

PLANNING COMMISSION AGENDA ITEM NO. E.1
05/06/2025

SUBJECT: Design Review for Fire Station 94

DEPARTMENT: Community Development

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

TITLE/RECOMMENDATION

An application for Design Review (DR 24-013) to construct a new 8,137 square foot, two-story fire station, including two apparatus bays, living areas, and associated site improvements, on a 13,427 square foot parcel located at 739 First Street (APN 013-091-019).

Staff recommends that the Planning Commission adopt Resolution No. 25-004, approving DR 24-013, subject to certain findings and conditions. This recommendation is consistent with staff's original recommendation for the March 18, 2025 meeting.

Staff has determined that the project qualifies as a Class 32 categorical exemption under the California Environmental Quality Act ("CEQA", codified at Public Resources Code §§ 21000, *et seq.*, and further governed by the State CEQA Guidelines, found at 14 CCR §§ 15000, *et seq.*) Guidelines Section 15332 (In Fill Development Projects), inasmuch as the proposed fire station is consistent with the applicable General Plan designation, as well as with the applicable zoning designation and regulations, is proposed on a project site less than 5-acres in size, has no value as habitat for endangered species, would not result in significant effects relating to traffic, noise, air quality, or water quality, and can be adequately served by all utilities and public services.

OWNER/APPLICANT

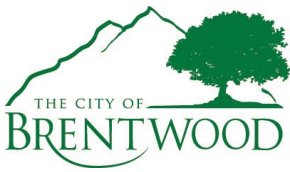
Contra Costa County Fire Protection District (CCCFPD)

GENERAL PLAN

Downtown Specific Plan (DSP)

ZONING/SURROUNDING LAND USES

Downtown Core (DC)



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Surrounding Land Uses

North: Brentwood Veterans Memorial Building

East: First Street, BAC Community Bank, Contra Costa County First 5

South: First Street Plaza

West: Diablo Way, public parking, commercial building



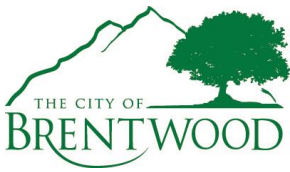
PREVIOUS ACTION(S)

N/A

BACKGROUND

The proposed project site is a single parcel owned by the CCCFPD, with frontage along First Street, just south of Maple Street. It is the same location where Brentwood's original fire station stood. The original station, according to the CCCFPD, was the Brentwood Fire Protection District's headquarters starting in 1929. The original station was out of service from 2014 until it was ultimately demolished in 2022 to prepare for construction of the proposed fire station.

The Downtown Specific Plan was adopted on November 16, 2005, and subsequently amended in 2014, 2016, and 2017. The project site is located within the Downtown Core zoning district, which allows fire stations as a principally permitted use.



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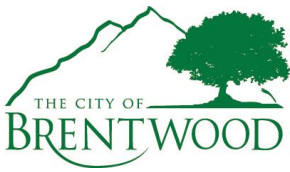
On March 18, 2025, staff presented the project to the Planning Commission during a regularly scheduled meeting, with Commissioner Jones recused. After staff's presentation the applicant gave a presentation, as well. This was followed by public comment, with a total of 23 speakers, the vast majority of which were in opposition to the project. Comments generally related to the following:

- Potential traffic caused by the fire station use
- Fire truck siren noise levels
- Load capability of Diablo Way and truck ingress/egress
- The applicability of the Americans with Disabilities Act to the project
- Location of the project
- The suspected presence of hazardous or toxic materials as part of the use and their effect on air quality
- CEQA review for the project

After public comment, the Planning Commission deliberated and asked questions of staff. The Planning Commission identified a number of concerns about the project, including the sufficiency of staff's CEQA review. The Commission also asked whether the Downtown Specific Plan requires the fire station to obtain a conditional use permit (CUP). Ultimately, the Planning Commission adopted a motion for the project to be continued and for the applicant to be directed to return with traffic, noise, and air quality studies, and for staff to present a more thorough explanation of why a CUP is not required.

On March 27, 2025, the City received a letter from the applicant (see Attachment 4. In its letter, the applicant states that "...the Planning Commission's determination that additional studies are required is outside the scope of the design review process..." As staff indicated during the March 18, 2025 meeting and as further explained in this report below, the project is not required to obtain such additional studies because the only discretionary approval required is a Design Review permit. There is no evidence of unusual environmental circumstances that would require additional studies for this permitted use. As a result, the applicant did not provide the studies identified by the Planning Commission and instead requested to be placed on the soonest available Planning Commission meeting agenda.

