

**From:** Brower, Neill [mailto:nb4@JMBM.com]  
**Sent:** Monday, June 13, 2022 2:27 PM  
**To:** CityClerk <CityClerk@longbeach.gov>  
**Cc:** Alexis Oropeza <Alexis.Oropeza@longbeach.gov>; Alex Muldrow <Alex.Muldrow@longbeach.gov>  
**Subject:** RE: CORRECTED Letter re June 14 Council Agenda Item 22  
**Importance:** High

**-EXTERNAL-**

All:

A second typographical error in section 1(a) was brought to our attention, and the attached letter corrects that error. Please substitute our prior letter with the attached.

—Neill

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**From:** Brower, Neill  
**Sent:** Monday, June 13, 2022 11:09 AM  
**To:** [cityclerk@longbeach.gov](mailto:cityclerk@longbeach.gov)  
**Cc:** Alexis Oropeza <[Alexis.Oropeza@longbeach.gov](mailto:Alexis.Oropeza@longbeach.gov)>; Alex Muldrow <[Alex.Muldrow@longbeach.gov](mailto:Alex.Muldrow@longbeach.gov)>; Reznik, Benjamin M. <[BMR@JMBM.com](mailto:BMR@JMBM.com)>  
**Subject:** CORRECTED Letter re June 14 Council Agenda Item 22

Please substitute the attached, corrected letter for the letter submitted earlier this morning on behalf of the applicant and appellant. The letter corrects an error in the description of site access.

Please inform our office if you have any trouble with the file.

Thank you,

—Neill Brower

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**From:** Brower, Neill  
**Sent:** Monday, June 13, 2022 8:28 AM  
**To:** [cityclerk@longbeach.gov](mailto:cityclerk@longbeach.gov)  
**Cc:** Alexis Oropeza <[Alexis.Oropeza@longbeach.gov](mailto:Alexis.Oropeza@longbeach.gov)>; Alex Muldrow <[Alex.Muldrow@longbeach.gov](mailto:Alex.Muldrow@longbeach.gov)>;

Reznik, Benjamin M. <[BMR@JMBM.com](mailto:BMR@JMBM.com)>

**Subject:** Letter re June 14 Council Agenda Item 22

Please include the attached letter, submitted on behalf of the applicant and appellant, in the record of proceedings for the City Council, and inform our office if you have any problem with the file.

Thank you,

—Neill Brower



**Neill E. Brower** | Partner

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June 13, 2022

**BY EMAIL**

Hon. Dr. Robert Garcia, Mayor  
Hon. Members of the City Council  
City of Long Beach  
411 W. Ocean Boulevard  
Long Beach, CA 90802  
E-Mail: cityclerk@longbeach.gov

Re: Bliss Car Wash  
5005 Long Beach Blvd.  
Hearing Date: June 14, 2022  
Agenda Item No. 22

Dear Hon. Dr. Garcia and Councilmembers:

We represent Bliss Car Wash (“Bliss”) an environmentally and community conscious car wash company with a demonstrated history of quality service and community engagement and involvement. Bliss is the applicant and appellant for the requested conditional use permit (“CUP” or “Project”) for a state-of-the-art car wash at 5005 Long Beach Boulevard (the “Property”), an established commercial corner at a major intersection. The proposed Project was thoughtfully designed and then further modified to address specific concerns regarding neighboring uses and traffic, and actually improves traffic safety at the Property in key ways. As described in more detail below, the Project is consistent with the Municipal Code and with applicable provisions of the General Plan, and would provide a high-quality service and operation to a disadvantaged neighborhood. Simply put, the Planning Commission’s denial of the CUP was wrong, and we ask that the Council correct this error and grant the appeal and the requested CUP.

**1. The Project Satisfies All Requirements for a CUP.**

Section 21.25.206 of the Long Beach Municipal Code governs CUPs, and provides that the City issue a CUP for a project that is consistent with the following specified criteria. As shown below, the Project is consistent with those criteria.

**(a) The Approval is Consistent With and Carries out the General Plan, Any Applicable Specific Plans Such as the Local Coastal Program, and All Zoning Regulations of the Applicable District.**

The Property encompasses the northeastern portion of a 1.48-acre commercial area on the northwest corner of Long Beach Boulevard and Del Amo Boulevard. The larger site includes two existing developments: a gasoline service station and attached convenience store, and a dine-in restaurant currently undergoing extensive renovations and anticipated to return to occupancy as a family restaurant. The station and restaurant are located on the southern and western portions of the Property, generally along Del Amo Boulevard and west of Long Beach Boulevard. A low masonry wall separates the restaurant and its associated parking from the existing service station and the Property: no shared parking occurs between the restaurant and the remainder of the site (including the Property), and none would occur after construction of the Project. The Project would be located on the northwestern portion of the larger site, adjacent to Long Beach Boulevard on the east and an approximately nine-foot masonry wall bordering the grass field of Dooley Elementary School.

