



## Legislation Details (With Text)

<b>File #:</b>	23-0074	<b>Version:</b>	2	<b>Name:</b>	DS - 1911 E. PCH Appeal Ord 1
<b>Type:</b>	Ordinance	<b>Status:</b>	Adopted		
<b>File created:</b>	1/13/2023	<b>In control:</b>	City Council		
<b>On agenda:</b>	3/7/2023	<b>Final action:</b>	3/7/2023		
<b>Title:</b>	Recommendation to declare ordinance amending the Use District Map of the City of Long Beach as said Map has been established and amended by amending portions of Part 10 of said Map from Regional Highway Commercial (CHW) and Low-density Multi-Family Residential, small lot (R-3-S) to Community R-4-N Commercial (CCN), read and adopted as read. (District 6)				
<b>Sponsors:</b>	Development Services				
<b>Indexes:</b>					
<b>Code sections:</b>					

**Attachments:** 1. 012423-H-15sr&att, 2. 022123-CH-8sr&att.pdf, 3. 022123-CH-8. corresp.pdf, 4. 030723-ORD-25att.pdf, 5. ORD-23-0011.pdf

Date	Ver.	Action By	Action	Result
3/7/2023	2	City Council	approve recommendation and adopt	Pass
2/21/2023	1	City Council	declare ordinance read the first time and laid over to the next regular meeting of the City Council for final reading	Pass
1/24/2023	1	City Council	laid over	Pass

Recommendation to declare ordinance amending the Use District Map of the City of Long Beach as said Map has been established and amended by amending portions of Part 10 of said Map from Regional Highway Commercial (CHW) and Low-density Multi-Family Residential, small lot (R-3-S) to Community R-4-N Commercial (CCN), read and adopted as read. (District 6)

On November 3, 2022, the Planning Commission held a duly noticed public hearing on this project and denied the Conditional Use Permit (CUP) and recommended the City Council adopt a Mitigated Negative Declaration (MND) and approve a Zone change (4-0, with three commissioners absent) (Attachment A).

The project site is an approximately 24,000-square-foot site comprised of three legal lots located at 1911 East Pacific Coast Highway. The corner lot has frontage along Pacific Coast Highway to the south and Gardenia Avenue to the west. A 12-foot-wide alley borders the property to the east (Attachment B). The site is split-zoned Regional Highway Commercial (CHW) and Low-density Multi-family Residential, small lot (R-3-S). Based on Long Beach Municipal Code (LBMC) Section 21.32.020(D)(1), the CHW Zoning District is a commercial use district for mixed scale commercial uses located along major arterial streets and regional traffic corridors. Additionally, based on LBMC Section 21.31.020(K), the R-3-S Zoning District is a three-family residential district specifically for multi-family development on smaller lots. Surrounding uses include a gas station, tire shop, and residential uses.

Currently, the project site is developed with a 3,296-square-foot restaurant, Los Potros, and associated paved surface parking lot. The site is currently fenced off from Gardenia Avenue along the western boundary. Existing residential uses to the north are separated from the site by an approximately three-foot high masonry block wall and additional chain link fencing with slats. There is minimal landscaping on-site.

### **Project Proposal**

The applicant proposes the demolition of the existing restaurant building and surface parking lot to construct a 3,278-square-foot, one-story, car wash building, equipped with standard car wash tunnel equipment. In addition to the 100-foot wash tunnel, the building includes an area for mechanical/electrical equipment and storage (Attachment C). A drive-through lane would be constructed to direct vehicles entering the site from a new driveway along Gardenia Avenue, along the northern property line to a pay station, then southerly to enter the car wash tunnel. Vehicles would exit the southerly end of the car wash building and exit the site via an unnamed alley or through a new driveway onto East Pacific Coast Highway. Vehicles also have the option to park in one of 18 self-service vacuum parking spaces, equipped with one vacuum per space. A new six and a half-foot high decorative masonry wall would be constructed along the northerly property line adjacent to the residential use. The proposed site improvements include landscaping along the property perimeter. The other building on-site located near the southwest corner of the property contains the vacuum room and a restroom. The proposed car wash would operate between 7:00 a.m. to 8:00 p.m. daily. The site improvements include new night lighting and surveillance cameras; increasing security on the property. In addition, the operator intends to contract a 24 hour a day professional security company to monitor the site.

