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June 1, 2021

Alex Muldrow
Development Services / Planning
City of Long Beach
411 West Ocean Blvd., 3rd Floor
Long Beach, CA 90802

Subject: Response to Appeal of Zoning Administrator Approval
Application No. 2004-08 / AUP 20-004
6090 Long Beach Blvd

Dear Mr. Muldrow,

Please accept this letter and attachments in response to the appeal of the Zoning Administrator approval of the above-referenced application received from Tempest Garland with Orbach Huff Suarez and Henderson on behalf of Sargis Sam Khachatryan dated March 17, 2021 and in response to the appeal received from the Long Beach Unified School District dated March 17, 2021.

Attachment A: Response to Orbach Huff Suarez and Henderson appeal letter
Attachment B: Response to Long Beach Unified School District appeal letter
Attachment C: Response to EBI peer review
Attachment D: Memorandum from Linscott Law & Greenspan dated April 29, 2021
Attachment E: Letter from Vista Environmental dated May 1, 2021

The challenges to the Zoning Administrator's approval of the Administrative Use Permit and CEQA determination are unfounded. We respectfully request that the Planning Commission uphold the decision of the Zoning Administrator.

Thank you

Adan Madrid

Adan Madrid

Cc: Matthew Hamlett, Chief of Staff – Council District 9
Alexis Oropeza, City of Long Beach Zoning Administrator

Attachment A

Response to Orbach Huff Suarez and Henderson LLP - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
3	Sec. 1A Pg. 2 ¶ 4	<i>On February 8, 2021, Tempestt Garland of our office testified at the public hearing on behalf of Khachatryan that (1) the Findings were not made public prior to the hearing, (2) the Project was not likely exempt from CEQA because there could be significant environmental impacts to traffic and safety, (3) the City must consult the Long Beach Unified School District ("District") regarding hazardous air emitters and (4) the City must conduct a Health Risk Assessment due to the proximity of the Project to Colin Powell Elementary School. Further, counsel requested that the Zoning Administrator not approve the Project, not determine that the Project is exempt, and that a negative declaration or EIR be prepared and approved before the Project is approved.</i>
RESPONSE		Comment noted. (1) The City published the findings related to California Environmental Quality Act determination as an attachment to the continued hearing for this item of March 8, 2021 and that document was available for public review. At the prior hearing on February 8, 2021, the CEQA determination was included in the agenda item and the staff planner provided a detailed explanation for the basis of the CEQA determination and findings required per the Municipal Code as part of the staff presentation. (2) Linscott Law & Greenspan (LLG) stand by their original findings and conclusion that the proposed project will have a less than significant impact and will not require the preparation of a traffic impact analysis report based on their assessment as directed by the City and as detailed in the responses contained herein. (3) As detailed below in the responses contained herein to Long Beach Unified School District Comments, Comment 3, no consultation with the District was required prior to approval of this Project, since the Air Report found less than significant hazardous pollutant concentration impacts created from the proposed gas station. (4) The Air Report included a Health Risk Assessment on page 54 of the Air Report that calculated the cancer risk created from gasoline storage and dispensing activities at the proposed gas station. The Health Risk Assessment was prepared based on SCAQMD guidelines and the cancer risk was calculated through use of SCAQMD's RiskTool (V1.103), which is the SCAQMD approved model for analyzing the cancer risk from gas stations.
4	Sec. 1b Pg. 2 ¶ 7	<i>Leading up to the March 8, 2021 continued hearing, neither Khachatryan nor his counsel was notified by the Project applicant of any community meetings. Instead, Khachatryan was informed by community members about the community meetings after they were held, and thus, he did not have the opportunity to address his concerns with the Project applicant prior to the March 8th hearing.</i>

Attachment A

Response to Orbach Huff Suarez and Henderson LLP - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
RESPONSE		<p>Comment noted. The Project applicant's contact information is public and was provided to everyone who attended the initial Zoning Administrator hearing on February 8, 2011. It was the Project applicant that suggested to the Zoning Administrator that the item be continued to allow the Project applicant to meet with the community stakeholders. Patricia Long, representing the Coolidge Triangle Neighbors, contacted the Project Applicant on February 16, 2021 inviting the Project Applicant to meet with the Coolidge Triangle and Longwood Neighbors. A community meeting was subsequently scheduled for Saturday, February 20, 2021. Mr. Khachatryan was aware that the Project Applicant was intending on meeting with the community and could have contacted the Project Applicant using the contact information provided to inquire about the community meeting.</p>
5	Sec. 1b Pg. 3 ¶ 3	<p><i>Tempestt Garland of our office testified at the public hearing on behalf of Khachatryan reiterating concerns from the February 8, 2021 public hearing and that 1) the City used an inaccurate Project description for the Project, 2) the Project is likely not exempt from CEQA, and 3) that the traffic report, air quality report, and noise report were inadequate. Further, counsel requested that the Zoning Administrator not approve the Project, not determine that the Project is exempt, and that a negative declaration or EIR be prepared and approved before the Project is approved.</i></p>
RESPONSE		<p>Comment noted. (1) The whole project was considered by the City of Long Beach for the purpose of environmental determination pursuant to California Environmental Quality Act. For CEQA purposes the project included the construction of the convenience station, gas fueling pumps, and diesel fuel sales use. In contrast, the Administrative Use Permit (AUP) was only for the operation of diesel fuel sales as required by the Long Beach Municipal Code. (2) the project is rightfully exempt from CEQA. (3) the traffic report, air quality report, and noise report are not inadequate based on the collective responses contained herein.</p>

Attachment A

Response to Orbach Huff Suarez and Henderson LLP - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
6	Sec. 2 Pg. 3 ¶ 5 Pg. 3 ¶ 6 and Pg. 4 ¶ 1	<p><i>The comment letters explained that the City provided an inaccurate Project description by only mentioning approval of the diesel fuel sales on the February 8, 2021 and March 8, 2021 Agendas, even though the City's CEQA Statement of Support Class 32 (Infill Development) Exemption Determination, dated February 8, 2021 ("CEQA Findings") and the City's Administrative Use Permit Findings, dated February 8, 2021 ("AUP Findings") described the Project as the sale of diesel fuel in conjunction with a future 2,960-sq. ft. 7-11, with 6 fueling positions. (Ex. "C". p. 2.) Further, the technical studies also described the Project this way. (Ibid.) Thus, it was unclear what Project was being approved and what was being categorically exempted. CEQA Guidelines section 15378 defines a "project" as the whole of an action, which has a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.</i></p> <p><i>As mentioned in the March 8, 2021 comment letter, stating that the diesel fuel sales and 7-11 are categorically exempt, without fully reviewing the environmental impacts of such circumvented CEQA. (Ex. "C". p. 2.) The approval of the diesel fuel sales component only, and categorically exempting it rather than reviewing and approving the Project as a whole was a piecemeal environmental review. (Ibid.) It is well established that CEQA prohibits piecemealing environmental review by chopping a large project into many little ones each with a minimal potential impact on the environment—which cumulatively may have disastrous consequences. (Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo (1985) 172 Cal. App. 3d 151, 165.)</i></p>
RESPONSE		<p>Comment noted. The City did not provide an inaccurate Project description on the February 8, 2021 and March 8, 2021 Agendas. The subject property is zoned Community Commercial Automobile-Oriented (CCA). General retail uses such as a convenience store and "gasoline sales" are permitted by-right in the CCA zone pursuant to Chapter 21.32 of the Long Beach Zoning Code. It is only the sale of diesel fuel that requires discretionary approval of an Administrative Use Permit (AUP) which was the only land use entitlement action being requested at the February 8, 2021 and March 8, 2021 Zoning Administrator (ZA) hearings. Although the ZA's action was limited to the AUP, it should be further noted that the technical studies (i.e. the Traffic Assessment, Noise Impact Analysis and the Air Quality and Greenhouse Gas Emissions Impact Analysis) considered the entire Project and not just the request for approval of the AUP to engage in the sale of diesel fuel.</p>

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ITEM	SOURCE	APPEAL COMMENT
8	Sec. 3 Pg. 4 ¶ 4	<i>The City's CEQA Findings asserted that the Project is exempt from CEQA under the Class 32 Categorical Exemption In-Fill Development Projects, and, therefore, no environmental review is necessary. Khachatryan's February 8, 2021 and March 8, 2021 comment letters explained that the Project does not within the Class 32 Categorical Exemption and that there is a reasonable possibility that the Project will have significant environmental impacts. (Ex. "C," p. 2.; Ex. "E," pp. 2-3.) As further explained in the comment letters, to use this exemption, the Project must fully fit within the exemption's definition, which states that a project would not result in any significant impacts relating to traffic, noise, air quality or water quality. (Ibid.) Further, although a project may meet the definition of a categorical exemption, there is an exception where there is a reasonable possibility that the project will have a significant impact on the environment due to unusual circumstances. (Ibid.) As pointed out in the March 8, 2021 comment letter, the City prepared studies for air quality, traffic, noise, hazardous substances, but not water quality, and based on the review of the City's technical studies, the Project will have significant impacts to traffic, safety, air quality, and noise. (Ex. "E," p. 2.)</i>
RESPONSE		Comment noted. A Traffic Assessment, Noise Impact Analysis and an Air Quality and Greenhouse Gas Emissions Impact Analysis ("technical studies") was prepared for the Project and the proposed convenience store and gas station ("Development"). The technical studies each concluded the Project, as well as the proposed Development, will have a less than significant impact relating to traffic, noise and air quality. There is also no reasonable possibility that the Project and Development will have a significant impact on water quality.
9	Sec. 3 Pg. 4 ¶ 5	<i>In Khachatryan's experience and as explained in the March 8, 2021 comment letter, currently, biodiesel fuel is sold at the Property, which is environmentally friendly and biodegradable and produces fewer air pollutants than petroleum diesel fuel, but there are no gasoline sales and the convenience store on the property is non-operational. However, the Project will allow the sale of diesel fuel in conjunction with a future 7-11 convenience store and gasoline sales ("Increased Operations"). (Ibid.) Based on his 20 years' experience operating a business at the Project site, and upon reviewing the site plans, Findings, and available technical studies, there will likely be significant environmental impacts from the Increased Operations that were not analyzed. (Ex. "E," p. 3.)</i>
RESPONSE		Comment noted. While the proposed 7-Eleven convenience store and gas station is anticipated to have a greater attraction over the existing diesel fuel facility with an increase in patronage, the Project and Development will not result in a significant environmental impact. A Traffic Assessment, Noise Impact Analysis and an Air Quality and Greenhouse Gas Emissions Impact Analysis ("technical studies") was prepared for the Project and the proposed convenience store and gas station ("Development"). The technical studies each concluded the Project, as well as the proposed Development, will have a less than significant impact relating to traffic, noise and air quality.

