

PLANNING COMMISSION RESOLUTION NO. 24-042

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRENTWOOD APPROVING A CONDITIONAL USE PERMIT (CUP 24-006) TO ALLOW FOR A 3,750 SQUARE FOOT RESTAURANT/CAFÉ KNOWN AS C'EST LA VIE WINE AND TEA TO SERVE BEER AND WINE, HOST LIVE ENTERTAINMENT, AND OCCUPY GREATER THAN 15% OF THE TOTAL BUILDING LOCATED AT 6800 LONE TREE WAY (APN 019-010-054).

WHEREAS, DTB Ventures, (the "Applicant") submitted an application to the City of Brentwood requesting approval of a conditional use permit (CUP 24-006) to allow for a restaurant/café to serve beer and wine, host live entertainment, and occupy greater than 15% of the total building located at 6800 Lone Tree Way (APN 019-010-054) pursuant to Brentwood Municipal Code sections 17.88.011(B)(2) and (4); 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 October 4, 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 qualifies for a Class 1 categorical exemption under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, as the use will be established within an existing facility and will include only minor alterations (i.e. tenant improvements) to an existing building located within an existing office/industrial center and thus involves negligible or no expansion of existing or former uses; and

WHEREAS, the proposed project is also exempt from the California Environmental Quality Act ("CEQA") pursuant to the 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, the Planning Commission of the City of Brentwood considered this design review application at its regular meeting of October 15, 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 qualifies for a Class 1 categorical exemption under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301, as the use will be established within an existing facility and will include only minor alterations (i.e. tenant improvements) to an existing building located within an existing office/industrial center and thus involves negligible or no expansion of existing or former uses.

Additionally, the project is exempt from CEQA as it qualifies for 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.

- 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 restaurant/café will occupy an existing, partially vacant building and the project does not propose to modify the

exterior design of the building, which was previously approved through Design Review No. 05-29 (DR 05-29) and found to be consistent in scale, bulk, coverage and density to the surrounding development.

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 Lone Tree Crossings 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-38 zoning district is to develop both general and regional commercial developments in which restaurant and cafe uses are consistent with both types of commercial developments. Further, there would be no harmful effect upon the neighborhood character with approval of conditional use permit to serve beer and wine, host live entertainment, and occupy greater than 15% of the building as the site is located within a commercial development and adjacent to Lone Tree Way and 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, Lone Tree Way is a major east-west arterial street and is able to handle expanding traffic needs.

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 Lone Tree Crossings commercial development and the PD-38 zoning district. This project will help to complete the commercial development and provide a use which will draw customers into the Lone Tree Crossings center.

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 was previously well thought out to provide an attractive, useful and convenient shopping area. The proposed use does will not modify any of the exterior of the building or the site.

- B. Hereby approves this conditional use permit (CUP 24-006), 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 October 15, 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 October 15, 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. 24-042
CONDITIONS OF APPROVAL FOR
CONDITIONAL USE PERMIT NO. 24-006 TO ALLOW FOR A 3,750 SQUARE
FOOT RESTAURANT/CAFÉ KNOWN AS C'EST LA VIE WINE AND TEA TO
SERVE BEER AND WINE, HOST LIVE ENTERTAINMENT, AND OCCUPY
GREATER THAN 15% OF THE TOTAL BUILDING**

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. 24-006 ("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 September 9, 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, exterior sidewalks and parking lot 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 Lone Tree Crossings.
6. The permitted hours of operation of the restaurant/café are Sunday through Thursday from 7:00 A.M. to 12:00 A.M. and Friday and Saturday from 7:00 A.M. to 1:00 A.M. Any requests to operate outside of these hours shall be at the discretion of the Community Development Director, who may refer any requested change to the Planning Commission for subsequent review at a public hearing.
7. The restaurant/café is permitted to serve beer and wine only. Any request to sell distilled spirits shall be referred to the Planning Commission for subsequent review at a public hearing for consideration and approval.
8. "Last call" for alcohol sales shall be no later than a half hour prior to closing.
9. Outdoor driving of alcoholic beverages is strictly prohibited.

10. Permittee shall install clear signage that reads "no alcohol beyond this point" at any entry/exit.
11. All music and dancing related activities, including live bands, other musicians, videos, jukeboxes, disc jockeys, karaoke, and similar activities shall be conducted indoors at all times. Doors shall remain closed during all performances involving amplified sound, and cease at 12:00 AM (midnight) daily, regardless of the business hours.
12. The live entertainment shall not consist of any adult oriented entertainment as defined in Chapter 17.690 of the Brentwood Municipal Code.
13. Any exterior improvements are subject to review by Community Development before any changes occur.
14. 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.
15. 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.