### **Requested Entitlements and Recommended Actions**

The Planning Commission made a recommendation to the City Council to approve a Zone Change and acted to deny the CUP for the car wash at this location. Each entitlement and the Planning Commission's recommendation is discussed below.

Zone Change: The proposal to develop a car wash requires the approval of a zone change because the current R-3-S zoning designation of the northern most lot of the project site would not permit a car wash use. Additionally, the CHW zoning along Pacific Coast Highway is not fully consistent with the adopted General Plan Land Use Element (LUE). Therefore, a zone change would be required to allow for a car wash use, and required findings must be made to support such a zone change (Attachment D). Upon the advice of staff, the applicant requested a Zone Change to Community Commercial (CCN) Zoning District, a mixed-use zoning district (Attachment E). The LUE PlaceType for the property is Neighborhood Serving Corridor or Center-Moderate (NSC-M). The NSC-M PlaceType is one of the most permissive mixed-use PlaceTypes in the General Plan. NSC-M has been applied to transit-rich locations along traditionally commercial corridors in the City of Long Beach (City) to encourage a range of compatible, neighborhood-scale multi-family residential and commercial uses that promote walkability, access to neighborhood services and shopping while creating the capacity for the City to meet its housing obligations. A variety of commercial uses are encouraged to meet consumers' daily needs for goods and services, including but not limited to restaurants, cafes, retail shops, financial institutions, fitness centers and other daily conveniences within walking distance from residential uses. The NSC-M PlaceType has a 1.0 to 1.5 floor area ratio for non-residential uses, and a maximum residential density of 54 units per acre (e.g., moderate-density apartment and condominium buildings), and a general maximum building height limit of seven stories. NSC-M encourages compact, pedestrian-oriented development and discourages large buildings adjacent to single-family homes without proper transitions.

The majority of the project site is currently zoned CHW, a commercial-only zone that does not allow residential uses and does not fully implement the intent of the mixed-use nature of the NSC-M PlaceType as described above. This zoning designation is still in place from the previous LUE, as the subject site has not yet been rezoned to implement the 2019 LUE.

Development of the proposed project would not be possible under the existing split zoning, because the R-3-S zone prohibits car washes. Based on the LUE, "PlaceTypes and Zoning Districts Consistency Matrix LU-6" (page 170), City staff reviewed several zoning districts which for their appropriateness to this site. Ultimately, the CCN Zoning District was found to be the most appropriate mixed-use zone based on density, intensity and the applicant's proposal for a car wash.

The CCN Zoning District permits both commercial and residential uses and still requires a CUP approval to operate a car wash as proposed.

As additional background, this segment of Pacific Coast Highway is within the boundaries of the “Zone In: City Core” (City Core) rezoning effort currently underway by City staff. This is one of several efforts underway to update the Zoning Code and to rezone properties consistent with the General Plan. Based on the General Plan as well as local community feedback and technical work, this rezoning effort aims to improve access to certain commercial uses used daily, encourage pedestrian-friendly design, improve the quality and safety of streets through design and active uses, and encourage the use of multimodal transportation. However, as this rezoning effort is underway, the project is not subject to these future zoning regulations.

The Zone Change request was found to be consistent with the General Plan objectives and the General Plan NSC-M PlaceType. The rezoning also places the site under a single zoning district to facilitate a cohesive redevelopment of the site in the future. Therefore, even though the Planning Commission made a recommendation to deny the CUP as described in further detail below, the Planning Commission recommended approval. The Planning Commission explained that unified zoning across allowed for by the Zone Change and based on all of the findings being made, results in a broader range of community-serving uses is desirable regardless of the merits of this particular car wash proposal. Justification for the Zone Change is discussed in detail in the Zone Change findings. The Zone Change must be adopted by Ordinance, which requires City Council approval.