The City's General Plan designates the Property and the broader site as Neighborhood Serving Centers and Corridors (NSC-L), which encourages a variety of commercial uses to meet the consumers' daily needs. The zoning for the Property is Community Commercial - Automobile Oriented (CCA), which is intended for retail and service related uses capable of supporting the entire community. The CCA zone permits car washes and drive-through facilities with approval of a CUP.

The Project comprises a state-of-the-art, self-serve, drive-through car wash. As such, it is a conditionally permitted use in the CCA zone. Applicable special development standards provided in Section 21.45.130 of the Municipal Code would apply to the Project: Specifically, the Project must provide a minimum queueing distance of 150 feet, measured from the forward-most drive-up window or, in this case, the drive-through tunnel. Here, the Project proposes more than twice the required queueing distance, or about 350 linear feet, in two proposed lanes. Because the zoning regulations permit the Project, and the Project would substantially exceed the applicable minimum development standards, the Project meets this criterion.

**(b) The Proposed Use Will Not be Detrimental to the Surrounding Community, including Public Health, Safety, or General Welfare; Environmental Quality; or Quality of Life.**

As described above, the Project would be located within the northernmost portion of a partially developed commercial site at the northwest corner of Long Beach and Del Amo Boulevards. The intersection lies along a highly developed commercial corridor, with an established commercial development pattern.

**(i) The Project would Promote Pedestrian and Vehicle Safety.**

The 1.48-acre site that includes the Property currently has multiple curb cuts (vehicle access points): three on Del Amo Boulevard, and two on Long Beach Boulevard. Of these, the Project would eliminate one of the curb cuts on the Property at Long Beach Boulevard, reducing the number of locations at which vehicles would cross the sidewalk in comparison to existing conditions, which reduces the potential for interactions between pedestrians on Long Beach Boulevard and vehicles entering the site.

The drive-through is oriented in a manner that facilitates ingress along the easterly portion of the Property, from Long Beach Boulevard, and continues westward along the northerly boundary of the project site before existing to the south. The design and orientation are consistent with the Property's existing on-site circulation. The proposed queuing lanes for the car wash are dual lanes that merge at the drive-through tunnel entrance. The lanes also provide a means of bypassing the drive-through and exiting immediately, without using the car wash, needed.

**(ii) The Project Would Protect Noise-Sensitive Uses.**

The proposed car wash tunnel is located parallel to the elementary school yard and is buffered by an existing, approximately nine-foot masonry wall. A Construction Noise Analysis completed for the project site by BridgeNet international, dated June 30, 2020, determined construction of the project would comply with the City's Noise Ordinance, including and particularly with respect to noise-sensitive uses that include Dooley Elementary School. The proposed design of the car wash includes recessed and specified blower equipment, as well as additional sound buffering, to further reduce operational noise emissions. BridgeNet prepared an operational noise study, dated June 22, 2021, to evaluate the potential noise impacts of the project on the school. The report concluded the proposed car wash would generate noise levels well below limits established by the City's noise ordinance for interior spaces at the school, as well as for the school playground.

Additionally, proposed car wash would be accessible via a car wash menu/payment and control module located within the drive-through. These modules can be designed with and without speakers. As proposed, the module is oriented towards an arterial roadway and away from sensitive noise receptors, including the school. The facility, as designed, will therefore not be detrimental to the surrounding community.

For all of the reasons discussed above, the noise generated by the proposed car wash will not be detrimental to the surrounding community.

**(iii) The Project Would Not Generate Harmful Air Emissions.**

The South Coast Air Quality Management District ("SCAQMD") is the authority established to regulate air quality in the greater Los Angeles area. It has established air quality thresholds both for the larger South Coast Air Basin ("regional thresholds"), as well as more

localized thresholds (“LSTs”). Regional emissions represent those developed for the air basin as a whole to meet its air quality goals. The LSTs represent the thresholds developed for specific locations to permit conformity with the most stringent applicable federal or State air quality standard, and are developed based on the measured concentrations of certain pollutants for each source receptor area, as well as the distance to the nearest sensitive receptor.

An Air Quality Analysis was prepared by Rincon Consultants, Inc. and dated August 21, 2020, to evaluate the effects of the projected emissions of the Project. As described in that report, the primary source of air emissions from the Project will be vehicle exhaust, and those emissions were the focus of the analysis, though other sources also were considered. The report determined the vehicles using the car wash would be well below both regional thresholds and LSTs that reflect existing conditions in the vicinity and the proximity of the school. Although the staff report expresses concern for the potential for cumulative impacts regarding air quality, the Air Quality Analysis evaluated cumulative impacts as well as Project-specific impacts, and determined that no significant cumulative impacts would occur.