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ITEM	SOURCE	APPEAL COMMENT
10	Sec. 3A Pg. 5 ¶ 1	<i>Khachatryan explained that 7-11 stores are commonly known to attract motorists, not only for fuel, but for the wide assortment of drinks, snacks, ready-made meals, and lottery tickets and that this Project will attract passing motors, motorists within the surrounding community, and even police and fire personnel. (Ex. "C," pp. 2-3; Ex. "E," p. 3.) Further, he pointed out that, a 7-11 should be considered a high attraction, and the patronage of this proposed 7-11 will vastly increase over that what the current site attracts. (Ibid.)</i>
RESPONSE		Comment noted. While the proposed 7-Eleven convenience store and gas station is anticipated to have a greater attraction over the existing diesel fuel facility with an increase in patronage, pass-by traffic that is already traveling by the site on the adjacent roadways account for a significant amount of the net trips to be generated by the proposed Project. Notwithstanding the objections to LLG's methodology for forecasting the vehicular trips generated by the existing uses and the proposed Project, which are discussed further elsewhere in this document, the proposed Project will not significantly impact the surrounding transportation system based on LLG's traffic impact assessment as directed by the City.
11	Sec. 3A Pg. 5 ¶ 2	<i>Specifically, Khachatryan commented that the Linscott Law & Greenspan's Traffic Impact Assessment of the Proposed Long Beach Boulevard & Cambridge 7-Eleven Project, dated October 21, 2020 ("Traffic Report") only analyzed four intersections without considering other intersections that could be impacted as a result of the Increased Operations, such as East Cambridge St./White Ave, Long Beach Blvd/East Allington, and East Allington Ave/White Ave. Long Beach Blvd. is an already congested major thoroughfare for cars and trucks. (Ex. "E," p. 3.) Directly across the Project site on Long Beach Blvd. is an existing ARCO gas station that also experiences high traffic, including ingress and egress traffic throughout the day. (Ibid.) Because of the close proximity of the ARCO, high existing area traffic and congestion along Long Beach Blvd., the Increased Operations will likely add significant traffic impacts along Long Beach Blvd. and surrounding neighborhood streets. (Ibid.) Visitors already use the local streets as alternative routes when Long Beach Blvd. is congested, and in Khachatryan's experience, the same can be expected from patrons visiting the Project site. (Ibid.)</i>

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ITEM	SOURCE	APPEAL COMMENT
	RESPONSE	<p>Comment noted. As directed by City Staff, the report only included traffic assignment of the four (4) surrounding intersections for assessment purposes. This is appropriate based on the net trip generation forecast for this project and the Project site setting located along an arterial roadway. In addition, the volume of net Project traffic is nominal because pass-by traffic that is already traveling by the site on the adjacent roadways account for a significant amount of the net trips to be generated by the proposed Project. Moreover, since the Project will have a less than significant impact on the intersections nearest the project site along Long Beach Boulevard, which were included in the Traffic Impact Assessment, there is no compelling reason to include intersections that are further away from the Project site. The proposed project will also not contribute towards increased traffic congestion allegedly caused by the existing ARCO gas station located across the street. Much like the proposed Project, pass-by traffic that is already traveling by the site on the adjacent roadways account for a significant amount of the existing net trips to the ARCO gas station. The ARCO gas station is also located on the west side of Long Beach Boulevard and there is a raised median along the center of Long Beach Boulevard that divides northbound traffic from southbound traffic. The existing ARCO gas station will presumably continue to capture patrons from southbound traffic while the proposed Project will capture patrons from northbound traffic. The proposed Project will also not have an impact on existing traffic patterns in the area including the use of local streets to bypass traffic on Long Beach Boulevard.</p>
12	Sec. 3A Pg. 5 ¶ 3	<i>Further, the District similarly raised concerns that there was no analysis on the intersections that make up the entrances and exits that make up the Colin Powell Elementary School, which is especially important given that many parents drive their children to and from school along Long Beach Blvd.</i>
	RESPONSE	<p>Comment noted. The volume of net Project traffic is nominal, particularly along Long Beach Boulevard in the vicinity of Colin Powell Elementary School and therefore will have no impact on school ingress and egress.</p>
13	Sec. 3A Pg. 5 ¶ 4	<i>In addition, Khachatryan commented that although the City proposed to close the ingress and egress points on East Gordon and East Cambridge, patrons will still be able to enter and exit the Project site through the Alley. (Ibid.) Thus, there will likely be significant spillover traffic impacts on the surrounding neighborhoods because patrons will likely turn down the Alley and access neighborhood streets, due to the anticipated addition of vehicular traffic to the Project site and along Long Beach Blvd. (Ibid.)</i>
	RESPONSE	<p>Comment noted. The only traffic that will utilize the alley will be local traffic from the neighborhood, which is entitled to utilize the alley as they currently do.</p>

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ITEM	SOURCE	APPEAL COMMENT
14	Sec. 3A Pg. 5 ¶ 5	<i>At the March 8, 2021 public hearing, the Project applicant, stated that at the community meeting, they agreed to construct a block wall along the alleyway, but since Khachatryan was not invited to the community meeting, it is unclear whether the block wall will block the Alley's entrance or not.</i>
RESPONSE		Comment noted. The proposed block wall will run the full length of the easterly property line adjacent to the existing alley while maintain the existing access to and from the alley at the south end of the property.
15	Sec. 3A Pg. 6 ¶ 1	<i>Further, at both public hearings, many of the community members expressed similar concerns regarding the existing traffic congestion and how this Project will likely add to that. But the Zoning Administrator remarked that 7-11 is not responsible for existing traffic and rerouting traffic is not a part of this Project.</i>
RESPONSE		Comment noted. We concur with the Zoning Administrator that the Project is not responsible for existing traffic. In addition and as stated previously, the proposed Project will not significantly impact the surrounding transportation system based on our assessment as directed by the City.
16	Sec. 3A Pg. 6 ¶ 2	<i>Khachatryan also commented that many parents use either East Gordon Street or East Cambridge Street for drop-off and pickup of schoolchildren, and the City did not consider that the addition of Project traffic from the Increased Operations to surrounding neighborhoods and intersections could affect the timing and routes parents take to the school. (Ex. "C," p. 3; Ex. "E," p. 3.)</i>
RESPONSE		Comment noted. The volume of new Project traffic in the adjacent neighborhood is nominal and will have no impact on existing school related traffic.
17	Sec. 3B Pg. 6 ¶ 3 & ¶ 4	<p><i>In the March 8, 2021 comment letter, Khachatryan commented that the estimated AM and PM peak hour trips generated from the Project seem to be underestimated and overestimated, respectively. (Ex. "E," pp. 3-4.) Per Page 3 of the Traffic Report, AM peak hour traffic generated from the Project would only increase by 16 net trips over what currently exists. (Ex. "E," p. 4.) However, this seemed miscalculated considering the site currently only caters to diesel trucks with no convenience store operations, and now there will be a 24-hour convenience store with gasoline and diesel fuel sales. (Ibid.) It is likely that parents will frequent the 7-11 for gas and snacks on the way to student drop-off, which are people who would not have patronized the current operation. (Ibid.)</i></p> <p><i>Further, page 6 of the Traffic Report concluded that PM peak hour trips would decline by 6 net fewer trips from what currently exists. (Ex. "E," p. 4.) Considering that this 24-hour 7-11 convenience store with gasoline sales will attract a high volume of customers versus what the existing diesel only station without a convenience store attracts, this was a miscalculation. (Ibid.) This concern was also raised by the District who commented that it makes no sense that a 7-11 would have less trips than a diesel only station without a convenience store.</i></p>

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		<p>Comment noted. The traffic generation forecast was prepared consistent with ITE Trip Generation Manual standards and engineering judgment. It is important to note that pass-by traffic that is already traveling by the site on the adjacent roadways account for a significant amount of the net trips to be generated by the proposed Project. It should be further noted that the traffic generation forecast for the existing diesel truck fueling facility assumed only one half (1/2) of the number of fueling positions (i.e. 3 positions versus 6 positions) to be conservative and to not overestimate the existing AM and PM peak hour trips. Lastly, while the site may not be currently generating the typical volume of traffic for the site to be expected during full operating conditions as a result of reduced traffic patterns due to COVID-19 and due to the existing diesel fuel facility currently only having one (1) operational pump, the assessment is required to consider typical traffic conditions for the existing facility based on the site's maximum use potential allowed by existing entitlements and/or permits irrespective of reduced traffic patterns due to COVID-19, non-operational pumps and/ or vacancies as is the case with the existing vacant fast-food restaurant located on the north end of the site.</p>
18	Sec. 3B Pg. 6 ¶ 5	<p><i>Finally, Khachatryan commented that although Table 1 of the Traffic Report estimated existing traffic generated from the site to be 675 daily trips, he confirmed that approximately 200 customers visit the station on a daily basis, which amounts to 200 daily trips. (Ex. "E," p. 4.) Per the Traffic Report, the Project will generate a total of 1,338 trips per day. (Ibid.) Thus, by using the correct existing trips, the Project will actually increase traffic by approximately 569%. (Ibid.) Thus, Khachatryan commented that Traffic Report needed to be revised to take into account the actual existing traffic and to provide additional analysis as described above. (Ibid.)</i></p>
		<p>Comment noted. Based on the commentors assumption that the existing diesel fuel center serves 200 customers per day that equates to 400 daily trips. It should be noted that while net daily traffic is considered as part of the need for a traffic study based on City of Long Beach Traffic Impact Analysis Guidelines, peak hour traffic volume is what contributes to intersection congestion during peak traffic conditions. In addition and as stated previously, the assessment is required to consider typical traffic conditions for the existing facility based on the site's maximum use potential allowed by existing entitlements and/or permits irrespective of reduced traffic patterns due to COVID-19, non-operational pumps and/ or vacancies as is the case with the existing vacant fast-food restaurant located on the north end of the site.</p>