Conditional Use Permit (CUP): Certain types of land uses, like car washes, due to the nature of the use, require a CUP. The CUP process allows for review of each individual case against a set of required findings so that the Planning Commission can determine if the proposed use is compatible with the surrounding land uses, can be made compatible with conditions of approval, or is incompatible. In order to grant a CUP, the decision-maker must also make a finding that the proposed project is consistent with the General Plan. The area of the lot which is proposed to be developed with the automated car wash is located on the north end of the site and is currently developed with parking. The car wash queuing lane would be offset five feet from the northernmost property line adjacent to an existing apartment building on the abutting property. The apartments would be separated by a six and a half-foot -high wall along the north perimeter wall. The applicant has submitted an Economic and Qualitative Impact Study in support of the redevelopment of the site with a car wash (Attachment F). The car wash would replace an aging building with new modern buildings and add including landscaping along the perimeter of the property. The proposed improvements would result in a net increase in property taxes received due to the sites redevelopment; increasing the amount received from \$15,464 to \$30,391 annually. Another project benefit is the employment of approximately 10 individuals at the car wash on an on-going basis. While there are some economic benefits and aesthetic improvements that the car wash development would have, that is one of many factors that should be considered in context of the required CUP findings.

The Planning Commission found that the proposed car wash design would intensify conflicts between the existing residential parcel to the north and the property subject by locating the car wash queue lane within five feet of a residential property line in. This particular design and layout conflicts with the stated goals of the General Plan and Zoning Code to: 1) buffer sensitive uses ; 2) encourage the redevelopment of parcels with poor land use utilization, and 3) ensure neighborhoods are contain a variety of uses as summarized in the following table (Attachment G).

Table 1: Cup General Plan Consistency Review

Policy/Strategy Number	Policy/Strategy Land Use Element (LU)	Finding
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LU 1-10	Encourage the redevelopment of parcels with poor land utilization such as single-use commercial structures on parcels over 5,000 square feet.	The site is currently developed with a single-use 3,296 commercial structure. The proposed CUP would result in the redevelopment of the site with a single primary building, a carwash tunnel, and two ancillary buildings totaling 3,760 square feet on a 24,083-square-foot lot. This results in a FAR of just 0.15 percent on a 24,083-square-foot lot on a major high transit quality corridor. The resulting car wash and planned landscape improvements would immediately improve the aesthetics of the site but would remain an underutilization of the lot in terms of development potential for 33 new residential dwelling units or other by-right commercial use with a floor area up to 36,124 square feet.
LU 9-1	Protect neighborhoods from the encroachment of incompatible activities or land uses that may have negative impacts on residential living environments.	The project will develop a commercial site into an automated carwash development in which would not protect the adjacent neighborhood from the increased noise and pollution.
LU 10-1	Ensure neighborhoods contain a variety of functional attributes that contribute to residents' day-to-day living, including schools, parks and commercial and public spaces.	The CUP would allow for a new car wash service in the area. The nearest automated car wash is approximately 0.3 miles to the east at 1430 E. Pacific Coast Hwy. This particular service is already available in the area.

The Planning Commission also received extensive public testimony that the proposed use was not desired, would be detrimental to surrounding uses and that automobile-oriented uses were overconcentrated in the surrounding community. Balancing all the testimony and evidence (Attachments H and I), the Planning Commission found that not all the required findings regarding compatibility and consistency with the surrounding uses and General Plan could affirmatively be made in support of the CUP for the car wash. Therefore, the Planning Commission denied the CUP request on the basis that the required findings could not be made. This denial is specific to this proposed car wash design on this specific lot and is not binding over other potential designs or locations as may be contemplated in the future. In contrast, the Planning Commission recommended approval of the Zone Change and adoption of the Mitigated Negative Declaration.

In summary, the Planning Commission recommended approval of the Zone Change but did not approve the CUP. The Commission found that the Zone Change as a standalone request aligns with the NSC-M PlaceType. The rezoning also places the site under a single zoning district to facilitate a cohesive redevelopment of the site in the future; although not for the proposed car wash as the CUP for was not found suitable at this location.

## Appeal

Within the ten-day appeal period an applicant appeal was filed (APL22-005) (Attachment J) appealing the denial of the CUP. The appellant asserted concern that the Planning Commission erred in its determination that the project conflicts with the City's General policies including environmental justice policies, that there is an over-concentration of car washes

and other auto-oriented uses including gas stations and drive throughs in the vicinity, and in determining a residential use was potentially feasible on the project site.