On April 23, 2025, the applicant submitted a second letter (dated April 21, 2025) to the City responding to some of the questions that were brought up as public comment during the March 18, 2025 meeting. Additionally, and despite no legal requirement to do so, the applicant submitted a technical memorandum, dated April 23, 2025,



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from a third party CEQA consultant (the ICF Memorandum, attached hereto as Attachment 6). This Memorandum evaluated air quality, traffic, and noise impacts related to the project.

PROJECT DESCRIPTION

The project description has not changed and can be found in the attached March 18, 2025, staff report.

ANALYSIS

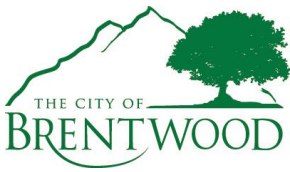
The March 18, 2025, staff report, meeting minutes, and public comments received via email before and after the publication of the Planning Commission packet are attached for reference. Since the applicant has made no changes to the project at this time, this staff report continues the March 18th analysis as to how the project is consistent and complies with the City's General Plan and Downtown Specific Plan. In addition, this staff report addresses the Planning Commission's specific requests from the March 18, 2025 meeting related to additional environmental studies and CUP requirements.

Environmental Concerns – Traffic, Noise, and Air Quality

The Planning Commission directed the applicant to perform additional environmental studies related to traffic, noise, and air quality. This project only requires a Design Review permit and no other discretionary approval. As described below, it is consistent with all applicable General Plan, Specific Plan, and zoning development standards.

CEQA and CEQA case law (see, e.g. *McCorkle Eastside Neighborhood Group v. City of St. Helena* (2019) 31 Cal.App.5th 80) limit the City's review of potential environmental impacts to those that may be caused by the discretionary Design Review approval. Moreover, CEQA Guidelines section 15332 (the "Infill Exemption") exempts projects from further CEQA review if they meet the following criteria:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value, as habitat for endangered, rare or threatened species.



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(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

(e) The site can be adequately served by all required utilities and public services.

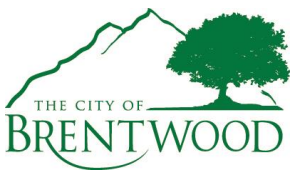
As stated in the March 18, 2025 staff report and below, the project is consistent with the General Plan and all applicable Specific Plan and zoning regulations. The site is within the City of Brentwood and is under five acres. The site has been developed for many years and has previously been used as a fire station, and there is no evidence of the presence of any habitats for endangered species. The site can also be served by all required utilities and public services.

The Planning Commission suggested at the March 18, 2025 meeting that it could not make CEQA findings related to subsection (d) and requested environmental studies addressing potential traffic, noise, and air quality impacts. As explained above, the applicant has no obligation to provide any such studies for this project, and the City does not have the ability to request them. Nonetheless, the applicant has submitted a technical memorandum from a CEQA consultant. That ICF Memorandum generally describes the absence of subsection (d) impacts. Staff has prepared a summary of the ICF Memorandum findings as well as its own analysis, as follows:

Traffic

CEQA measures potential traffic impacts with the "vehicle miles traveled" or VMT methodology in accordance with CEQA Guidelines section 15064.3. VMT measures the total number of miles traveled by vehicles daily on the roadway network and the impacts from those miles due to GHG emissions. The Contra Costa Transportation Authority (CCTA) has adopted the Growth Management Program Implementation Guide (GMP Guide) that establishes certain criteria to "screen out" projects from VMT analysis due to their low potential for trip generation. The GMP Guide screens out local-serving uses including libraries, police or fire stations, neighborhood schools, and local-serving retail/commercial uses. For this reason, the proposed fire station project would screen out of further CEQA analysis related to traffic impacts. In addition, the project would not conflict with or otherwise impact any transit service or roadway, bike, or pedestrian facilities. The project also contains required emergency access routes. Further, the project would only attract 3-4 employees at any given time, so there would not be any impacts related to employee trips and/or travel on public transit.

Finally, staff has previously noted, at the March 18th meeting, that the project would only generate approximately 6-8 off-peak trips per day. The City requires full traffic



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studies only when a project may generate 100 trips per day. The above analysis confirms that there would not be any traffic impacts under CEQA.

