would give the building a top-heavy appearance. Therefore, in order to maintain architectural continuity, the applicant requested that the Commission remove condition of approval number 12 from Resolution No. 23-014. The Commission opened public comment after the applicant's presentation and testimony, and none was provided.

After closing public comment, the Planning Commission asked questions regarding the tower element, rooftop equipment, windows, and traffic circulation. Initially, the Planning Commission questioned why the proposed restaurant design included a shorter tower than what is typical of other Lazy Dog restaurants. The applicant explained that as a rebranding effort, Lazy Dog is no longer incorporating the typical angled-tower for which most Lazy Dog restaurants are known. The applicant further emphasized the fact that this was not the only Lazy Dog restaurant that has been built without the typical angled-tower element, and that similar restaurants have been built and proposed in other locations throughout the state, such as San Mateo and San Jose. The Commission acknowledged a business's right to rebrand and accepted the proposed straight-tower design as adequate.

Regarding the rooftop equipment, the Commission shared staff's concern that it would be visible, despite the applicant's line-of-sight diagrams. Staff had determined that the line-of-sight diagrams are not adequate, since the City does not utilize a line-of-sight standard for assessing rooftop equipment. Instead, the City's Design Guidelines state that rooftop equipment should be hidden from view with walls or



**CITY COUNCIL AGENDA ITEM NO. G.1  
09/26/2023**

screening to match the primary building materials and should appear to be an integral part of the architecture. Staff further explained that the preferred method of screening rooftop equipment is to design parapet walls that are higher than the rooftop equipment. The Commission expressed concern that it would be difficult to correct an issue during construction if it turned out that the rooftop equipment was visible.

In regards to draft condition of approval number 11, the Commission acknowledged that an increase in depth of the pilasters would not contribute significantly to the building's architecture, given that there was ample and adequate landscaping around the building. In addition, the landscaping proposed for the overall site exceeded what was required, including the addition of 65 trees. Therefore, the Commission agreed to remove condition of approval number 11 from the resolution and keep the pilaster depth at the proposed ten and a half inches. The Commission did, however, question the lack of detail in the building's proposed windows. The proposed windows were large with no details, whereas other locations and the initial project plans depicted large windows with details such as mullions to break up the size of the window and provided visual interest.

During deliberation, the Commission expressed some concern regarding issues that might arise from traffic circulation, specifically with providing proper access to the property. The Commission questioned if there were any conditions that could be added to prevent issues in the future, including the addition of another eastbound lane on Sand Creek Road. The City's traffic engineer responded, indicating that there are no traffic concerns identified per the previously adopted MND. The traffic engineer further indicated that if any traffic concerns were to arise, the City would need to take appropriate actions to alleviate those issues. In addition, the traffic engineer clarified that the City would not be able to make any modifications to the State Route 4 off-ramps or intersections, since they are under the jurisdiction of Caltrans and would require a Caltrans permit.

After deliberation, the Commissioner adopted unanimously Resolution No. 23-013 (as conditioned) to approve MS 354-22. The Commission further adopted unanimously Resolution No. 23-014 to approve DR 22-011, with the addition of conditions 19, 20, and 23a (which require the applicant to enter into an agreement with CCWD and to install pet waste collection bags), and replacing condition 11 with a condition to add additional details to the windows to the satisfaction of the Director of Community Development. The project approval includes the conditions of approval that were requested by CCWD, as well as conditions to screen all rooftop equipment with the parapet walls, in the event that the parapet wall needs to be raised then the tower



**CITY COUNCIL AGENDA ITEM NO. G.1  
09/26/2023**

element and accent wall would need to be raised in order to maintain proportionality with the parapet wall, and to add window details. These actions started the 10-day appeal period.

On August 17, 2023, Council Member Mendoza filed a timely call for review per Brentwood Municipal Code (BMC) Section 17.880.030. Per the BMC, a call for review is required to be heard before the appellate body within 45 days of being filed, unless both the applicant and appellant consent in writing to a later date. In this case, the call for review is being considered 40 days from when it was received, within the required timeframe.

Subsequent to the Planning Commission hearing and call for review, CCWD contacted staff and requested that an additional condition be added to the project that would limit vegetation species on the CCWD property to have root structures of a maximum two feet, six inches. This condition is reflected in the draft City Council resolution as condition of approval 36.

## **ANALYSIS**

The August 15, 2023, Planning Commission staff report, meeting minutes, and public comments received via email before and after the publication of the Planning Commission packet are attached for the City Council's review and reference. The attached staff report explains in detail how the project is consistent and complies with the City's General Plan and zoning requirements.

