

**RESOLUTION NO. 2020-27**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENTWOOD APPROVING AND ADOPTING THE CEQA ANALYSIS OF REZONE (RZ 20-001) TO AMEND TITLE 17 (ZONING) OF THE BRENTWOOD MUNICIPAL CODE TO STREAMLINE COMMERCIAL DEVELOPMENT PROJECTS; REPEAL CHAPTER 17.750 LARGE RETAIL USES AND MODIFY CERTAIN ZONING DISTRICTS, PERMIT HOTELS IN CERTAIN ZONING DISTRICTS, AND PROHIBIT MOTELS THROUGHOUT THE CITY**

**WHEREAS**, the City of Brentwood, California (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, California Government Code Section 65800, *et seq.* authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

**WHEREAS**, on February 28, 2012, the City Council adopted Ordinance No. 899 approving a rezone to amend the Brentwood Municipal Code by defining Large Retail Uses and requiring conditional use permits for such uses citywide and in certain zoning districts; and

**WHEREAS**, on April 10, 2018, the City Council received and filed the Brentwood Economic Development Strategy and Action Plan to encourage and facilitate the economic development activities in Brentwood, including specific activities to meet demand for consumer goods, promote economic development associated with retailers, and generate sales tax revenue; and

**WHEREAS**, on November 12, 2019, the City Council directed staff to prepare zoning text amendments to streamline commercial development; and

**WHEREAS**, the City of Brentwood seeks to encourage and facilitate diversified retail development and promote the attraction of retail establishments to the city; and

**WHEREAS**, the City of Brentwood seeks to encourage and facilitate the development of hotels in Brentwood in order to meet the need for short-term lodging accommodations in the city and to promote economic development associated with tourism and business visitors; and

**WHEREAS**, Title 17 (Zoning) of the Brentwood Municipal Code does not currently allow hotels in several Commercial and Planned Development zoning districts that are key desirable locations for future hotel development; and

**WHEREAS**, the City of Brentwood has determined that prohibiting future development of motels in the city is necessary to protect the public health, safety and welfare due to the adverse impacts often associated with motels, such as crime, loitering and blight; and

**WHEREAS**, the City has prepared a Rezone (RZ 20-001) amending several chapters of Title 17 (Zoning) of the Brentwood Municipal Code, including refinements to definitions in Chapter 17.030 Definitions, refinements to regulations for hotels and large retail uses in several Planned Development zoning districts, the repeal of Chapter 17.750 Large Retail Uses, and the addition of a new Chapter 17.750 Motels; and

**WHEREAS**, on July 22, 2014, the City Council adopted Resolution No. 2014-110 certifying the Environmental Impact Report (EIR) (SCH#2014022058) for the 2014 Brentwood General Plan Update; and

**WHEREAS**, the Ordinance may be considered a “project” for purposes of the California Environmental Quality Act (Public Resources Code Section 21000, *et seq.*, as further governed by the CEQA Guidelines, found at 14 C.C.R. 15000, *et seq.*); and

**WHEREAS**, a supplemental analysis was prepared to the EIR for the 2014 Brentwood General Plan Update, evaluating the potential environmental effects of the proposed Ordinance, which concluded that no further environmental review is required for proposed rezoning pursuant to CEQA Guidelines section 15183 (projects consistent with a Community Plan, General Plan or Zoning). This analysis, dated for reference January 29, 2020, and prepared by Michael Baker International, is attached hereto and incorporated herein as Exhibit ‘A’; and

**WHEREAS**, at its regular meeting of February 4, 2020 the Planning Commission considered the proposed rezoning and considered the staff report, all accompanying information, and testimony received from interested parties, and duly adopted Resolution 20 – 006, recommending that the City Council adopt RZ 20 – 001.

**WHEREAS**, the City of Brentwood published a public hearing notice in the Brentwood Press on February 14, 2020; and

**WHEREAS**, the City Council of the City of Brentwood, at its regular meeting of February 25, 2020, conducted a public hearing to consider the proposed rezoning and considered the staff report, all accompanying information, and testimony received from interest parties.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Brentwood does hereby:

- A. Find that, as set forth in Exhibit ‘A’ hereto, the City previously prepared and certified an EIR (State Clearinghouse No. 2014022058) in accordance with the requirements of the California Environmental Quality Act (CEQA) for the 2014 General Plan Update. As further documented in Exhibit ‘A,’ the proposed project is consistent with the General Plan, and there are no project specific, site specific, or cumulative impacts associated with the project that have not been fully addressed in the previously certified EIR or that cannot be mitigated to a less than significant level through the application of uniformly-applied development policies and/or standards. The 2014 General Plan Update EIR identified several potentially significant impacts; however, goals, policies, and actions to mitigate potential environmental impacts were incorporated into the General Plan, to the extent feasible. No additional mitigation was determined to be feasible or available, as described in the 2014 General Plan Update EIR. As such, no separate mitigation measures, other than compliance with previously adopted General Plan goals, policies, and actions, will be undertaken in conjunction with the implementation of the Ordinance. Therefore, under 14 C.C.R. Section 15183, no further environmental review is required at this time.
- B. Find that the rezone (RZ 20-001) will establish standards resulting in land uses that are consistent and compatible with surrounding uses, in that the amendments

proposed in the Ordinance will allow for the development of larger format retail in those areas where retail is already allowed, and for the development of hotels as principally permitted uses in areas where hotels are already conditionally permitted. Such uses will be subject to development standards designed to safeguard compatibility with surrounding uses.

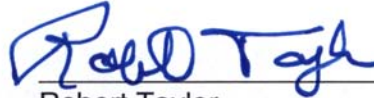
- C. Finds that the rezone is appropriate and in the public interest, as required by Brentwood Municipal Code Section 17.870.008, as demonstrated by its consistency with the General Plan. Such consistency may be found with regard to multiple General Plan goals and policies, including, but not limited to:
1. Goal ED 1: "Establish and maintain a healthy, balanced approach to economic development that encourages a diversity of businesses which provide employment, services and goods," inasmuch as it will allow for a greater diversity of businesses by allowing retail centers and hotels to operate as a principal use.
  2. Policy ED 1-5: "Ensure that adequate sites are available to accommodate a diverse range of businesses, including professional, technical, industrial, retail, and service-oriented, in order to provide goods and services to the region and to provide skilled, high-paying jobs for local residents," in that it will allow for the operation of hotels and retail establishments as principally permitted uses in particular locations.
  3. Goal ED 2: "Attract economic growth across a broad spectrum that includes industries well-suited to Brentwood's workforce, location, and other attributes," in that it will allow for the operation of hotels as principally permitted uses in discrete locations within the city.
  4. Policy ED 2-1: "Attract targeted commercial, industrial and office development while encouraging a diversity of employment opportunities including jobs in agriculture, retail, professional, services, manufacturing, and skilled trades," in that it will encourage the development of larger format retail and hospitality uses, which offer employment opportunities.
  5. Policy ED 2-5: "Ensure that an adequate inventory of vacant industrial, commercial, office and business park land is designated, zoned, and maintained for targeted employment-generating uses," in that it will increase the types of employment-generating uses that are principally permitted in certain zoning districts.
  6. Policy ED 2-8: "Encourage regional-serving retail uses, including higher-end department stores and discount department stores," inasmuch as it will remove regulatory barriers that may discourage the development of such uses.
  7. Goal LU 1: "Establish a land use pattern that provides for a diverse, self-sufficient community that offers a broad spectrum of job opportunities, housing types, community facilities and commercial services," in that it will increase the number and type of principally permitted retail and hospitality uses in discrete zoning districts, as well as allow for the inclusion of commercial

services such as fueling stations accessory to a retail anchor in limited locations.

8. Goal LU 3: "Provide for a diversified mix of strong retail centers, service commercial activities, manufacturing enterprises, and high-paying employment opportunities that contribute to Brentwood's economic well-being," in that it will allow retail centers found within the zoning districts included within this Ordinance to offer additional principally permitted retail formats, thereby diversifying the existing retail mix.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Brentwood at a regular meeting held on the 25<sup>th</sup> day of February 2020 by the following vote:

**AYES:** Bryant, Rarey, Rodriguez, Staton, Taylor  
**NOES:** None  
**ABSENT:** None  
**RECUSE:** None



Robert Taylor  
Mayor

ATTEST:



Margaret Wimberly, MMC  
City Clerk

**EXHIBIT 'A'**  
**ENVIRONMENTAL ANALYSIS**



*We Make a Difference*

January 29, 2020

Joshua Ewen, Senior Analyst  
**CITY OF BRENTWOOD**  
 150 City Park Way  
 Brentwood, CA 94513

**RE: ENVIRONMENTAL DOCUMENTATION FOR THE PROPOSED ZONING CODE AMENDMENTS**

Dear Mr. Ewen:

Michael Baker International reviewed the proposed actions associated with the Zoning Code amendments to determine the appropriate level of environmental review required under the California Environmental Quality Act (CEQA). As documented below, Michael Baker determined that additional environmental review is not required.