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ITEM	SOURCE	APPEAL COMMENT
19	Sec. 3B Pg. 6 ¶ 6 & Pg. 7 ¶ 1	<i>The District commissioned a traffic engineering firm, IBI Group, to peer review the Traffic Report and included it as Attachment B to its comment letter. IBI Group found that faulty assumptions were made for estimating the existing trips, causing existing trips to be unreasonably overestimated and causing Project trips to be unreasonably underestimated. Further, IBI Group found that the significance thresholds used are inconsistent with the City's own guidelines on significant traffic impact thresholds. IBI Group concluded that with overestimated existing trips and underestimated Project trips, the net Project-created trips are substantially overestimated. The result is that the Traffic Report unreasonably understated the traffic impacts of the Project. Accordingly, the Traffic Report is not a valid assessment of whether the Project would create a significant traffic impact. The District commented that the Traffic Report must be corrected to provide a fair assessment of the traffic impacts that the Project will cause. Without a revised Traffic Report, it cannot be determined whether the 7-11 Project satisfies the Class 32 Categorical Exemption's requirement that the project would not create any significant traffic impacts.</i>
RESPONSE		Comment noted. Responses to the IBI Group comments will be provided later in the document and we concur with the Zoning Administrator findings that no additional studies are required given the nominal net volume of peak hour project traffic.
20	Sec. C Pg. 7 ¶ 3	<i>In both comment letters, Khachatryan commented that the City did not analyze the impacts of student pedestrian safety or onsite queuing. (Ex. "C," p. 3; Ex. "E," p. 4.) Specifically, Khachatryan explained that students attend nearby Colin Powell Elementary School, which is approximately 613 feet (as measured on Google Earth) from the Project site and most students live in the nearby residential neighborhood adjacent to the Project. (Ibid.) There could be traffic impacts to the Project site and surrounding neighborhood due to queuing, which is the time a vehicle will spend waiting for a fuel dispenser or to enter the Project site. (Ibid.) Considering that the Project will only have three ingress and egress points, down from five access points, it is likely that the automobile and convenience store traffic will affect onsite queuing. (Ibid.) If not addressed properly, onsite queuing could lead to additional impacts to accessibility to onsite parking stalls and circulation issues between adjacent businesses, especially if queuing spills onto the surrounding streets. (Ibid.) These significant impacts in this high traffic zone could very well create a dangerous situation for students walking to and from school if queuing is not properly addressed. (Ibid.)</i>
RESPONSE		Comment noted. The Project site plan provides three (3) driveway access locations, which is ideal to provide adequate site access and on-site circulation such that on-site queuing will be minimized, and off-site queuing will be prevented.

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21	Sec. C Pg. 7 ¶ 4 & Pg. 8 ¶ 1	<p><i>The presence of numerous students and high-density traffic streaming into and out of the Project site could create a significant safety hazard from limited site lines and patron frustration with traffic congestion and students intermingling with the traffic congestion. (Ibid.) Not to mention the very serious potential for students being harmed and having their safety compromised by accessing a high traffic area and site that not only will be serving a variety of patrons at the 7-11 store, but also the added vehicle traffic from gasoline and diesel fuel sales. (Ibid.) This potential traffic hazard and traffic safety impact on students needed to be analyzed in either a mitigated negative declaration or an environmental impact report. (Ibid.)</i></p> <p><i>Similarly, the District raised concerns that 7-11's design creates a pedestrian and traffic hazard at the alley and the need for a pedestrian circulation plan due to the high pedestrian activity in and around the site. Given the very busy Long Beach Boulevard and 7-11's draw of students to it, the City needed to analyze whether the Project's construction, design, and operation would cause a safety impact to the student's drawn to the 7-Eleven and those students walking, biking, or skateboarding to the Colin Powell Elementary School.</i></p>
RESPONSE		<p>Comment noted. The proposed Project will provide adequate pedestrian circulation with sidewalks along all three (3) public street frontages and adequate ADA access to the convenience store from the sidewalk along Long Beach Boulevard and from the alleyway. Furthermore, there is nothing unique about the site plan design that would create any pedestrian conflicts that would otherwise exist at a typical commercial development along an arterial roadway.</p>
22	Sec. C Pg. 8 ¶ 2	<p><i>Additionally, in its comment letter, the District raised concerns regarding traffic safety and student pedestrian safety from the addition of traffic near the student drop-off and pick-up points. The drop-off and pick-up events at Colin Powell Elementary School are already severely congested, as verified by the Principal, Ty Smith. Existing traffic around Colin Powell Elementary School is severely congested during each drop-off and pick-up time (8:30 a.m. to 9:00 a.m. and 2:30 p.m. to 3:00 p.m., respectively) due to 966 students entering and exiting the school. The District commented that to accurately determine the Project's traffic safety impact on students arriving and departing the school, both school drop-off and pick-up driveway entrances and exits along East Victoria Street and South Susana Road and the resultant queue lengths must be analyzed to ensure student safety is not compromised by reduced site lines or other geometric hazards caused by such traffic queues.</i></p>

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		<p>Comment noted. As stated previously, given that the volume of net Project traffic is nominal, since pass-by traffic that is already traveling by the site on the adjacent roadways account for a significant amount of the net trips to be generated by the proposed Project, there is no need to analyze the school drop-off and pick-up driveway entrances and exits located in front of the school along East Victoria Street and South Susana Road and the resultant queue lengths. Furthermore, the vehicular entrance to the school along Victoria Street is located a significant distance west of the Long Beach Boulevard intersection with the project site.</p>
23	Sec. D Pg. 8	<p><i>In the March 8, 2021 comment letter, Khachatryan commented that the local neighborhood already experiences high traffic volume and congestion because of the close proximity of the ARCO, high existing area traffic and congestion along Long Beach Blvd. (Ex. "E," p. 5.) Customers at surrounding businesses park on the local streets when they are unable to find parking at the business they are visiting. (Ibid.) Per page 3 of the Traffic Report, there will be an increase of 663 net trips to the Project per day. (Ex. "E," p. 5.) Due to the Project only adding a total of 18 parking spaces (6 at the gas pump), there will likely be an influx of 7-11 patrons parking on neighborhood streets to access the Project. (Ibid.) This will increase the severity of the traffic in the neighborhoods; thus, parking impacts should have been analyzed in a negative declaration or EIR. (Ibid.)</i></p> <p><i>In making her determination on the categorical exemption, the Zoning Administrator did not acknowledge these comments or explain why she refused to consider them.</i></p>
		<p>Comment noted. The Project fully complies with the City's off-street parking code requirements and therefore provides adequate parking, such that there is no basis to expect that Project parking demand would intrude into the surrounding neighborhood.</p>

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ITEM	SOURCE	APPEAL COMMENT
24	Sec. E Pg. 9 ¶ 1 & Pg. 9 ¶ 2	<p><i>In the March 8, 2021 comment letter, Khachatryan commented that Vista Environmental's Air Quality and Greenhouse Gas Emissions Impact Analysis, 7-Eleven at 6090 Long Beach Blvd Project, City of Long Beach, dated October 26, 2020 ("AQ Report") failed to identify the Abundance of Life Daycare Center as a sensitive receptor, even though it is located approximately 56 feet from the Project. (Ex. "E," p. 5.) This was especially troubling considering that the day care hosts babies and young children. (Ibid.) Per page 37 of the City's Air Quality Element, children under 14 years of age are among the likeliest to be affected by air pollution. (Ibid.)</i></p> <p><i>Khachatryan also pointed out that the page 41 of the AQ Report determined that the gasoline storage and dispensing from the Project would emit 1,270 pounds of Volatile Organic Compounds ("VOC") yearly, and VOCs contain toxic air contaminants, like benzene. (Ex. "E," p. 5.) Further, page 8 of the AQ Report stated that the primary health effects of VOCs result from the formation of O3 and its related health effects. (Ex. "E," p. 5.) High levels of VOCs in the atmosphere can interfere with oxygen intake by reducing the amount of available oxygen through displacement causing lung and pulmonary damage. (Ibid.) With the Project being situated so close to a daycare center with developing babies and young children, the City should have analyzed whether there was a reasonable possibility that the Project would cause significant effects on the children at the day care center. (Ibid.)</i></p>
	RESPONSE	<p>Comment acknowledged. Section 1.2 of the Air Report did identify the Daycare Center structure to the north as a sensitive receptor. However, the Air Report mistakenly identified this structure as a residential use, instead of a daycare. It should be noted that SCAQMD analysis methodology for sensitive receptors is more stringent for residential uses than daycare centers, since it is possible for an infant to be at their home for 24 hours per day, however infants are typically only at daycare centers for 8 hours per day, five days per week.</p> <p>The localized air analysis and gas station cancer risk analysis were based on the impacts to the nearest homes that are as near as 25 feet to the east of the project site. Since the Daycare Center is located 56 feet away from the project site, the localized impacts and gas station cancer risk impacts would be less than what is shown in the Air Report, which found the proposed project would create less than significant localized construction and operational impacts and less than significant gas station cancer risk impacts.</p> <p>Therefore, as stated above, it would not have changed the analysis methodology if the structure to the north was identified as a daycare center, instead of a residence. In addition, a quantitative analysis of the daycare center is not warranted, since the Air Report analyzed the most impacted sensitive receptor (homes as near as 25 feet to the east of the project site), which found the impacts to the nearest homes would be less than significant and therefore based on the SCAQMD analysis methodology any receptor located further away, including the daycare center (56 feet to the north of the project site) would also result in less than significant impacts.</p>