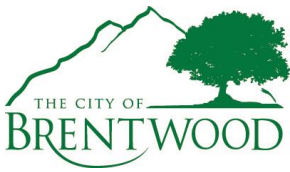
Noise

Appendix G of the CEQA Guidelines specifically asks whether (a) the project would generate substantial temporary or permanent increases in ambient noise in excess of local standards, and (b) the project would generate excessive groundborne vibration. The project would be required to comply with the City's local noise regulations per draft Condition of Approval 17.c. And as the ICF Memorandum notes, the project's construction activities would be temporary in nature, as would most of the operational use noise associated with emergency sirens and the generator. Neither construction nor operation of the project would generate groundborne vibration. Staff also notes that the City's noise regulations exempt any construction noise and/or vibration activities of a government agency such as the applicant. Regardless, the applicant has confirmed that the project will follow best practices for construction noise control, including using mufflers, limiting vehicle idling, and complying with Brentwood Municipal Code section 15.52.060 related to grading and noise-generating activities (see draft Conditions of Approval 17.c, 17.l, and 17.m). Additionally, Brentwood Municipal Code section 9.32.070.B exempts fire sirens (including the testing of such devices) from the provisions of the City's noise regulations found in Chapter 9.32 of the Brentwood Municipal Code. Given the above, the project would not result in significant noise impacts under CEQA.

Air Quality

The Bay Area Air Quality Management District (BAAQMD) has adopted emissions thresholds for local agencies to use in determining potential air quality impacts under CEQA. Like the VMT "screen out" provisions described above, BAAQMD's thresholds include screening criteria that dictate whether a project needs additional CEQA review or whether it would simply result in less-than-significant air quality impacts. The ICF Memorandum notes that this project screens out of further review and results in less-than-significant impacts because it is below the screening level size identified by the BAAQMD 2022 CEQA Guidelines¹). The project is a 8,137 square foot government building that is well under the 452,000 square foot threshold for construction impacts and 445,000 square foot threshold for operational impacts.

¹ See Table 4-1, Single Land Use Construction and Operational Criteria Air Pollutant and Precursor Screening Levels: https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa-guidelines-2022/ceqa-guidelines-chapter-4-screening_final-pdf.pdf?sc_lang=en



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The ICF Memorandum further notes that emissions would be similar to those generated by the previous fire station on the site and that the project would actually reduce emissions related to VMT. Finally, an ESA Phase I study revealed that there are no hazardous materials on site and the use does not generate any such materials. For these reasons, the project would not cause significant air quality impacts.

Conclusions Related to CEQA Guidelines Section 15332(d)

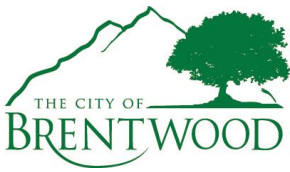
Given the above analysis and substantial evidence, the project meets all of the applicable CEQA Guidelines section 15332 criteria. There is no evidence that the project would cause impacts related to traffic, noise, or air quality as required by section 15332(d).

No Unusual Circumstances Present Pursuant to CEQA Guidelines 15300.2

Projects meeting the criteria in the categorical CEQA exemptions, such as the section 15332 infill exemption described above, do not have a significant impact on the environment. (CEQA Guidelines Section 15300.) There are limited exceptions to these categorical exemptions. Absent the presence of an exception under CEQA Guidelines section 15300.2, a project meeting the categorical infill exemption criteria is exempt from further CEQA review.

CEQA Guidelines section 15300.2 sets forth the six exceptions that may require further environmental review of an otherwise exempt project:

1. The first exception relates to categorical exemptions other than the infill exemption, and so does not apply.
2. The second exception asks whether there will be cumulative impacts of successive projects in the same place over time. The project is a single fire station in the downtown area, so that exception does not apply.
3. The third exception asks there is a reasonable possibility that the project will have an effect on the environment due to "unusual circumstances." This site has previously contained a fire station use and the General Plan, Specific Plan, and zoning all allow this use in this location. There is nothing unusual about the site that would implicate this exception, and it does not apply.
4. The fourth exception asks whether the project would result in damage to scenic resources, and there are no such resources present so this exception does not apply.
5. The fifth exception precludes use of a categorical exemption for projects located on a hazardous waste site identified in Government Code section 65962.5, which is not the case here.



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6. Finally, the sixth exception prohibits the use of a categorical exemption for projects causing a substantial adverse change in the significance of a historical resource. There are no historical resources present on or near the site, so this exception does not apply.

Given the above analysis, no section 15300.2 exception applies to the project. The project is thus exempt from CEQA pursuant to the infill exemption as described in CEQA Guidelines section 15332.

No Conditional Use Permit is Required

During the March 18, 2025 Planning Commission meeting, the Commission asked why this project is not required to obtain a Conditional Use Permit (CUP). There was some discussion about the language within the DSP, and the Commission requested that staff provide more information as to why a CUP is not required for the project.