**PURPOSE OF THIS MEMORANDUM**

The City is initiating amendments to the Zoning Code, which implements the 2014 General Plan and for which an environmental impact report (EIR) was certified by the City in 2014 (Brentwood General Plan Update EIR [SCH# 2014022058]). These modifications constitute a "project" subject to CEQA, which triggers the need to determine what level of environmental review, if any, is required under CEQA. CEQA Guidelines Section 15183 states, "CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site." It further states, "If an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, as contemplated by subdivision (e) below, then an additional EIR need not be prepared for the project solely on the basis of that impact."

As discussed below, implementation of General Plan policies and actions and applicable sections from the Brentwood Municipal Code would ensure that the proposed amendments would not result in new significant impacts or more severe impacts than were previously disclosed in the General Plan EIR.

**BACKGROUND**

The certified General Plan EIR focused on the overall effects of the General Plan within the City. The EIR evaluated the potential for environmental impacts in the following issue areas:

- Aesthetics and Visual Resources
- Agricultural and Forest Resources
- Air Quality
- Hazards
- Hydrology and Water Quality
- Land Use and Population

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- Biological Resources
- Cultural Resources
- Geology, Soils, and Minerals
- Greenhouse Gases and Climate Change
- Noise
- Public Services and Recreation
- Transportation and Circulation
- Utilities

Although the General Plan assumes an approximately 20-year planning horizon, the EIR does not specify or anticipate when buildout will occur. Nor does the EIR assume that the designation of a particular site for a certain use means the site will necessarily be built or redeveloped in the next 20 years. In fact, due to the amount of underutilized land in Brentwood, it is very unlikely that the city would build out within the plan horizon. Thus, the General Plan Land Use Map provides more capacity for development than would reasonably be assumed to occur in the planning horizon.

The General Plan EIR found the following impacts would remain significant and unavoidable after implementation of feasible mitigation measures and General Plan policies:

- **Impact 3.1-1:** General Plan implementation could result in substantial adverse effects on visual character, including impacts to scenic vistas or scenic resources.
- **Impact 3.2-1:** General Plan implementation would result in the conversion of farmlands, including Prime Farmland, Unique Farmland, and Farmland of Statewide Importance.
- **Impact 3.2-2:** General Plan implementation may result in conflicts with existing Williamson Act contracts.
- **Impact 3.11-1:** General Plan implementation may result in exposure to significant traffic noise sources.
- **Impact 3.11-7:** General Plan implementation may result in cumulative noise impacts.
- **Impact 4.1:** Cumulative degradation of the existing visual character of the region.
- **Impact 4.2:** Cumulative impact to agricultural lands and resources.
- **Impact 4.4:** Cumulative loss of biological resources including habitats and special-status species.
- **Impact 4.11:** Cumulative exposure of noise-sensitive land uses to noise in excess of normally acceptable noise levels or to substantial increases in noise.
- **Impact 4.15:** Irreversible effects.

**Proposed Amendments**

The proposed Zoning Code amendments would eliminate prohibitions on retail over 75,000 square feet, add hotels as a principally permitted use in certain Planned Development (PD) zones, and increase the allowed height for hotels in one PD zone, as discussed further below.

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**ANALYSIS**

**Footprint-related Impacts**

Except for open space preservation areas designated in the General Plan, the EIR assumed that all of the Planning Area would be disturbed by construction activities. Because the proposed project would not result in development of areas not previously considered for development in the EIR, the proposed project would not result in any changes related to ground-disturbing effects disclosed in the EIR. Therefore, impacts related to agricultural resources, biological resources, cultural resources, geology, soils and minerals, or hydrology and water quality would not change from that analyzed in the EIR. Consequently, potential physical impacts related to the Zoning Code amendments would be related to the intensity of the development that would be allowed with the amendments versus the assumptions related to development intensity assumed in the General Plan EIR that would be allowed without the amendments.

**Large Retail Uses**

Changes to the code related to large retail uses include:

- Elimination of all provisions of the zoning code that prohibit or restrict large-scale retail (75,000 square feet and greater), treating these uses like all other retail uses.
- Amend PD-6, PD-38, and PD-55 to remove the big-box limits on retail development, treating these uses like all other retail uses.

There is potential that the elimination of provisions of the code that prohibit or restrict retail uses 75,000 square feet and greater could have different physical effects than for smaller retail stores, as larger scale "big-box" type stores can generate traffic at different levels than certain smaller retailers, which can contribute to other effects, such as noise and air emissions. However, the General Plan EIR includes policies and actions that would ensure these uses would not result in negative effects on surrounding uses. For instance, Action CIR 1d requires developers to fund traffic impact studies to identify project effects and mitigation measures and pay proportionate traffic impact fees to reduce on-site and off-site effects. Policy N 1-6 requires acoustical studies for new developments and transportation improvements that could affect noise-sensitive uses. Action COS 8a requires review of all new industrial and commercial development projects for potential air quality impacts and Action COS 8b requires analysis of potential exposure to toxic air contaminants. In addition, large-scale retail would be subject to Design and Site Development Review pursuant to Zoning Code Section 17.200.003(K), which would be a discretionary action by the Planning Commission. Therefore, compliance with the existing General Plan policies and actions would ensure that potential impacts of large-scale retail uses would not exceed that disclosed in the General Plan EIR.