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Response to Orbach Huff Suarez and Henderson LLP - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
25	Sec. E Pg. 9 ¶ 3	<p><i>Similar to Khachatryan's above comments, the District also addressed the lack of air quality analysis impacts on the District's students and staff at Colin Powell Elementary School. The District pointed that the AQ Report discloses that the Project will emit 1,270 pounds of VOCs yearly and 3.48 pounds daily, even with all air quality regulatory requirements implemented. VOCs contain toxic air contaminants, like benzene, which can cause cancer, birth defects, neurological damage, and death, and given the closeness of the Project to the Colin Powell Elementary School, there is a reasonable possibility that the Project would cause significant impacts on the students and staff.</i></p> <p><i>The concerns went unaddressed by the Zoning Administrator at the March 8, 2021 public hearing.</i></p>
RESPONSE		<p>Comment acknowledged. As detailed below in Responses to Long Beach Unified School District Comments, Comment 2 details that the 1,270 pounds of VOC created annually was utilized in the analysis was based on the worst-case conditions and does not account for the stringent SCAQMD regulations. Comment 3 below details how the toxic air contaminants created from the project were properly analyzed in the Air Report.</p>
26	Sec. F Pg. 9 ¶ 4 & Pg. 10 ¶ 1	<p><i>Khachatryan commented that the City did not analyze cumulative air quality impacts, which is an exception to using a categorical exemption. (Ex. "E," p. 5.) Under the exception, the City should have analyzed whether the cumulative impacts of successive projects of the same type, in the same place, over time are significant. (Ibid.) There is a large ARCO convenience store with gasoline sales directly across the street from the Project and this Project will be another convenience store with gasoline sales in the same place. (Ibid.)</i></p> <p><i>Khachatryan's counsel mentioned these concerns at the March 8, 2021 public hearing, but they were not addressed by the Zoning Administrator.</i></p>

Attachment A

Response to Orbach Huff Suarez and Henderson LLP - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
RESPONSE (1 of 2)		<p>Comment acknowledged. The SCAQMD has published a report on how to address cumulative impacts from air pollution: White Paper on Potential Control Strategies to Address Cumulative Impacts from Air Pollution (http://www.aqmd.gov/docs/default-source/Agendas/Environmental-Justice/cumulative-impacts-working-group/cumulative-impacts-white-paper.pdf). In this report the AQMD clearly states (Page D-3):</p> <p><i>“...the AQMD uses the same significance thresholds for project specific and cumulative impacts for all environmental topics analyzed in an Environmental Assessment or Environmental Impact Report (EIR). The only case where the significance thresholds for project specific and cumulative impacts differ is the Hazard Index (HI) significance threshold for TAC emissions. The project specific (project increment) significance threshold is HI > 1.0 while the cumulative (facility- wide) is HI > 3.0. It should be noted that the HI is only one of three TAC emission significance thresholds considered (when applicable) in a CEQA analysis. The other two are the maximum individual cancer risk (MICR) and the cancer burden, both of which use the same significance thresholds (MICR of 10 in 1 million and cancer burden of 0.5) for project specific and cumulative impacts. Projects that exceed the project-specific significance thresholds are considered by the SCAQMD to be cumulatively considerable. This is the reason project-specific and cumulative significance thresholds are the same. Conversely, projects that do not exceed the project-specific thresholds are generally not considered to be cumulatively significant.”</i></p>
RESPONSE (2 of 2)		<p>Therefore, the Air Report assumed that individual projects that do not generate operational or construction emissions that exceed the SCAQMD’s recommended daily thresholds for project-specific impacts would also not cause a cumulatively considerable increase in emissions for those pollutants. In addition, as detailed above, the only threshold of significance provided by SCAQMD is the Hazard Index (HI) that is utilized to analyze the acute and chronic (non-cancer) impacts created from TAC emissions. Due to the very low levels of acute and chronic-related TAC emissions created from gasoline storage and transfer activities at gas stations, the Risk Tool (v1.103) that was utilized in the Air Report to calculate the cancer risk and is utilized by the SCAQMD for the issuance of air permits for gas stations, does not provide the HI for either acute or chronic risks. As such, the SCAQMD methodology for analyzing cumulative impacts was followed in the preparation of the Air Report, which found the project would create less than significant project-level and cumulative impacts to air quality, including TAC emissions.</p>

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Response to Orbach Huff Suarez and Henderson LLP - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
27	Sec. G Pg. 10 ¶ 2	<p><i>Khachatryan commented that per Vista Environmental's Noise Impact Analysis, 7-Eleven at 6090 Long Beach Blvd Project, City of Long Beach, dated October 26, 2020 ("NIA Report"), there will likely be significant construction noise impacts on the daycare center and residential neighborhood adjacent to the Project that require further analysis and mitigation. (Ex. "E," p. 6.) Per page 17 of the NIA Report, the nearest residence is 25 feet. (Ex. "E," p. 6.) Khachatryan commented that the NIA Report did not mention the daycare center, even though it is located 56 feet from the Project. (Ibid.)</i></p> <p><i>The concerns went unaddressed by the Zoning Administrator at the March 8, 2021 public hearing.</i></p>
RESPONSE		<p>Comment acknowledged. Section 1.2 of the Noise Report did identify the Abundance of Life Daycare Center structure to the north as a sensitive receptor. However, the Noise Report mistakenly identified this structure as a residential use, instead of a daycare. It should be noted that the City of Long Beach Noise Element classifies both schools and residential uses as noise-sensitive land uses that have the same noise standards. As such, changing the identification of the nearest structure to the north from residential to pre-school would not change the analysis.</p> <p>The construction analysis provided on pages 16 and 17 of the Noise Report analyzed the construction noise impacts to the nearest sensitive receptor, which are homes as near as 25 feet to the east of the project site. Since the Daycare Center is located 56 feet away from the project site, due to the geometric spreading of noise, noise levels drop-off 6 decibels per doubling of distance. Since the Daycare Center is more than double the distance away from the project site than the nearest homes, the construction noise impacts to the Daycare Center would be more than 6 dB lower than what is shown in Table F on page 17 of the Noise Report. Since the construction noise level impacts were found to be less than significant at the homes to the east, it can be logically concluded that the construction noise impacts at the Daycare Center would also be less than significant.</p>
28	Sec. H Pg. 10 ¶ 3	<p><i>Per page 11 of the NIA Report, the City's Exterior Noise Standards for sensitive land uses cannot exceed 70 dB(A) at any time during the hours of 7am and 10pm and 65 dBA at any time during the hours of 10pm and 7am. (Ex. "E," p. 6.) The NIA Report identified that noise level at the nearest residences will, at its lowest level, exceed 78 dbA and at its highest exceed 86 dBA. (Ibid.) However, the City inexplicably used OSHA's threshold of significance of 90 dbA to state that construction noise impacts would be less than significant. (Ibid.) As Khachatryan pointed out, OSHA's noise standards are used to protect workers from unhealthful noise exposure but does not address the standards for a residence and is not an appropriate threshold of significance for residences. (Ibid.)</i></p> <p><i>Khachatryan's counsel mentioned these concerns at the March 8, 2021 public hearing, but they were not addressed by the Zoning Administrator.</i></p>

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Response to Orbach Huff Suarez and Henderson LLP - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
		<p>Comment acknowledged. As detailed on pages 11 and 16 of the Noise Report, Section 8.80.202 of the City's Noise Ordinance regulates noise from construction activities, which exempts construction activities from the noise standards provided in Section 8.80.150 – Exterior Noise Limits – Sound Levels by Receiving Land Use Districts and Section 8.80.160 – Exterior Noise Limits – Correction for Character of Sound, where the Commenter obtained the 70 dB between 7 am and 10 pm and 65 dB between 10 pm and 7 am noise standard. Pages 16 and 17 of the Noise Report details how construction activities will adhere to the requirements of Section 8.80.202, however as detailed in this Section, the City does not put any limits on the noise level created by construction activities. As such, utilization of the OSHA noise level standards provide for a conservative analysis. It should be noted that OSHA developed their noise standards based on published scientific data on the level of noise that causes harm to workers.</p>
29	<p>Sec. I Pg. 10 ¶ 4 & Pg. 11 ¶ 1</p>	<p><i>Khachatryan commented in both the February 8, 2021 and March 8, 2021 comment letters that per Public Resources Code section 21151.4, the City is required to consult with the Long Beach Unified School District ("District") when the City considers a project that might be reasonably anticipated to emit hazardous air emissions within ¼ mile of a school that may pose a health or safety hazard to those that attend the school. (Ex. "C," p. 4; Ex. "E," p. 6.) As Khachatryan pointed out, gasoline vapors (not diesel) are a hazardous air emission (i.e., a Toxic Air Contaminant) from gasoline fueling stations per the State Air Resources Board. (Ibid.) In both comment letters, Khachatryan asked whether the City consulted with the District over the potential health hazard of gasoline exposure to the students, faculty, and staff of the Colin Powell Elementary School, but was not provided with any response. (Ibid.)</i></p> <p><i>The District also raised these concerns in its comment letter (Ex. "G," p. 3) and they went unaddressed by the Zoning Administrator.</i></p>
		<p>Comment acknowledged. As detailed below in Responses to Long Beach Unified School District Comments, Comment 3, no consultation with the District was required prior to approval of this Project, since the Air Report found less than significant hazardous pollutant concentration impacts created from the proposed gas station.</p>

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Response to Orbach Huff Suarez and Henderson LLP - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
30	Sec. J Pg. 11 ¶ 2 Pg. 11 ¶ 3 & Pg. 11 ¶ 4	<p><i>Khachatryan commented in both the February 8, 2021 and March 8, 2021 comment letters that prior to approving certain new projects near a school site, CEQA Guidelines section 15186(a) states:</i></p> <p><i>“CEQA establishes a special requirement for certain school projects, as well as certain projects near schools, to ensure that potential health impacts resulting from exposure to hazardous materials, wastes, and substances will be carefully examined and disclosed in a negative declaration or EIR, and that the lead agency will consult with other agencies in this regard.”</i> <i>(Emph. added.)</i> <i>(Ex. “C,” p. 4; Ex. “E,” p. 6.)</i></p> <p><i>Khachatryan commented that to evaluate the potential health impacts on the students, faculty, and staff of Colin Powell Elementary School, the City needed to conduct a Health Risk Assessment to determine the level of health impacts the Project will cause to the school and to identify and adopt mitigation measures if the health impacts could be potentially significant in either a negative declaration or EIR. (Ex. “C,” p. 4; Ex. “E,” p. 7.) However, the Zoning Administrator did not address these concerns.</i></p>
RESPONSE		<p>Comment acknowledged. The Air Report included a Health Risk Assessment on page 54 of the Air Report that calculated the cancer risk created from gasoline storage and dispensing activities at the proposed gas station. The Health Risk Assessment was prepared based on SCAQMD guidelines and the cancer risk was calculated through use of SCAQMD’s RiskTool (V1.103), which is the SCAQMD approved model for analyzing the cancer risk from gas stations.</p>

