

**PLANNING COMMISSION RESOLUTION NO. 24-041**

**A RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE APPROVING A ZONING TEXT AMENDMENT TO THE BRENTWOOD MUNICIPAL CODE (RZ 24-005), WHICH WOULD PROHIBIT NEW GASOLINE FUEL STATIONS, NEW CAR WASHES, AND SHORT-TERM RENTALS, AND EXPAND PERMISSION FOR ALTERNATIVE FUEL STATIONS AND ELECTRIC VEHICLE CHARGING STATIONS**

**WHEREAS,** City staff prepared a zoning text amendment that would prohibit new gasoline fuel stations, new car washes, and short-term rentals while expanding permission for alternative fuel stations and electric vehicle charging stations (the "Ordinance"); and

**WHEREAS,** the Ordinance would amend Title 17 (Zoning) of the Brentwood Municipal Code; and

**WHEREAS,** Brentwood has experienced rapid population growth over the past few decades, and in conjunction, the pace of development has been one of the highest in Contra Costa County; and

**WHEREAS,** Brentwood is transitioning from a city with vast areas of open land to one relying on infill development and redevelopment of existing areas and there are few vacant commercial sites to locate any new types of businesses including gasoline fuel stations and car washes; and

**WHEREAS,** gasoline fuel stations and car washes may not be the highest and best use of the limited available commercial land, especially where such uses may be incompatible with nearby residentially zoned properties; and

**WHEREAS,** short-term rentals have become increasingly popular over the past decade with the proliferation of platforms such as Airbnb and VRBO and with homeowners and renters seeking additional sources of income; and

**WHEREAS,** short-term rentals can have negative impacts on the community, including decreasing the local housing supply and increasing rental prices by reducing the number of available units, creating noise and parking supply issues in neighborhoods, and harming the existing hospitality industry; and

**WHEREAS,** expanding the availability of alternative fuel stations and electric vehicle charging stations will allow the City of Brentwood to transition away from the use of pure fossil fuels as an energy source for vehicles to lower emission and zero emission alternatives, which will have positive impacts on community health, public safety, and the local and regional environment while aligning with State goals for sustainability; and

**WHEREAS**, the Planning Commission has reviewed the proposed amendment to the Brentwood Municipal Code, has found that the proposed Ordinance is consistent with the goals and policies of the General Plan, and recommends adoption to the City Council; and

**WHEREAS**, the City published a notice of public hearing in the Brentwood Press on October 4, 2024, in accordance with City policies and Government Code Section 65090; and

**WHEREAS**, on October 15, 2024, the Planning Commission held a duly-noticed public hearing to consider the Ordinance, the staff report, recommendation by staff, and public testimony concerning this Ordinance; and

**WHEREAS**, this amendment is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment; and

**WHEREAS**, all legal prerequisites to the adoption of the Ordinance have occurred.

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

A. Hereby finds that with respect to Brentwood Municipal Code Section 17.870.008:

1. *No rezoning of property or text amendment shall occur which is inconsistent with the city's community development plan. In making a decision, the planning commission and council shall consider the consistency of the proposed action to the community development plan and other applicable city plans, and shall consider whether the proposed action is inappropriate or otherwise contrary to the public interest.*

The zoning text amendments set forth in Exhibit A are consistent with the General Plan because General Plan Land Use Policy LU 3-1 aims to ensure that an adequate inventory of vacant industrial, commercial, office, and business park land is designated, zoned, and maintained for targeted employment-generating uses. The Ordinance's amendments prohibiting additional gasoline fuel stations and car washes will help to preserve remaining commercial land in the city for uses with greater employment generating potential. Likewise, General Plan Land Use Policy LU 2-2 is intended to ensure compatibility between land uses and to reduce any potential negative impacts associated with aesthetics, noise, and safety. The Ordinance's amendments related to prohibition of short-term rentals will help to protect existing residential neighborhoods from negative

impacts resulting from the commercialization of homes for short-term rental use. The City Council finds that the Ordinance is appropriate and is not contrary to the public interest in that it will help preserve commercial land for the highest and best use and protect the city's residential neighborhoods.