The main concern expressed during the August 15, 2023, meeting concerned the rooftop equipment in relation to the City's Design Guidelines. The Design Guidelines were adopted by the City in 2006 in an effort to articulate the importance of high-quality design that complements and enhances the existing fabric of the community. Page 15 of the Design Guidelines state the following with respect to roof mounted equipment:

### **Organize and screen roof mounted equipment:**

- a) Place roof mounted equipment away from building edges.
- b) Group roof mounted equipment wherever possible to minimize number and extent of screen walls.
- c) Hide equipment with wall and screens to match the primary building materials in order to integrate them with the design of the building walls.
- d) Mechanical screens should appear to be an integral part of the building, not an added on element.



**CITY COUNCIL AGENDA ITEM NO. G.1  
09/26/2023**

- e) Roof wells in sloped roof forms are strongly encouraged.

As mentioned above, the applicant indicated that it would not accept any condition that would require an increase to the height of either the parapet walls or the tower element. However, the project was approved with conditions requiring that rooftop equipment be screened by the building's parapet walls and to maintain the current proportionality between the height of the parapet wall and the tower and accent wall.

Subsequent to the August 15th Planning Commission hearing and call for review being submitted, the applicant requested that the City Council consider a change to the conditions of approval that were adopted, via Resolution 2023-014, by the Planning Commission. Specifically, the applicant is requesting the removal of conditions numbers 8, 11, 12, and 13. As noted above, conditions 8, 12, and 13 require that the parapet walls to be at least six inches above all rooftop equipment and if the parapet walls are to be raised, then the tower and accent walls shall be raised in order to keep the proportionality between these and the parapet wall. Condition 11 was re-written by the Planning Commission requiring the applicant to add additional details to all the windows similar to the drawings that were submitted with the original application.

Instead, the applicant requests that the Council consider and adopt conditions of approval that would approve the building as proposed without having to raise the height of the parapet walls if all rooftop equipment is hidden from view. The applicant has submitted a sight line study (attached), demonstrating that all rooftop equipment will be hidden from the view of an average person standing 226 feet away. If, during construction it turns out that the rooftop equipment is visible, then the applicant would accept a condition of approval requiring that the rooftop equipment be screened with materials that are of the same design as the parapet walls. Lastly, the applicant asks that the Council remove condition 11 since the applicant contends that condition fashioned by the Planning Commission was "too vague."

The replacement condition proposed by the applicant would read: The replacement condition proposed by the applicant would read:

If during construction of the building it is found by the Director of Community Development that rooftop equipment is visible from any adjacent development at street level or from any portion of the Sand Creek Road right-of-way, the applicant will develop a screening plan to be reviewed and approved by the Director of Community Development. The screening materials shall match the primary building colors and



**CITY COUNCIL AGENDA ITEM NO. G.1  
09/26/2023**

materials, be integrated into the design of the building and shall not appear to be an “added on element”, to the satisfaction of the Director of Community Development. Screening shall be installed and inspected for compliance prior to issuance of certificate of occupancy for the building.

The proposed condition is not included in the attached design review resolution as it is only a proposal from the applicant for the Council’s consideration. If the Council were to adopt this condition, then conditions 8, 12 and 13 would need to be removed from the attached design review resolution.

**CITY COUNCIL STRATEGIC INITIATIVE**

Not applicable.

**PREVIOUS ACTION**

Previous Action by the City Council is included on Attachment 1.

**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 this site on September 15, 2023. The applicant also posted the project site with the required signage.

**ENVIRONMENTAL DETERMINATION**

As noted above, on December 12, 2017, the City Council adopted a City-initiated Mitigated Negative Declaration (MND) (SCH# 2017102022) prepared for the subject site. The Initial Study (IS) for the MND contemplated buildout of the site based on the maximum Floor Area Ratio (FAR) of 0.45, as provided in Table 2.0.2 of the City of Brentwood General Plan Environmental Impact Report (EIR). Based on the size of the project site and the maximum FAR, the site could be developed with a maximum of 103,890 square feet of commercial space and a maximum of 520 parking spaces and remain within the envelope of what was studied in the MND. The proposed parcel map and development falls below the maximum capacity that was contemplated and therefore no further environmental review would be required.

With the adoption of the above mentioned MND, the City also adopted 30 Mitigation Measures (attached) that this project and any future development on the subject site





**CITY COUNCIL AGENDA ITEM NO. G.1**  
**09/26/2023**

will need to comply with. This project is conditioned to comply with and implement all applicable mitigation measures identified in the adopted MND.

**ATTACHMENT(S)**

1. Previous Action
2. CC Resolution for MS 354-22
3. CC Resolution for DR 22-011
4. Planning Commission Staff Report
5. Lazy Dog, Full Plan Set
6. Lazy Dog, Sightline Exhibit (From PC)
7. Peer Review, Larry Cannon Comments
8. Adopted Mitigation Measures
9. Revised Sightline Exhibit