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Response to Long Beach Unified School District - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
2	Pg. 1 ¶ 3	<i>Further, the Zoning Administrator utilized a partial description of the Project (diesel sales); whereas, the whole of the Project is a convenience store with both diesel and gasoline sales. Despite the inadequacies of the technical studies, the Zoning Administrator did not require further study or analysis and relied upon the existing technical studies to determine that the Project was exempt from CEQA under the Class 32 Categorical Exemption. These inaccurate and incomplete technical studies are an insufficient basis for the Zoning Administrator to determine the Project is categorically exempt. Thus, the District requests the Planning Commission to vacate the Zoning Administrator's Project approval, vacate the CEQA determination, and direct the Zoning Administrator to conduct further analyses to ensure that the technical studies are adequate and complete. If the new technical studies disclose a potentially significant environmental impact upon the Colin Powell School, a mitigated negative declaration, at a minimum, should be prepared to inform the public, the Zoning Administrator, and the Planning Commission about the Project's potential environmental impacts. This will allow the public and public agencies (including the District) an opportunity to evaluate the revised impact analyses and provide comments thereon before determining the Project is exempt and/or approving it.</i>
RESPONSE		Comment noted. The subject property is zoned Community Commercial Automobile-Oriented (CCA). General retail uses such as a convenience store and "gasoline sales" are permitted by-right in the CCA zone pursuant to Chapter 21.32 of the Long Beach Zoning Code. It is only the sale of diesel fuel that requires discretionary approval of an Administrative Use Permit (AUP) which was the only land use entitlement action being requested at the February 8, 2021 and March 8, 2021 Zoning Administrator (ZA) hearings. Although the ZA's action was limited to the AUP, it should be further noted that the technical studies (i.e. the Traffic Assessment, Noise Impact Analysis and the Air Quality and Greenhouse Gas Emissions Impact Analysis) considered the entire Project and not just the request for approval of the AUP to engage in the sale of diesel fuel. The technical studies each concluded the Project, as well as the proposed Development, will have a less than significant impact.
3	Sec. 1. A. Pg. 2 ¶ 2	<i>Along with the Notice of Public Hearing, the City posted the February 8, 2021 Agenda, which is attached hereto as Exhibit 3. Item No. 3 recommended approval of the Project and a determination that the Project was exempt from CEQA, per the Class 32 In-Fill Exemption. However, the findings and conditions supporting staff recommendations for approval of the Project were not included with the agenda and were not posted on the City's website or made available to the public in advance of the February 8, 2021 public hearing.</i>
RESPONSE		Comment noted. The City published the findings related to California Environmental Quality Act determination as an attachment to the continued hearing for this item of March 8, 2021 and that document was available for public review. At the prior hearing on February 8, 2021, the CEQA determination was included in the agenda item and the staff planner provided a detailed explanation for the basis of the CEQA determination and findings required per the Municipal Code as part of the staff presentation.
4	Sec. 1. A. Pg. 2 ¶ 3	<i>The District became aware of the Project shortly before the February 8th public hearing only after being informed by a community member but did not have sufficient time to analyze or comment upon the Project at the February 8th public hearing.</i>

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Response to Long Beach Unified School District - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
RESPONSE		Comment noted. The February 8, 2021 Zoning Administrator public hearing was duly noticed in accordance with the Long Beach Municipal Code requirements. It should also be noted that the hearing was continued to March 8, 2021 at the request of the Project applicant.
5	Sec. 1. A. Pg. 2 ¶ 4 & Pg. 2 ¶ 5	<p><i>On February 8, 2021, the Zoning Administrator took public testimony about the Project. Community members voiced concerns with the Project's potential environmental impacts and the lack of transparency displayed by the City staff and the Zoning Administrator. Concerns were voiced about the City's failure to conduct community outreach; City's failure to conduct adequate technical studies to prove that the Project would not cause a significant air quality, traffic, or water quality impact; and whether the City consulted with the District.</i></p> <p><i>At the conclusion of the February 8th hearing, the Zoning Administrator continued the hearing until March 8, 2021 with instruction to the Project applicant to conduct community outreach and to disclose the technical studies to the public.</i></p>
RESPONSE		<p>Comment noted. The February 8, 2021 Zoning Administrator public hearing was duly noticed in accordance with the Long Beach Municipal Code requirements. The application, project plans and technical studies are also a matter of public record and are available for viewing upon request. The City is not obligated to conduct community outreach prior to rendering a decision on an Administrative Use Permit application. It should be further noted that the Project applicant suggested to the Zoning Administrator that the item be continued to allow the Project applicant to meet with the community stakeholders. Patricia Long, representing the Coolidge Triangle Neighbors, contacted the Project Applicant on February 16, 2021 inviting the Project Applicant to meet with the Coolidge Triangle and Longwood Neighbors. A community meeting was subsequently scheduled for Saturday, February 20, 2021. A Traffic Assessment, Noise Impact Analysis and an Air Quality and Greenhouse Gas Emissions Impact Analysis ("technical studies") was prepared for the Project and the proposed convenience store and gas station ("Development"). The technical studies each concluded the Project, as well as the proposed Development, will have a less than significant impact relating to traffic, noise and air quality. There is also no reasonable possibility that the Project and Development will have a significant impact on water quality.</p>
6	Sec. 1. B. Pg. 3 ¶ 1 & Pg. 3. ¶ 2	<p><i>Prior to the public hearing on March 8, 2021, the District submitted its Comment Letter expressing concern over the lack of the City's coordination with the District and objecting to the Project based upon the inaccurate and incomplete technical studies.</i></p> <p><i>Various community members testified concerning the inaccurate Project description, the unjustified categorical exemption, and inaccuracies and incompleteness of the Air Quality Report, TIA Report, NIA Report, and other issues. The District's Tracy Nishihira, Planning Program Manager and Interim Planning Administrator, echoed these concerns and lack of coordination from the City and that the technical studies did not evaluate the Project's impacts to the Colin Powell School.</i></p>

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Response to Long Beach Unified School District - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
		<p>Comment noted. The technical studies are not inaccurate or incomplete for all of the reasons stated herein. The City also did not provide an inaccurate Project description. The subject property is zoned Community Commercial Automobile-Oriented (CCA). General retail uses such as a convenience store and "gasoline sales" are permitted by-right in the CCA zone pursuant to Chapter 21.32 of the Long Beach Zoning Code. It is only the sale of diesel fuel that requires discretionary approval of an Administrative Use Permit (AUP) which was the only land use entitlement action being requested at the February 8, 2021 and March 8, 2021 Zoning Administrator (ZA) hearings. Although the ZA's action was limited to the AUP, it should be further noted that the technical studies (i.e. the Traffic Assessment, Noise Impact Analysis and the Air Quality and Greenhouse Gas Emissions Impact Analysis) considered the entire Project and not just the request for approval of the AUP to engage in the sale of diesel fuel.</p>
8	<p>Sec. 2. Pg. 3 ¶ 4 & Pg. 3 ¶ 5</p>	<p><i>The Project that was approved was described as diesel sales only, but instead consists of a 7-Eleven convenience store with both diesel and gasoline retail sales. The complete plan is clearly described in the ASi Development's plan set for A Proposed Commercial Development for 7 Eleven-Convenience Store/Fueling, 6090 Long Beach Blvd, Long Beach, CA 90805 dated September 16, 2020, which is included in Exhibit 4.</i></p> <p><i>Considering only approval of diesel sales element of the Project, the Zoning Administrator appears to be piecemealing or "chopping up" the 7-Eleven project to evade CEQA review. This is not permissible under CEQA: "[T]he mandate of CEQA that environmental considerations do not become submerged by chopping a large project into many little ones-each with a minimal potential impact on the environment-which cumulatively may have disastrous consequences. This principle is expressed in section 15069 of the [CEQA] Guidelines." (Bozung v. Local Agency Formation Com. (1975) 13 Cal.3d 263, 283-84.) In accordance with CEQA, the Zoning Administrator is required to analyze the entire Project, the 7-Eleven convenience store with gasoline and diesel retail sales. The Zoning Administrator is required to consider the cumulative impacts of this Project including the convenience store and gasoline sales portion of the Project and other past, present, and future projects.</i></p>
		<p>Comment noted. The subject property is zoned Community Commercial Automobile-Oriented (CCA). General retail uses such as a convenience store and "gasoline sales" are permitted by-right in the CCA zone pursuant to Chapter 21.32 of the Long Beach Zoning Code. It is only the sale of diesel fuel that requires discretionary approval of an Administrative Use Permit (AUP) which was the only land use entitlement action being requested at the February 8, 2021 and March 8, 2021 Zoning Administrator (ZA) hearings.</p> <p>Although the ZA's action was limited to the AUP, it should be further noted that the technical studies (i.e. the Traffic Assessment, Noise Impact Analysis and the Air Quality and Greenhouse Gas Emissions Impact Analysis) considered the entire Project and not just the request for approval of the AUP to engage in the sale of diesel fuel.</p>