- B. The Planning Commission likewise finds that the Ordinance is appropriate and is not contrary to the public interest in that it will add clarity to and update the provisions of the Brentwood Municipal Code and update related definitions in the Zoning Ordinance.
- C. Hereby recommends that the City Council adopt the Ordinance, approving Rezone No. 24-005, as shown in Exhibit A, attached hereto and incorporated herein including the following:
- Title 17 Zoning is hereby amended to prohibit the development of new automobile service stations/gas stations and new car washes, as provided in Exhibit A, attached hereto and incorporated herein. Revisions to existing sections are reflected in ~~strikethrough~~ for deletions and underline for additions.
  - Title 17 Zoning is hereby amended to prohibit the operation of short-term rentals, as also provided in Exhibit A, attached hereto and incorporated herein. Revisions to existing sections are reflected in ~~strikethrough~~ for deletions and underline for additions.

**ADOPTED** by the Planning Commission of the City of Brentwood at its regular meeting of October 15, 2024, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**RECUSE:**

APPROVED:

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Anita Roberts  
Planning Commission Chairperson

ATTEST:

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Erik Nolthenius  
Planning Manager

**EXHIBIT "A"****17.030.030 Definitions.**

"Alternative fuel station" means any establishment that dispenses alternative fuel as defined by the Energy Policy Act of 2005, including methanol, denatured ethanol, and other alcohols; mixtures containing 85% or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; non-alcohol fuels (such as biodiesel) derived from biological material; and electricity.

...

"Electric vehicle charging station" or "charging station" means any level of electric vehicle supply equipment station that is designed and built in compliance with the California Electrical Code, Article 625, as may be amended from time to time,, and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.

**17.250.003 Conditionally permitted uses.**

The following uses are permitted only on the granting of a conditional use permit pursuant to Chapter 17.830:

- A. ~~Auto service station, nonmechanical carwash,~~ Alternative fuel station, restaurant or café restricted to sit-down facility only, on-sale or off-sale liquor establishments;

**17.260.003 Conditionally permitted uses.**

The following uses are permitted only on the granting of a conditional use permit pursuant to Chapter 17.830:

- A. ~~Auto service station,~~ Alternative fuel station, tire shop, repair shop, machine shop, auto seat and upholstery shop; billiard hall; bowling alleys; cardroom gaming; dancehall; laboratory—medical, dental, optical; meeting room—lodge, fraternal hall, community facility; medical or dental office; hospital; restaurant or café, on or off-sale liquor establishments; recreation services such as bowling alley, skating rink and similar uses;

**17.270.003 Conditionally permitted uses.**

The following uses are permitted only on the granting of a conditional use permit pursuant to Chapter 17.830:

- A. ~~Auto service station, Alternative fuel station,~~ auto tire shop, auto repair including engine, transmission, brakes, etc., auto body repair and painting, ~~car wash,~~ laundry or dry cleaning plant, bakery—wholesale; all on-sale and off-sale liquor facilities; billiard hall; card or gaming room, adult entertainment; dancehall; new and used equipment rental; meeting room—lodge, fraternal hall, community facility; hospital; truck and trailer rental, campground or recreation vehicle park, vocational or trade school;

**17.456.002 Permitted uses and conditionally permitted uses.**

...

PD-6—PERMITTED USES AND CONDITIONALLY PERMITTED USES							
Uses	LDR	MDR	HDR	Park/O.S./ Public Facility	Regional Commercial	P.A. 1 Office Commercial	P.A. 7 Office Commercial
Accessory Uses	P	P	P	P	P	C	C
<u>Alternative Fuel Station</u>	---	---	---	---	<u>C<sup>1</sup> P</u>	---	---
Arcades, Game	---	---	---	C	C	C	C
Auto Service Station	---	---	---	---	<del>---</del> <u>C<sup>1</sup> P</u>	---	---
Bakeries	---	---	---	---	P	P	C
Bar, Tavern, Cocktail Lounge	---	---	---	---	P	P	---
Barber and Beauty Salon	---	---	C	---	P	P	P
Book Stores	---	---	---	---	P	P	P
Camera Stores	---	---	---	---	P	P	P
Car Wash	---	---	---	---	<del>---</del> <u>C</u>	<del>---</del> <u>C</u>	---

Notes:

- 1 Stand-alone ~~auto~~ alternative fueling and auto service stations are conditionally permitted; ~~auto~~ alternative fueling stations that are accessory uses to an anchor retailer as the principal use are permitted.