Further, the staff report relies on CalEnviroScreen (“CES”) for a determination that the area in which the Project is proposed is disproportionately impacted by air emissions. However, CES is a tool developed by the California Environmental Protection Agency (“CalEPA”) for general screening and mapping, to determine candidate areas for provision of funds under the State’s Cap-and-Trade Program, established by Assembly Bill 32. The scoring for CES is performed at the census tract level, and ranks the census tract that includes the Property in a manner generally consistent with the criteria of a disadvantaged community: traffic is only one factor, and other major factors include toxic releases and contaminated groundwater, household lead-based paint, hazardous waste, and ultrafine particulates generally associated with diesel fuels.

The CES program is inappropriate and inaccurate for use on a project-specific basis. Fundamentally, it was never developed for use as an assessment tool for health or ecological risks for a specific area or site. CalEPA published guidance that specifically states CES is not a substitute for analysis under the California Environmental Quality Act (“CEQA”): it specifically states that the term “cumulative impact” has different meanings under CEQA and CES, that CES uses factors that are not relevant to CEQA, and that “cumulative impact” for the purposes of CES does not equate to a cumulative impact under CEQA. Ultimately, CES is a regional or community-wide tool; it therefore cannot supplant project-specific analysis. As stated in CalEPA’s guidance for CES version 2:

“the [CES] score is ***not an expression of health risk, and does not provide quantitative information on increases in cumulative impacts for specific sites or projects.*** Further, as a comparative screening tool, the results do not provide a basis for determining when differences between

scores are significant in relation to public health or the environment” [emphasis supplied].

Put differently, CES does not and could not provide any evidentiary basis for determining the baseline health of a particular community, or even for determining whether and to what extent differences exist between communities. Specifically, the scores assigned by CES to the census tract that includes the Property do not equate to or even indicate any particular impact.

Further, consistent with CalEPA guidance and as described above, the technical studies here contained specific, quantitative analysis of air pollutant emissions, and determined that under a conservative case, the project would generate such emissions at levels well below the thresholds established by the SCAQMD for project-specific and cumulative analysis. Thus, no impact related to air emissions or environmental justice would occur here, and the anticipated air emissions of the Project will not be detrimental to the surrounding community.

**(c) The Approval Complies with the Special Conditions for Specific Conditional Uses, as Listed in Chapter 21.52 of the Municipal Code.**

Section 21.52.206 of the Municipal Code provides certain conditions for, among other uses, car washes and other uses requiring a Conditional Use Permit. We address each of these in turn.

**(i) The proposed use shall not intrude into a concentration of retail uses and not impede pedestrian circulation between retail uses.**

As proposed the car wash will not intrude into a concentration of retail uses and not impede pedestrian circulation between retail uses. The car wash would be developed on a vacant and long-unused portion of an existing commercial property that consists of a dine-in restaurant and service station. As described above, the restaurant and its associated parking are separated from the service station by a low masonry wall, which prevents vehicle and pedestrian circulation between the two uses. Access to and from the Property has been available and would remain available through the restaurant drive aisles, as the Property and restaurant are under common ownership. Further, the Project is designed to integrate with and complement the service station and restaurant, with which it will share existing vehicle access and pedestrian circulation, as needed. Because the Project would existing access patters with the restaurant, consistent with the existing vehicle-related uses, and would integrate with the existing service station, it would not intrude into retail or restaurant uses, and would integrate with existing retail service at the service station. The Project also would maintain existing vehicle and pedestrian access pathways, with the exception of the beneficial elimination of one curb cut (vehicle access point) on Long Beach Boulevard. Therefore, for all of these reasons, the Project would satisfy this Special Condition.

**(ii) The proposed use shall not create unreasonable obstructions to traffic circulation around or near the site.**

The proposed car wash will not create unreasonable obstructions to traffic circulation around or near the site. It has been designed with dual drive-through queuing lanes to substantially exceed the minimum required queuing distance and capacity, to accommodate adequate stacking, and to permit bypassing the car wash, if desired or needed. This will allow the Project to avoid impacts to internal circulation and avoid queuing onto Long Beach Boulevard, even under the conservative assumption that every vehicle trip to the Project is generated by the Project, and not a passerby already on Long Beach Boulevard or Del Amo Boulevard, or planned visit to the gas station or restaurant.<sup>1</sup> Further, the car wash will include an automated payment system, with staff dedicated to assisting visitors with payment and queuing, to ensure efficient movement. The car wash has been designed and oriented in a manner that compliments the site's current internal circulation, and will not interfere at all with the existing restaurant on the larger site, adjacent to the Property. As demonstrated by the site plan in the record, the drive-through is oriented in a manner that facilitates ingress along the easterly portion of the Property with egress to the south, onto Del Amo Boulevard. For all of these reasons, the Project will comply with this Special Condition.