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Response to Long Beach Unified School District - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
9	Sec. 3 Pg. 3 ¶ 6	<i>The Zoning Administrator relied on the Class 32 Categorical Exemption, In-Fill Development Projects to exempt the diesel sales portion of the Project from CEQA. The Class 32 Categorical Exemption is set forth in CEQA Guidelines section 15332. In subdivision (d), it requires a project not to cause any significant impacts relating to air quality, traffic, noise, or water quality. The City commissioned studies of air quality, traffic, noise, hazardous substances, but not water quality. Further, as discussed in detail in the District's Comment Letter below, the air quality and traffic studies are incomplete because they did not analyze the Project's air quality and traffic impacts to Colin Powell School.</i>
RESPONSE		Comment noted. A Traffic Assessment, Noise Impact Analysis and an Air Quality and Greenhouse Gas Emissions Impact Analysis ("technical studies") was prepared for the Project and the proposed convenience store and gas station ("Development"). The technical studies each concluded the Project, as well as the proposed Development, will have a less than significant impact relating to traffic, noise and air quality. There is also no reasonable possibility that the Project and Development will have a significant impact on water quality. The Project will also have a less than significant impact on the Colin Powell School with regards to air quality and traffic impacts for all of the reasons stated in response to the appeal letter recieved from Orbach Huff Suarez and Henderson LLP and stated herein.
10	Sec. 3 Pg. 4 ¶ 1	<i>As explained in the District's Comment Letter, categorical exemptions are conditional, not absolute. (Ex. 1, p. 3.) Under CEQA Guidelines section 15300.2, there are six exceptions where if any one of them exist, a project cannot be categorically exempt. Two of these exceptions apply here: significant effect under subdivision (c) and cumulative impact under subdivision (b). Under the significant effect exception, "A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." It is common sense that it is an unusual circumstance to locate a gasoline station close to a school. Thus, it is an unusual circumstance for the 7-Eleven Project to be close to the Colin Powell School. (Ibid.)</i>
RESPONSE		Comment noted. The Project will not have a significant effect on the environment. A Traffic Assessment, Noise Impact Analysis and an Air Quality and Greenhouse Gas Emissions Impact Analysis ("technical studies") was prepared for the Project and the proposed convenience store and gas station ("Development"). The technical studies each concluded the Project, as well as the proposed Development, will have a less than significant impact relating to traffic, noise and air quality. There is also no reasonable possibility that the Project and Development will have a significant impact on water quality. It is also not unusual for a convenience store and gas station to replace an existing diesel fuel sales establishment on a major arterial street that is also a designated truck route in a commercial zone. The project is not located close to Colin Powell School. As stated in the appeal letter recieved from the LBUUSD, the school is located 613 ft. from the Project. The Project will have a less than significant impact on the School for all the reasons stated in response to the appeal letter recieved from Orbach Huff Suarez and Henderson LLP and stated herein.

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Response to Long Beach Unified School District - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
11	Sec. 3 Pg. 4 ¶ 2 & Pg. 4 ¶ 3	<p><i>The District explained that the AQ-GHG Report acknowledged that fuels (such as gasoline) are made up of Volatile Organic Compounds ("VOCs") (Ex. 4, Att. "D," p. 8.) The AQ-GHG Report disclosed that the 7-Eleven Project will emit 1,270 pounds of VOCs yearly and 3.48 pounds daily, even with all air quality regulatory requirements implemented. (Id., p. 41.) voes contain toxic air contaminants, like benzene, which can cause "cancer, birth defects, neurological damage, and death." (Id. at p. 8.) The District further explained that given the closeness of the 7-Eleven Project to the Colin Powell School, there is a reasonable possibility that the 7-Eleven Project would cause a significant or cumulative effect on the students and staff of Colin Powell School. (Ex. 1, p. 3.)</i></p> <p><i>However, the AQ-GHG Report did not analyze the impact of these gasoline emissions on Colin Powell School. (Ibid.) Thus, the Zoning Administrator could not rightly conclude that the 7-Eleven Project meets the definition of the Class 32 Categorical Exemption. To be complete, an air quality impact study on Colin Powell School must be performed in order to conclude that the Project's air quality impact is less than significant. (Id., p. 4.)</i></p>
RESPONSE		See response below to item no. 13 (Sec. 3, pg. 4 ¶ 4 and ¶ 5) for combined response
12	Sec. 3 Pg. 4 ¶ 4 & Pg. 4 ¶ 5	<p><i>The District asserted that the cumulative impact exception also applied. (Id. p. 3.) A project is not categorically exempt "when the cumulative impact of successive projects of the same type, in the same place, over time is significant." Here, just across the street is a large ARCO gas station and this 7-Eleven Project will be a successive gasoline station in the same place. Yet, the AQ-GHG Report did not consider or analyze the cumulative impact of the 7-Eleven Project together with the adjacent ARCO Station.</i></p> <p><i>All of these points were made in the District's Comment Letter. However, the Zoning Administrator, while acknowledging the District's Comment Letter, did not substantively address any of the points raised. Instead, the Zoning Administrator made the general statement that the technical studies demonstrate the Project does meet the Class 32 Categorical Exemption and made that determination without further analysis or due consideration.</i></p>
RESPONSE (1 of 2)		<p>Comment acknowledged. First, as detailed on pages 40 and 41 of the Air Report, the calculated VOC emissions of 1,270 pounds per year and 3.48 pounds daily represent the worst-case emissions rate that is based on Statewide emissions rates and does not take into account SCAQMD gas station rules that are the most stringent in the State. Pages 40 and 41 of the Air Report details that based on the SCAQMD regulations that the proposed gas station would create 530 pounds of VOC per year or 1.45 pounds of VOC per day.</p> <p>The Air Report analyzed the TAC emissions created from gasoline storage and dispensing activities based on SCAQMD methodology and through use of the SCAQMD's RiskTool (V1.103), which details that the TAC emissions analysis and associated cancer risk should be calculated for the nearest sensitive receptor, which are the homes located as near as 70 feet east of the proposed gas pumps. Since the Air Report found that there would be a less than significant impact to the homes located 70 feet away, it can be logically concluded that all other nearby sensitive receptors that are located further away from the proposed gas station (including Collin Powell Elementary School where its property line is located over 650 feet away from the proposed fuel pumps) would have even lower impacts and therefore were not quantitatively analyzed in the Air Report.</p>

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Response to Long Beach Unified School District - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
RESPONSE (2 of 2)		<p>However, since this issue was brought up, the SCAQMD RiskTool (v1.103) was re-run for Collin Powell Elementary School and the model printout is attached to this letter, which found that the cancer risk created by the proposed gas station at the nearest property line for Collin Powell Elementary School is 0.158 per million persons, which is well below the 3.417 cancer risk calculated at the nearest homes to the east (see page 54 of the Air Report) and well below SCAQMD's cancer risk thresholds. It should be noted that this additional model run is provided for informational purposes only and is not utilized to determine any level of significance with regard to air quality impacts.</p> <p>As detailed above in the responses to Orbach, Huff, Suarez & Henderson, LLP comments, the SCAQMD defines how to analyze cumulative impacts and providing a cumulative analysis of the combined impacts of the ARCO gas station and the proposed project is not warranted.</p>
	13 Sec. 4 Pg. 4 ¶ 6 & Pg. 5 ¶ 1	<p><i>The District explained in its Comment Letter that the 7-Eleven Project is a hazardous air emitter of toxic air contaminants, such as benzene (a component of gasoline) and diesel particulate matter from diesel vehicles; however, the potential significant air quality impacts to the Colin Powell School was not analyzed in the AQ-GHG Report. (Ex. 1, pp. 2-3.) Further, the District explained that per Public Resources Code section 21151.4, the Zoning Administrator is required to consult with the District when a project might be reasonably anticipated to emit hazardous air emissions within ¼ mile of a District school site which could pose a health or safety hazard to those that attend that school. The Project is well within ¼ mile of the Colin Powell School. This consultation requirement is not obviated by the usage of the Class 32 Categorical Exemption. (Ex. 1, p. 3.) The District reported that no one from the City had contacted the District to consult on this Project and offered the Zoning Administrator to contact the District. (Id., pp. 3-4, 5.) Per statute, the City was required to consult with the District over the potential air quality impacts of the 7-Eleven Project on the Colin Powell School. (Id., p. 3.) Despite the District's offer, no consultation was done. This is in clear violation of CEQA.</i></p>

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Response to Long Beach Unified School District - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
RESPONSE		<p>Comment acknowledged. The applicable text from the State Resource Code Section 21151.4 states the following:</p> <p>(a) An environmental impact report shall not be certified or a negative declaration shall not be approved for any project involving the construction or alteration of a facility within one-fourth of a mile of a school that might reasonably be anticipated to emit hazardous air emissions, or that would handle an extremely hazardous substance or a mixture containing extremely hazardous substances in a quantity equal to or greater than the state threshold quantity specified pursuant to subdivision (j) of Section 25532 of the Health and Safety Code , that may pose a health or safety hazard to persons who would attend or would be employed at the school, unless both of the following occur.</p> <p>As detailed in the above text disclosure to the School District is only required when hazardous substances are emitted “in a quantity equal or greater than the state threshold quantity specified...”. Page 54 of the Air Report provides the analyses of hazardous substances or TAC emissions created from the proposed gas station, which found that the TAC concentrations at the nearest sensitive receptors (homes located as near as 70 feet from the proposed gas pumps) would be less than significant. Therefore, the TAC concentrations at all other sensitive receptors, that are located farther away would also be less than significant (see response to above comment for more detailed justification). As such, the proposed project would not release any hazardous substances in large enough quantities that would pose a health or safety hazard to Collin Powell Elementary School and no consultant with the District was warranted.</p>
	<p>14</p> <p>Sec. 5 Pg. 5 ¶ 1</p>	<p><i>In its Comment Letter, the District raised concerns with the 7-Eleven Project's impacts to traffic safety and student pedestrian safety. (Ex. 1, pp. 4-5.) Concerning traffic safety, the District explained that the TIA Report only analyzed four intersections, and none of those included those intersections that make up the entrances and exits to the Colin Powell School. (Id., p. 4.) The District continued that this is especially important given that many parents drive their children to and from Collin Powell School along Long Beach Boulevard. (Ibid.) The District disclosed that the drop-off and pick-up events at Colin Powell School are already severely congested, as verified by the Principal of Colin Powell, Ty Smith. (Ibid., see Attachment "A" to Exhibit 1.) Existing traffic around Colin Powell School is severely congested during each drop-off and pick-up time (8:30 a.m. to 9:00 a.m. and 2:30 p.m. to 3:00 p.m., respectively) due to 966 students entering and exiting the school. (Ibid.) The District asserted that to accurately determine the Project's traffic safety impact on students arriving and departing the school, both school drop-off and pick-up driveway entrances and exits along East Victoria Street and South Susana Road and the resultant queue lengths must be analyzed to ensure student safety is not compromised by reduced site lines or other geometric hazards caused by such traffic queues. (Id., pp. 4-5.)</i></p>