**17.462.003 Conditionally permitted uses.**

The following uses are conditionally permitted only on the granting of a conditional use permit pursuant to Chapter 17.830:

- A. Subarea A. The following uses shall be conditionally permitted within this subarea:
  - 1. ~~Auto service station, Alternative fuel station,~~ auto repair (tires, brakes, etc. but excluding auto body), ~~car wash,~~ auto rental and leasing agency, all on and off-sale liquor facilities, card and gaming room, dance hall, bowling alleys and similar commercial recreational uses, restaurants, new and used equipment rental, hospital, truck and trailer rental, vocational or trade school;

**17.466.003 Conditionally permitted uses.**

Upon obtaining a conditional use permit pursuant to Chapter 17.830, the following uses are permitted in the PD-16 zone:

- ...
- C. Subarea A. The following uses shall be conditionally permitted within this subarea:
  - ...
  - 5. ~~Gas station/mini mart, without service bays: this use must integrate with other site circulation and design. Additional access points on Walnut Boulevard and Balfour Road are not allowed (see the development plan and related exhibits). Automotive, boat, recreational vehicle or similar sales and/or service are specifically prohibited;~~ Alternative fuel station;

**17.470.003 Conditionally permitted uses.**

The following uses are permitted only on the granting of a conditional use permit pursuant to Chapter 17.830.

- ...
- B. General Commercial.

1. ~~Auto service station,~~ Alternative fuel station, tire shop, repair shop, machine shop, auto seat and upholstery shop; billiard hall; bowling alleys; card room gaming; dance hall; laboratory-medical, dental, optical; meeting room-lodge fraternal hall, community facility; medical or dental office; hospital; restaurant or café, on or off-sale liquor establishments; recreation services such as bowling alley, skating rink and similar uses;
2. All drive-in, drive-thru establishments, building materials, garden supply, outdoor sales or display, ~~automated car wash~~;

#### **17.484.003 Conditionally permitted uses.**

Upon obtaining a conditional use permit pursuant to Chapter 17.830, the following uses are permitted in the PD-34 zone:

...

- B. ~~Auto service station,~~ Alternative fuel station, tire shop, auto seat and upholstery shops; laboratories for medical, dental, optical uses; meeting room/fraternal hall, neighborhood community center;

#### **17.485.003 Conditionally permitted uses.**

The following uses are conditionally permitted in the PD-35 zone:

...

- C. The following uses are conditionally permitted in subarea B:

...

2. ~~Fuel sale facilities,~~ Alternative fuel station, convenience stores, ~~automated car washes~~, meeting rooms/fraternal halls, and neighborhood community centers;

#### **17.488.003 Conditionally permitted uses in subarea A.**

The following uses are permitted in subarea A of PD-38 subject to securing a conditional use permit pursuant to Chapter 17.830:

...

- B. Drive-in and drive-through establishments, including alternative fuel stations ~~gas stations~~, but excluding all prohibited uses;



**17.488.013 Conditionally permitted uses within subarea F.**

...

G. ~~Gas stations~~ Alternative fuel stations;

**17.488.016 Prohibited uses.**

A. The following uses shall be prohibited within subarea A:

1. Gas stations;

**17.491.002 Permitted uses.**

...

C. Subarea C. The following uses shall be permitted within this subarea:

...

4. ~~Car washes;~~

**17.491.003 Conditionally permitted uses.**

A. Subarea A. The following uses shall be conditionally permitted within this subarea:

...