**Hotels and Motels**

The proposed zoning amendments would change the following as it relates to hotels and motels:

- Include new definitions for hotels and motels.
- Add hotels as a principally permitted use in PD-49 and PD-55, and in the Office/Commercial subarea of PD-6.



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- Prohibit motels in all zoning districts citywide.

Currently, a hotel proposed in one of the above PDs would be subject to a Conditional Use Permit (CUP), which would be a discretionary action subject to review and approval by the Planning Commission. While the proposed amendments would not require a CUP for a hotel in the above districts, with approval of the amendments, any proposed hotel would be subject to Design and Site Development Review pursuant to Zoning Code Section 17.200.003(K), which would also be a discretionary action by the Planning Commission. In addition, any hotel development would be required to comply with the development standards that apply to all development within the district.

The Zoning Code implements the policies and direction of the General Plan and, thus, is considered consistent with the General Plan. Given that hotels are currently conditionally allowed in the above districts, a hotel use would have been considered consistent with the intensity of use contemplated by the General Plan EIR. In addition, a hotel would not substantially differ from other uses within those districts that are currently allowed by right. For instance, uses allowed by right in various subareas of PD-49 include medical facilities, medical offices, hospitals, and large residential care facilities, all of which would involve similar, if not more intense, activities compared to a hotel. In addition, there are General Plan policies and actions that would further ensure that hotels in these districts would not result in impacts beyond that disclosed in the General Plan EIR. Action CIR 1d requires developers to fund traffic impact studies to identify project effects and mitigation measures and pay proportionate traffic impact fees to reduce on-site and off-site effects. Policy N 1-6 would reduce the potential for noise impacts. Actions COS 8a and COS 8b would reduce impacts related to air quality and toxic air contaminants. Lastly, hotel uses in these districts would be subject to Design and Site Development Review pursuant to Zoning Code Section 17.200.003(K), which would be a discretionary action by the Planning Commission. The design review process and compliance with existing General Plan policies and actions would ensure that potential impacts of hotels or gas stations would not exceed those disclosed in the General Plan EIR.

**Height Increase and Gas Station uses in PD-6**

PD-6 would also include the following changes:

- Amend the maximum allowed building height for hotels only in the Regional Commercial (RC) subarea to four stories and/or 60 feet, an increase from the existing maximum building height of three stories and/or 50 feet in the Sand Creek Development Plan Area.
- Allow an auto fueling station when such uses are an accessory use to a retail anchor as a principally permitted use in the Regional Commercial (RC) subareas.

Allowing increased building heights in PD-6 could potentially result in aesthetic impacts that were not identified in the General Plan EIR. However, while maximum building heights could be increased by 10 feet in this district, any new hotel would be subject to Design and Site Development Review pursuant to Zoning Code Section 17.200.003(K), which would be a discretionary action by the Planning Commission. If the increased height of a proposed hotel in this district has the potential for aesthetic impacts, modifications to the project could be required by the Planning Commission prior to approval.

Regarding gas station uses in PD-6, as noted above, Action COS 8a requires review of all new industrial and commercial development projects for potential air quality impacts and Action COS 8b requires analysis of potential exposure to toxic air contaminants. To the extent that a gas station would add new

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trips to an anchor retailer, Action CIR 1d requires developers to fund traffic impact studies to identify project effects and mitigation measures and pay proportionate traffic impact fees to reduce on-site and off-site effects.

Based on the above analysis, the project would not result in any new significant impacts or increase the severity of any significant impacts identified in the General Plan EIR. Implementation of uniformly applied development policies (General Plan policies and actions identified above) would substantially mitigate potential impacts associated with the changes described above. As noted above, the EIR considered cumulative impacts of development within the Planning Area; the circumstances under which development in the Planning Area will be undertaken have not substantially changed such that new or more severe impacts would occur. For these reasons, pursuant to CEQA Guidelines Section 15183, further environmental analysis is not required.

Please contact Patrick Hindmarsh at (916) 361-8384 or [phindmarsh@mbakerintl.com](mailto:phindmarsh@mbakerintl.com) with any questions regarding the level of analysis for the project.

Sincerely,



Patrick Hindmarsh  
Project Manager

Cc: Holly Pearson