Attachment B

Response to Long Beach Unified School District - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
15	RESPONSE	<p>Comment noted. As directed by City Staff, the report only included traffic assignment of the four (4) surrounding intersections for assessment purposes. This is appropriate based on the net trip generation forecast for this project and the Project site setting located along an arterial roadway. As stated previously, given that the volume of net Project traffic is nominal, since pass-by traffic that is already traveling by the site on the adjacent roadways account for a significant amount of the net trips to be generated by the proposed Project, there is no need to analyze the school drop-off and pick-up driveway entrances and exits located in front of the school along East Victoria Street and South Susana Road and the resultant queue lengths. Furthermore, the vehicular entrance to the school along Victoria Street is located a significant distance west of the Long Beach Boulevard intersection with the project site.</p>
	Sec. 5 Pg. 5 ¶ 2	<p><i>The District identified troubling inaccuracies in the TIA. (Id., p. 4.) The number of Project trips was estimated to be significantly less than what currently exists in the p.m. (Ex. 4, Attach. "A", TIA Report, p. 4 ["6 net fewer trips (-4 inbound, -2 outbound) produced in the PM peak hour on a "typical" weekday."]) The District explained why this defies common sense. (Ex. 1, p. 4.) How could a newly developed 7-Eleven generate less trips than that from an existing diesel-only station without a convenience store? (Ibid.) To test its theory, the District commissioned the traffic engineering firm IBI Group to peer review the TIA Report. (Ex. 1, Attach. "B".) The District highlighted that IBI Group found faulty assumptions were made for estimating the existing trips, causing existing trips to be unreasonably overestimated and Project trips to be unreasonably underestimated. (Ex. 1, p. 4.) Further, IBI Group found that the significance thresholds used are inconsistent with the City's own guidelines on significant traffic impact thresholds. (Ibid.) IBI Group concluded that with overestimated existing trips and underestimated Project trips, the net Project-created trips are substantially overestimated. (Ibid.) The result was that the TIA Report unreasonably understated the traffic impacts of the 7-Eleven Project. (Ibid.) Accordingly, the TIA Report was not a valid assessment of whether the Project would create a significant traffic impact. The District requested that the TIA Report be corrected to provide a fair assessment of the traffic impacts that the Project will cause. (Id., pp. 4-5.) Without a revised TIA, it was inappropriate for the Zoning Administrator to conclude that the 7-Eleven Project satisfies the Class 32 Categorical Exemption's requirement that the Project would not create any significant traffic impacts.</i></p>

Attachment B

Response to Long Beach Unified School District - Appeal Letter Dated March 17, 2021		
ITEM	SOURCE	APPEAL COMMENT
RESPONSE		<p>Comment noted. The traffic generation forecast was prepared consistent with ITE Trip Generation Manual standards and engineering judgment. It is important to note that the net gross trips are greater for the proposed Project compared to the existing site uses and that pass-by traffic that is already traveling by the site on the adjacent roadways account for a significant amount of the net trips to be generated by the proposed Project. It should be further noted that the traffic generation forecast for the existing diesel truck fueling facility assumed only one half (1/2) of the number of fueling positions (i.e. 3 positions versus 6 positions) to be conservative and to not overestimate the existing AM and PM peak hour trips. Lastly, while the site may not be currently generating the typical volume of traffic for the site to be expected during full operating conditions on account of reduced traffic patterns due to COVID-19 and on account of the existing diesel fuel facility currently only having one (1) operational pump, the assessment is required to consider typical traffic conditions for the existing facility based on the site's maximum use potential allowed by existing entitlements and/or permits irrespective of reduced traffic patterns due to COVID-19, non-operational pumps and/or vacancies as is the case with the existing vacant fast-food restaurant located on the north end of the site.</p> <p>Also, even if the existing site trip generation were to be adjusted more conservatively to reflect a greater pass-by percentage for the existing fast-food restaurant and reflect only one (1) fueling position for the existing diesel fueling facility, then the net peak hour trips for the proposed Project would be 35 net AM peak hour trips and 27 net PM peak hour trips, which still remains well below the 50-trip threshold to conduct an intersection level of service analysis as part of a detailed traffic impact analysis.</p>
	16	<p>Sec. 5 Pg. 6 ¶ 1</p> <p><i>In its Comment letter, the District took issue with there not being an analysis of the 7-Eleven Project's impact on student pedestrian safety. (Ex. 1, p. 4.) As the District disclosed, many students walk along Long Beach Boulevard on their way to and from Colin Powell School. (Ibid.) This can easily be seen by the plot of Colin Powell's student locations. This plot is attached hereto as Exhibit 5.) A new 7-Eleven will attract many students to it, especially after dismissal. IBI Group found that the 7-Eleven's design creates a pedestrian and traffic hazard at the alley and the need for a pedestrian circulation plan due to the high pedestrian activity in and around the site. (Ex. 1, Attachment "B," IBI Memorandum, ,i 10, p. 3.) Given the very busy Long Beach Boulevard and 7-Eleven's draw of students to it, an analysis of whether the 7-Eleven's construction, design, and operation would cause a safety impact to the student's drawn to the 7-Eleven and those students walking, biking, or skateboarding to or from the Colin Powell School was needed to determine whether the Project would cause a traffic impact or not. (Ex. 1, pp. 4-5.)</i></p>
RESPONSE		<p>Comment noted. The proposed Project will provide adequate pedestrian circulation with sidewalks along all three (3) public street frontages and adequate ADA access to the convenience store from the sidewalk along Long Beach Boulevard and from the alleyway. There is nothing unique about the site plan design that would create any pedestrian conflicts, including students, that would otherwise exist at a typical commercial development along an arterial roadway.</p>

Attachment C

Response to EBI - Peer Review Dated March 5, 2021		
ITEM	SOURCE	PEER REVIEW COMMENT
1	Pg. 1 no. 1	<i>Page 2, Fourth Paragraph, Project Description. The project description states that a 120- sf office space for a non-profit community group will be included. In Table 1, it is assumed that the office will house one employee. Please clarify this assumption and confirm if indeed the office space is intended for only one employee.</i>
RESPONSE		Comment noted. The proposed 120 sq. ft. office space was initially set aside to be used by a local non-profit organization at the request of the Council Office, which would include one employee.
2	Pg. 1 no. 2	<p><i>Page 3, First Paragraph, Land Use 853: Super Convenience Market Gas Station. Although ITE land use description is consistent with the proposed project (selling of convenience items being the primary business with at least 2,000 sf and less than 10 fueling positions), it is our professional opinion that the ITE rate does not account for site-specific characteristics, such as the high number of pedestrian activity and the proximity to a school (Colin Powell Elementary School) in an urban area.</i></p> <p><i>Section 9.1 of the ITE Trip Generation Handbook (3rd Edition) states that data should be collected and used to estimate trip generation "if local circumstances (such as the site setting or context, age of residents, worker shifts, area type, parking conditions, or business activity) indicate a study site may have different trip-making characteristics than the baseline sites for which data were collected and reported in the Manual."</i></p> <p><i>For example, the Florida Department of Transportation (FOOT) studied 12 modern convenience market with gas pumps sites throughout the state to understand the trip generation characteristics of sites where the convenience market has more impact than the fueling positions (FOOT Trip Generation Recommendations, October 2013). The comparison of the FOOT study results with ITE Land Use 853 - Convenience Market with Gas Pumps (rate used for the proposed project) using square footage as the independent variable showed weekday daily and PM peak rates significantly higher than the 10th Edition published ITE rates. Their statewide study showed that the daily and PM peak hour trip rates for a modern convenience market with gas pumps were 35% and 68% higher than as predicted by ITE, respectively. Therefore, the trip generation rate used of the project should be revised to reflect the characteristics of both the project area and the modern convenience store. This will result in a higher net project trip generation.</i></p>
RESPONSE		<p>Comment noted ITE Land Use 853 is actually not the Super Convenience Market Gas Station and can be corrected in the text if requested by the City. ITE Land Use 853, which is Convenience Market with Gasoline Pumps was correctly used in the trip generation forecast and is the appropriate trip generation for the proposed Project. In addition, the ITE description for Convenience Market with Gasoline Pumps in the ITE Trip Generation Manual does not indicate whether the study sites experienced high pedestrian activity or proximity to schools.</p> <p>As a result of COVID-19, conducting existing counts at the Project site was not appropriate. Data conducted in the State of Florida is not more appropriate than ITE data, which is the recommended standard in southern California.</p>