2. ~~Auto service stations or gas stations;~~ Alternative fuel stations;

**17.492.003 Conditionally permitted uses.**

Upon obtaining a conditional use permit pursuant to Chapter 17.830, the following uses are permitted in the PD-42 zone:

...

C. Subarea C. The following uses shall be conditionally permitted within this subarea:

...

5. ~~Gasoline service stations and/or car washes;~~ Alternative fuel stations;

**17.499.002 Permitted and conditionally permitted uses in subarea A.**

...

The following uses are permitted within subarea A subject to approval of a conditional use permit:

...

- C. ~~Auto service station, car wash,~~ Alternative fuel stations; tire shop, new or used car sales, vehicular repair;

**17.499.004 Permitted and conditionally permitted uses in subarea C.**

...

The following uses are permitted within subarea C subject to approval of a conditional use permit:

...

- C. ~~Auto service station, car wash,~~ Alternative fuel stations; tire shop, new or used car sales, vehicular repair;

**17.505.008 Zoning matrix of land uses by subareas for PD-55.**

...

LAND USES <sup>3</sup>	Commercial		Residential		Park and Water Quality	
	Subarea 1	Subarea 2	Subarea 3	Subarea 6	Subarea 4	Subarea 5
<b>Commercial Uses</b>						
...	...	...				
<u>Alternative fuel stations</u>	<u>P</u>	<u>P</u>				
<del>Gas stations, with or without car wash and/or convenience store. Limited to one such use in one of the following subareas: 1 or 2. Any additional gas station must apply for a conditional use permit</del>	<del>P</del>	<del>P</del>				

**17.517.003 Permitted and conditionally permitted uses and general development standards for subarea B (general commercial area).**

...

B. Conditionally Permitted Uses for Subarea B.

...

- 4. ~~Car washes,~~ Tire shops, new or used car sales, and vehicular repair;

**17.517.004 Permitted and conditionally permitted uses and general development standards for subarea C (general commercial area).**

...

B. Conditionally Permitted Uses for Subarea C.

- 1. ~~Gas stations;~~ Alternative fuel stations;

...

- 5. ~~Car washes,~~ Tire shops, new or used car sales, and vehicular repair;

**17.796.001 Title and purpose of provisions.**

A. Title. The provisions of this chapter shall be known as the "short-term rental" provisions of this title.

B. Purpose. The purpose of these provisions is to regulate the short-term rental of ~~certain~~ all residential dwelling units, including those constructed, converted, or otherwise developed through the use of California Government Code Sections 65852.21 or 66411.7.

**17.796.002 Applicability of provisions.**

The provisions of this chapter apply to all dwelling units in the City, including those constructed, converted, or otherwise developed through the use of California Government Code Section 65852.21 or 66411.7, as set forth in the provisions of Chapters 16.169 and 17.797 of this code.

**17.796.003 Short-term rentals prohibited.**

~~A. Pursuant to California Government Code Section 65852.21(e), no residential dwelling unit constructed, converted, or otherwise developed through the use of the two-unit housing development provisions set forth in Chapter 17.797 of this code shall be rented, leased, or otherwise let for occupancy for a period of less than thirty calendar days.~~

- ~~B. Pursuant to California Government Code Section 66411.7(h), no residential dwelling unit constructed, converted, or otherwise developed through the use of the urban lot split provisions set forth in Chapter 16.169 of this code shall be rented, leased, or otherwise let for occupancy for a period of less than thirty calendar days.~~
- A. Definition. "Short-term rental unit" means the rental or occupancy of any residential dwelling unit or a portion thereof for a period of 30 consecutive calendar days or less. Short-term rental units include uninhabitable portions of the property such as swimming pools, courts, backyards, and other amenities available for rent for less than 30 consecutive calendar days.
- B. Short-term rental units prohibited. It shall be unlawful for any person or entity to offer or make available to rent or to rent (by way of a rental agreement, lease, license, or any other means, whether written or oral), for compensation or any consideration, a short-term rental unit.