The Planning Commission considered the technical studies and environmental analysis of the Initial Study/Mitigated Negative Declaration (IS/MND) and also considered the relevant policies and requirements related to housing, pollution burden, buffering of sensitive uses, and supporting the development of a variety of community serving businesses. The Commission did not deny the project based on the California Environmental Quality Act (CEQA) related studies' findings or contribution to cumulative impacts. Rather the Planning Commission, within its discretionary authority, found the car wash use at the location to be an undesirable use due to incompatibility with adjacent structures and uses and the inconsistency with General Plan goals and policies. The Planning Commission found there to be a sufficient number of car washes, with two existing car washes within 1,344 linear feet (0.3 miles) of the site to satisfy this community need in the area.

This case, similar to other CUP applications for car washes, requires a careful balancing by the City Council without a clear-cut pre-determined answer. The City Council should consider the environmental burden of placing another auto-oriented use in an over-concentrated neighborhood as well as the opportunity cost of placing a use with limited floor area, limited employment and no housing on a major mixed-use corridor identified in the General Plan. The City Council should however also consider the materials submitted by the applicant, that the project will have some employment and fiscal benefits, that in the short and medium term no other (or superior) project is likely in this location and that denial of this request could result in continued disrepair of this site and blight in the surrounding community.

The City Council in its adjudicatory capacity is tasked with reviewing this appeal "de novo" and can take action to deny the project, approve, or conditionally approve the project as a whole or in part in accordance with the LBMC CUP findings. As no single project can implement all goals and policies of the General Plan, the City Council should consider whether there are merits of the appeal and the policy tradeoffs inherent in this application, as there are a variety of policies and considerations that are appropriate to consider from the General Plan, including the CEQA findings, in this case. Upholding the Planning Commission's denial could result in the continuation of the existing restaurant and aging building for an unknown period of time.

### **Public Hearing Notice**

A notice of public hearing was mailed on January 9, 2023, in accordance with the requirements of Chapter 21.21 of the LBMC. A notice of public hearing was also published in the Long Beach Press-Telegram on January 9, 2023, also in accordance with the requirements of Chapter 21.21. No public comments were received at the time at which this report was written.

### **Environmental Review**

Pursuant to the CEQA and the State CEQA Guidelines, an Initial Study/ Mitigated Negative Declaration (IS/MND 06-22) (Attachment K - IS/MND) has been prepared for the project and finds that, by implementing identified mitigation measures for Air Quality, Cultural Resources, Energy, Greenhouse Gas Emissions, Noise, Transportation, and Tribal Cultural Resources, the project will not result in significant effects to the environment. The IS/MND was circulated for a 30-day public review period between June 1 and June 30, 2022.

Since public circulation, the City identified an administrative update to the proposed project description in the Draft IS/MND. Potential impacts and revisions resulting from the modification to the previously analyzed project are presented in an Errata memo which was issued on September 30, 2022 (Attachment L - Errata Memo). The revisions represent minor modifications to the previously analyzed project and do not change the conclusions presented in the Draft IS/MND. Overall, the revised project would not create any new potentially significant impacts or the need for additional mitigation measures. Consistent with CEQA Guidelines Section 15073.5, recirculation of the Draft IS/MND is not required.

The preparation and public availability of this IS/MND has been carried out in compliance with the provisions of CEQA and the CEQA Guidelines. The Planning Commission recommended that the City Council adopt and certify IS/MND 06-22.

This matter was reviewed by Deputy City Attorney Erin Weesner-McKinley on January 5, 2023 and by Revenue Management Officer Geraldine Alejo on December 21, 2022.

The Development Services Department is required to transmit the Planning Commission's recommendation to the City

Council within 60 days of positive action by the Planning Commission, per Section 21.25.103 of the Zoning Regulations. The Planning Commission made a positive recommendation on this project's zone change and denied the CUP on November 3, 2022. However, the City Council meeting on January 24, 2023 was the first available date for a public hearing.

This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with City Council priorities. There is no fiscal or local job impact associated with this recommendation.

Approve recommendation.

AN ORDINANCE OF THE CITY COUNCIL OF THE  
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HIGHWAY COMMERCIAL (CHW) AND LOW-DENSITY  
MULTI-FAMILY RESIDENTIAL, SMALL LOT (R-3-S) TO  
COMMUNITY R-4-N COMMERCIAL (CCN)

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