Attachment C

Response to EBI - Peer Review Dated March 5, 2021		
ITEM	SOURCE	PEER REVIEW COMMENT
3	Pg. 2 no. 3	<i>Page 3, First and Second Paragraphs, Existing Fast-Food Trip Generation. The Chinese/Louisiana Fried Chicken fast-food restaurant was permanently closed during the time of the study. The trips associated with the existing restaurant must be removed from the existing PM peak hour trip generation forecast. Table 1 and the corresponding text in the TIA need to be revised accordingly. The net trip generation will therefore increase.</i>
RESPONSE		Comment noted. While the existing fast-food restaurant may be currently vacant, the fast-food use is entitled and can be reoccupied at any time without further approvals. Therefore, assuming trip generation for this entitled use is appropriate in determining the net traffic generation for the proposed Project.
4	Pg. 2 no. 4	<p><i>Page 3, First and Second Paragraphs, Existing Commercial Vehicle Fueling Station Trip Generation. Based on the type of fueling station (commercial vehicle, diesel only), it is our contention that the use of ITE Land Use Code 944 (Gasoline Service Station) is not an accurate representation of trips associated with the type of existing use and therefore overestimates existing trips. The ITE description for that use states: "This land use includes gasoline/service stations where the primary business is the fueling of motor vehicles. The sites included generally have a small building (less than 2,000 gross square feet) that houses a cashier and limited space for motor vehicle maintenance supplies and general convenience products. A gasoline/service station may also have ancillary facilities for servicing and repairing motor vehicles and may have a car wash."</i></p> <p><i>The existing commercial diesel-only vehicle fueling station is not for regular motor vehicles (not a typical gas station) and does not have any ancillary service or repair facilities on-site. This type of fueling station is expected to have significantly less trips than a typical retail gas station. In the absence of an appropriate ITE trip rate for a commercial diesel-only fueling station with no retail, industry standards dictate that traffic counts be collected at either a similar land use (and size) or the existing land use (if operational). The ITE Handbook even states that "local data should be collected and used to estimate trip generation if the characteristics or setting of a study site are not covered by a land use description and the individual data points presented in the Trip Generation Manual data volumes." For a reasonable determination of existing trips occurring on-site, 24-hour tube counts need to be collected at each of the six driveways on the project site.</i></p>
RESPONSE		Comment noted The traffic generation forecast for the existing diesel truck fueling facility assumed only one half (1/2) of the number of fueling positions (i.e. 3 positions versus 6 positions) to be conservative and therefore, the existing trips for the existing facility are not over-estimated. Also, As a result of COVID-19, conducting existing counts at the Project site was not appropriate.
5	Pg. 2 no. 5	<i>Page 3, Third Paragraph, Pass-By Trip Adjustments. While we agree with the 63% and 66% pass-by reduction factors for the AM and PM peak hours, respectively, the TIA does not include an explanation of how the daily 25% pass-by factor was calculated. Please provide a reference or source for the daily percentage. The TIA also fails to explain how the 10% pass-by reduction was calculated for the existing use. Justification for this needs to be provided as well.</i>

Attachment C

Response to EBI - Peer Review Dated March 5, 2021		
ITEM	SOURCE	PEER REVIEW COMMENT
		<p>Comment noted. Given that the combined AM and PM peak hour pass-by volume consists of 164 trips, it is not unreasonable to assume that there will be at least 279 additional pass-by trips during the remaining 22 hours of the day ($443 - 164 = 279$). Furthermore, even if you assumed 18 hours of operation, that would equate to 17 pass-by trips per hour over the other 16 non-peak hours of the day ($279/16 = 17.44$) or 1 pass-by trip every 3.5 minutes, which is extremely conservative for a convenience market with gasoline pumps. With regards to 10% for existing uses, engineering judgment was applied considering that diesel trucks are less likely to be a pass-by trip and more likely to a destination trip or diverted trip and given the size of the fast-food restaurant without a drive-through window, 10% pass-by seemed reasonable and appropriate.</p>
6	Pg. 2 no. 6	<p><i>Page 3, Last Paragraph, Net Trip Generation. Based on the previous comments, we contend that the net trip generation of the project will be higher than what is reported. The closure of the existing fast-food restaurant, the expected lower trip generation of a commercial diesel-only fueling station compared to a regular retail gas station, and the higher trip generation rate of a modern convenience store with gas pumps all contribute to our conclusion that the net trip generation is underestimated.</i></p>
		<p>Comment noted. The traffic generation forecast was prepared consistent with ITE Trip Generation Manual standards and engineering judgment. It is important to note that the net gross trips are greater for the proposed Project compared to the existing site uses and that the pass-by traffic that is already traveling by the site on the adjacent roadways account for a significant amount of the net trips to be generated by the proposed Project. It should be further noted that while the site may not be currently generating the typical volume of traffic for the site to be expected during full operating conditions as a result of reduced traffic patterns due to COVID-19 and due to the existing diesel fuel facility currently only having one (1) operational pump, the assessment is required to consider typical traffic conditions for the existing facility based on the site's maximum use potential allowed by existing entitlements and/or permits irrespective of reduced traffic patterns due to COVID-19, non-operational pumps and/or vacancies as is the case with the existing vacant fast-food restaurant located on the north end of the site.</p> <p>Also, even if the existing site trip generation were to be adjusted more conservatively to reflect a greater pass-by percentage for the existing fast-food restaurant and reflect only one (1) fueling position for the existing diesel fueling facility, then the net peak hour trips for the proposed Project would be 35 net AM peak hour trips and 27 net PM peak hour trips, which still remains well below the 50-trip threshold to conduct an intersection level of service analysis as part of a detailed traffic impact analysis.</p>

Attachment C

Response to EBI - Peer Review Dated March 5, 2021		
ITEM	SOURCE	PEER REVIEW COMMENT
7	Pg. 2 & 3 no. 7	<p><i>Page 4, Second Paragraph, Requirement for Traffic Impact Analysis (TIA) Report. The report states, "As a result, based on the net AM and PM peak hour trip generation increase with the proposed Project (i.e. < 100 peak hour trips), the proposed Project will not significantly impact the surrounding transportation system and does not require the preparation of a traffic impact analysis report." The TIA does not provide justification for the 100 peak hour trip threshold.</i></p> <p><i>Per Section 2.2.1 of the City of Long Beach's Traffic Impact Guidelines (Updated by Cambridge Systematics and LSA in June 2020), "The City of Long Beach has historically established a screening threshold of 50 peak-hour trips for requiring a TIA. For most land use types, approximately 10 percent of daily trips occur during the busiest peak hour. Therefore, a project generating fewer than 50 peak-hour trips would generate approximately 500 average daily trips (ADT). GHG emissions resulting from this level of vehicle traffic would be less than comparable GHG emissions thresholds. Therefore, this threshold of 500 ADT is being retained to screen small projects."</i></p> <p><i>The TIA needs to be updated to reflect the language from the latest guidelines from the City. Consultant should also coordinate with the City as the forecasted ADT is anticipated to be higher than the 500 ADT threshold, which typically warrants a traffic impact analysis. If a scoping agreement was made previously, please note that and include as an appendix to the study.</i></p>
RESPONSE		Comment noted. The Traffic Impact Assessment could be updated to reflect the City's current 500 daily trip guidance for the preparation of a TIA and the 50-trip threshold for the TIA study area, however, as shown in Table 1 of the Traffic Impact Assessment report and indicated in the response to Comment 6, net Project traffic would still be below the 50-trip threshold for any study intersection in the vicinity of the Project site.
8	Pg. 3 no. 8	<p><i>Page 4, Traffic Distribution and Assignment. Intersection #3 Long Beach Boulevard/Nictoria Street-Gordon Street the northbound trip distribution is presented as 10%. The City of Long Beach's context-sensitive street classification for Long Beach Boulevard is a "Boulevard," characterized as a central roadway for through-traffic that serves as a major north-south connector to adjacent jurisdictions. Given this, the percentage needs to be increased to at least 20% to account for the proportion of existing traffic travelling northbound on Long Beach Boulevard, compared to the other movements.</i></p>
RESPONSE		Comment noted. The Project distribution pattern presented in Figure 4 reflects the distribution pattern for non-pass-by Project traffic and based on the land use in the vicinity of the Project site, it is unlikely that very much traffic will travel northbound from south of the 710 Freeway and Los Angeles River to visit the Project site, hence the 10% assumption.
9	Pg. 3 no. 9	<p><i>Page 4, Fourth Paragraph. The text refers to a Figure 9, should be revised to refer to Figure 4.</i></p>
RESPONSE		Comment noted. This correction can be made to the report if needed.

Attachment C

Response to EBI - Peer Review Dated March 5, 2021		
ITEM	SOURCE	PEER REVIEW COMMENT
10	Pg. 3 no. 10	<i>Page 5, Second Paragraph, On-Site Circulation. An additional truck-turning template at the full-access driveway from the alley needs to be included on the site plan to determine any safety issues between vehicles and between vehicles and pedestrians/bicyclists. A vehicle exiting the site via an eastbound right-turn onto the alley has the potential to collide with vehicles entering the site via a northbound left from the alley, depending on the turning radii. In addition, given the high pedestrian activity in and around the site, the TIA needs to provide a pedestrian circulation plan. Pedestrians coming from the south (the majority of them being students from the nearby Colin Powell Elementary) have to cross two project driveways to get to the convenience store. Appropriate signing and striping needs to be provided to ensure the safety of pedestrians walking to and from the project site.</i>
RESPONSE		Comment noted. The tanker truck movement shown in Figure 3 is appropriate to show the adequacy of on-site circulation and there is nothing unique about the site plan design that would create any pedestrian conflicts, including students, that would otherwise exist at a typical commercial development along an arterial roadway. The proposed Project will provide adequate pedestrian circulation with sidewalks along all three public street frontages and adequate ADA access to the convenience store from the sidewalk along Long Beach Boulevard and from the alleyway.
11	Pg. 3 no. 11	<i>Page 5, SB 743 VMT Assessment. Section needs to refer to and utilize the City of Long Beach's Traffic Impact Guidelines, which have established their own screening methods which are generally consistent with the OPR Technical Advisory. Section 2.2.1 and the corresponding Transportation Impacts Flow Chart for Land Development Projects state that projects that are presumed to have a less than signification impact on VMT are 1.) local-serving retail (less than 50,000 sf) and 2.) a low trip-generator (less than 500 ADT). Based on the proposed trip generation forecast, the project would generate more than 500 ADT and therefore will need to identify total project VMT, the net increase in total VMT (existing and cumulative) and assess if there is a significant impact. Should a significant VMT impact be identified once the VMT analysis is conducted by the project, appropriate mitigation measures per the City's guidelines will need to be recommended.</i>
RESPONSE		Comment noted. Consistent with City of Long Beach Guidelines, the proposed Project will screen out from a full VMT analysis based on the "local-serving retail less than 50,000 SF" criteria as stated in the Traffic Impact Assessment report. Only one of the criterion needs to be satisfied to make the determination of less than significant impact on VMT.
12	Pg. 4 no. 12	<i>Page 6, Conclusion. The Conclusion section of the report will need to be revised based on the previous comments regarding the peak hour trip thresholds for a traffic impact analysis and the ADT thresholds for the VMT analysis.</i>
RESPONSE		Comment noted. We stand by our original findings and conclusion that the proposed project will have a less than significant impact and will not require the preparation of a traffic impact analysis report based on our assessment as directed by the City and as detailed in the responses contained herein.