In the Downtown Core district of the Downtown Specific Plan (DSP), the permitted uses include fire stations. Specifically, the DSP lists as permitted uses:

Civic and cultural uses including cultural and entertainment facilities such as community theaters, performing arts centers, museums, and auditoriums, city halls and city council chambers; libraries, public recreation facilities; community centers, senior centers, and teen centers; social service facilities; **fire stations, and public parking garages are permitted inside or outside of the 65 foot retail area.**

The 65 foot retail area (the "Retail Required Zone") referred to above is an overlay within the Downtown Core district that generally requires that the first 65 feet from the front property line be reserved for retail uses. DSP Figure 2.2.2 ('Downtown District Zone Map') shows where this requirement applies. A portion of the map is included below:

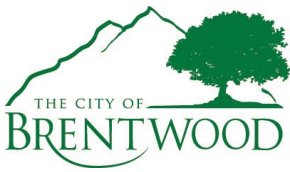
Figure 1 – Downtown District Zone Map



The project site is within the Retail Required Zone, and the proposed fire station is entirely inside of the 65 foot retail required zone, as shown below:

Figure 2 – Project Site Plan: 65 foot retail area





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The plain language of the DSP, providing that “[c]ivic and cultural uses including ... fire stations ... are permitted inside or outside of the 65 foot retail area” thus applies here.

Separately, to allow some uses outside the 65 foot Retail Required Zone on a case by case basis, the DSP also includes a list of conditional uses that require Conditional Use Permits if they are located *outside* the Retail Required Zone. Fire stations are a conditionally permitted use only if they are (1) located on a ground floor, and (2) outside the Retail Required Zone. If the fire station was beyond the 65-foot Retail Required Zone, the first floor portion of the use would require a Conditional Use Permit. However, no portion of the first floor is outside the Retail Required Zone and thus this project is a permitted use that does not require a Conditional Use Permit.

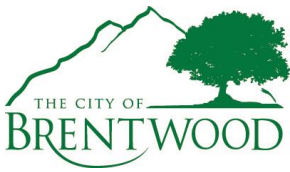
Additional Planning Commission Concerns

The Planning Commission and various public speakers at the March 18, 2025 meeting also expressed concerns with load capacity of Diablo Way, truck ingress/egress, and the applicability of the Americans with Disabilities Act (ADA).

Staff has confirmed that Diablo Way has sufficient load-bearing capacity to support fire apparatus. The site previously contained a fire station and the roadway has been constructed to meet all state and local requirements. The applicant has submitted a turning study that demonstrates that ingress/egress of fire apparatus is both possible and safe. Finally, the ADA applies to this project and the proposed fire station is designed to meet applicable ADA requirements. Compliance with the ADA is not a CEQA issue; compliance with the ADA does not impact any CEQA determination. The ADA generally sets forth protections for people with disabilities related to employment, public services, public accommodations/access, and telecommunications. For purposes of this project, the applicable ADA requirements, including those related to project construction and access, will be followed.

ENVIRONMENTAL DETERMINATION

In February 2024, the CCCFPD approved a Resolution of Necessity to acquire the subject property and construct the project (the “CCCFPD Project”). The CCCFPD determined that the CCCFPD Project was exempt from CEQA pursuant to CEQA Guidelines sections 15302(c) (replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity) and 15305 (minor lot line adjustments not resulting in the creation of any new parcel). The CCCFPD filed a Notice of Exemption with the Contra Costa County Clerk-Recorder on February 20, 2024 reflecting this determination.



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Notwithstanding this determination, staff has conducted its own environmental evaluation and finds that the project under review by the City is exempt from CEQA pursuant to CEQA Guidelines Section 15332 (Infill Development). As detailed above, the project is consistent with the applicable General Plan designation, as well as with the applicable zoning designation and regulations, is proposed on a project site less than 5-acres in size, has no value as habitat for endangered species, would not result in significant effects relating to traffic, noise, air quality, or water quality, and can be adequately served by all utilities and public services. Additional analysis supporting this determination and evidence supporting these conclusions may be found above in this report, as well as in the ICF Memorandum and letters submitted by the applicant.

ATTACHMENT(S)

1. PC Resolution No. 25-004, DR24-013
2. March 18, 2025 Staff Report
3. March 18, 2025 Minutes
4. March 27, 2025 Applicant Letter
5. April 21, 2025 Applicant Letter
6. ICF Memorandum
7. Project Plans
8. Project Description
9. Public comment, Donald Hester
10. Turning Study