



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Councilmember  
Donald Rocha

**SUBJECT:** BASCOM AVE. CAR WASH

**DATE:** January 19, 2018

Approved

Date

1-19-18

PH

## RECOMMENDATION

Approve the Conditional Use Permit and Site Development Permit as proposed, with the following amendments:

1. Decline to approve car wash on site
2. Require that the 7-foot wall along the rear property line be reduced to a height of no more than 3 feet for the first 6 feet back from the Woodard frontage, to ensure adequate visibility of pedestrians walking along the south side of Woodard Rd.
3. Direct staff to ensure that the existing access easement along the rear of the site maintains an acceptable width.

## ANALYSIS

I appreciate that some of my colleagues may have a different opinion on this project than I do. Reasonable people can disagree and I respect their opinions, but I do want to offer a clear explanation of the reason for my position.

In October of 2012, the Council was presented with a similar car wash project on Camden Avenue. The plan contained a 35 ft. setback from the car wash to the adjacent residential property line. The Council was not willing to approve this plan, in part because of the small setback, and gave the applicant the opportunity to redesign the site to make it more compatible with the surrounding neighborhood.

The project returned in June 2015 with significant changes to the site plan. The amended project had a setback of 85 ft. The Council was comfortable with the revised site plan and voted to approve the project.

It's very important to me to be consistent in my land use decisions. If we felt that a 35 foot setback was unacceptable for the Camden project, which backed up to single family houses located in the City of Campbell, it's hard for me to justify supporting the 25 foot setback on the Bascom project, which backs up to apartment buildings located in San Jose.

Below I have included a to-scale diagram that compares the original Camden site plan, the revised Camden site plan, and the proposed Bascom site plan for the purpose of illustrating the consistency issue.

Project	Camden Car Wash Plans		Bascom Car Wash Plan
	First Plan	Final Plan	
<b>Diagram of Setback</b>			
<b>Council Action</b>	<p>Did Not Approve (10/23/12)</p>	<p>Approved (6/23/15)</p>	<p>???</p> <p>(1/23/18)</p>
<b>Setback from Property Line</b>	35 ft.	85 ft.	25 ft.
<b>Type of Adjacent Property</b>	Single Family Unit	Single Family Unit	Apartment Unit



I also wanted to address the suggestion made at the previous hearing on this issue that because the Council approved a rezoning of this site in 2013, we are now obligated to approve a car wash. This assertion is incorrect. Here's an excerpt from the October 29, 2013 staff report on the rezoning heard at the October 29, 2013 City Council meeting:

On June 18, 2013 the applicant filed a Preliminary Review Application (File No. PRE 13-112) proposing the addition of an automatic drive-through car wash to the existing gas station facility. Drive-through uses are not permitted in the current CP Commercial Pedestrian Zoning District and are a conditional use in the proposed CN Commercial Neighborhood Zoning District. Staff indicated that a rezoning and *subsequent Conditional Use Permit for the drive-through car wash use would be required. A Conditional Use Permit application has not been filed.*

As you can see from the italicized portion, staff clearly stated at the time that the rezoning was approved that a Conditional Use Permit would be needed before a car wash could be built, and that a Conditional Use Permit application had not even been filed. No community outreach was conducted as part of this rezoning, and because a CUP had not been filed, no outreach or staff analysis had been completed for the car wash proposal. It should go without saying that the Council cannot commit itself to approving a project before an application has been filed, community outreach has been conducted, and staff analysis has been completed.

As a final note, I just want to acknowledge that all of us on the Council are committed to treating all residents the same, not matter what type of residential development they live in. The applicant, however, has expressed a very particular attitude towards renters. Sam Andary, CFO of Andarys Enterprise Inc., wrote in his December letter to the Council that opposition to this development is coming from renters "whose commitment to the neighborhood, does not extend beyond the sunset of their 6-month lease." He's perfectly free to express his opinion, but this comment does make me hesitate in evaluating his commitment to accommodating the interests of adjacent residents.

I'd be very open to revisions to the site plan that would move the car wash farther away from the adjacent residential, but in the many months I have been tracking this project I have not seen any change to the location of the car wash on the site plan, and thus cannot support the project. If the Council does decide to support the project, I would recommend adding the following conditions:

**Sound Report Recommendations:**

1. Addition of a 12-foot tall, retractable vinyl sound shield (equivalent to the Airlift XRS series) will be installed at the exit facade of the carwash. This shield will deploy during dryer operation and fully shield the eastern property line. The surface density of the vinyl shall be no less than 1 lb/sqft2 to provide adequate transmission loss to serve as an acoustic barrier;
2. The proposed dryer shall not exceed 79dBA and the Permittee shall include

specifications for the selected model;

3. A trash enclosure will be constructed to conceal the dumpster onsite. This enclosure will be 12 feet tall, 16' 6" in length and positioned such that it breaks the line of sight from the carwash entrance to one of the residential properties to the southeast. This barrier will provide insertion loss for receivers to the southeast.

4. The Permittee shall submit a compliance review Noise Study verifying that the proposed plans comply with the supplemental Noise Study dated December 4, 2017; and

**Other Conditions:**

5. Specify that the car wash may not begin operation earlier than 8:30 am on weekdays to avoid conflicts with morning drop-off traffic at Farnham Elementary School.

6. On the current site plan, access is allowed between the gas station parking lot and the access easement that runs along the rear of the site in two places, one at the north end of the site near Woodard Rd. and one at the South end of the site. If the car wash is approved, I would recommend considering closing off the norther connection with a physical barrier, such as a curb or median, to prevent car wash traffic from existing directly onto Woodard Rd. and instead encourage traffic to exit onto Bascom. The diagram at right illustrates this proposal.