**(iii) No curb cuts shall be permitted within forty feet (40') of any public roadway intersection.**

The proposed car wash does not require and will not create any new or additional curb cuts. As demonstrated by the site plan, an existing approach from Long Beach Boulevard to the service station also will provide access for the Project. Further, as described above, the Project will remove one of the curb cuts on Long Beach Boulevard. Therefore, the Project will comply with this Special Condition.

**(iv) No vehicles may be stored at the site for the purposes of sale, unless the use is also a vehicle sales lot or for use as parts for vehicles under repair.**

The proposed car wash will not result in the storage or the need to store vehicles for sale or repair. The self-serve drive-through car wash is designed as an ancillary use to the existing gas station. No vehicle storage, repairs, or sales are proposed or associated with the proposed car wash. Therefore, the Project will comply with this Special Condition.

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<sup>1</sup> The traffic analysis prepared for the Project by Kimley-Horn Associates and dated [DATE],

**(v) The site shall comply with all applicable development standards for open storage and repair uses specified in chapter 21.45. “Special Development Standards”.**

As previously described above, the proposed car wash will not result in the need to store vehicles for sale or repair. The self-serve drive-through car wash is designed as an ancillary use to the existing fueling facility. No vehicle storage, repairs or sales are associated with the current or proposed use.

**2. The Project is Consistent with Applicable Policies of the General Plan.**

As described above, the Property is located in a highly developed area along an established commercial corridor. General Plan Policy UD2-3 provides for a diversity of uses within a community: here, the Project would provide a modern, high-quality car wash with state-of-the-art noise and air quality and water conservation features. Thus, the Project would expand the available, high-quality uses at the site and in the community.

Further, regarding expansion of retail uses in commercial locations and the PlaceType assigned to the Property, the General Plan Land Use Element recognizes that, “a major challenge in developing some of these locations will be creating sufficient lot depth to support viable retail projects with multiple owners or tenants,” and provides for other uses on such sites. That is exactly the challenge here: the broader site and the Property are highly constrained, with very limited use possibilities. As the staff report recognizes, and as provided in the CBRE letter report and other correspondence in the record, the Property has very limited potential for retail or multi-family development, given the location, configuration, and other uses surrounding the Property. Indeed, the existing restaurant space is undergoing a \$1.4M renovation, and is anticipated to remain in operation for the foreseeable future, given the investment. Similarly, the existing service station on the site is current and anticipated to continue operation. Consequently, although the staff report hypothesizes the possibility of future lot assembly and redevelopment, that is speculative and remote, and no evidence in the record suggests the feasibility of doing so.

To the extent the staff report asserts that cumulative air quality impacts constitute an environmental justice issue that results in a conflict with the General Plan, those claims are not supported by record evidence. As described in detail above in section 1(b)(iii) of this letter, no evidence indicates any significant cumulative air quality impact would occur under regional or more stringent local criteria. Rather, the evidence in the record directly refutes any such claim. Further, tool that forms the basis for the environmental justice claim—CES—is misused here, according to guidance published for CES by CalEPA.

Simply put, nothing in the record actually provides any evidence that the Project runs contrary to environmental justice principles. In fact, just the opposite is true: the Project is carefully designed to avoid impacts, reduces opportunities for conflicts between vehicles and pedestrians at the Long Beach Boulevard entrance to the site and Property, and is proposed by a company with an established track record of community involvement,

Hon. City Councilmembers  
5005 Long Beach Boulevard  
June 13, 2022  
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benefit, and water conservation and handling. Thus, the Project is consistent with the environmental justice principles enumerated in the General Plan.

**3. The City Council Should Grant the Appeal and Approve the CUP.**

As described in detail above, the Project is consistent with the applicable zoning regulations—including the CUP provisions, as described in detail above—and with the applicable provisions of the General Plan. The Project would provide a high-quality, sensitively designed use, on a highly constrained site, consistent with the principles and intent of the General Plan Land Use Element. For all of these reasons, the City Council should grant the appeal and the requested CUP.

Sincerely,



BENJAMIN M. REZNIK and  
NEILL E. BROWER of  
Jeffer Mangels Butler & Mitchell LLP

NB:nb4  
cc: Alexis Oropeza