

GARDEN GROVE CITY COUNCIL

RESOLUTION NO. 9327-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING THE APPEAL OF MIKE HENNESSEY/HENNESSEY GROUP, OVERTURNING THE PLANNING COMMISSION'S DECISION TO APPROVE VARIANCE NO. V-011-2015, AND THEREBY DENYING V-011-2015 IN FULL

WHEREAS, the subject case was initiated by David Webber ("Applicant");

WHEREAS, the Applicant is requesting approval of a Variance to deviate from the required number of parking spaces, Municipal Code Section 9.18.140.030 (Parking Spaces Required), to allow the operation of a new 14,300 square foot restaurant/eating establishment, East Seafood Buffet, at 11102 Garden Grove Boulevard. The subject site is located on the south side of Garden Grove Boulevard, west of Euclid Street, at 11100 and 11102 Garden Grove Boulevard, (Assessor's Parcel Nos. 099-105-40 & 42);

WHEREAS, pursuant to Resolution No. 5848-15, the Planning Commission, following a Public Hearing held on September 3, 2015, approved Variance No. V-011-2015;

WHEREAS, the Appellant, Mike Hennessey/Hennessey Group has appealed the Planning Commission's approval of Variance No. V-011-2015;

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA"), the City of Garden Grove has determined that the proposed project is categorically exempt from CEQA pursuant to Section 15301 (Existing Facilities) and Section 15332 (In-Fill Development Projects) of the CEQA Guidelines (14 Cal. Code Regs., Section 15301 and Section 15332);

WHEREAS, pursuant to legal notice duly given, a Public Hearing was held by the City Council on November 10, 2015, and all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council gave due and careful consideration to the matter during its meeting of November 10, 2015.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE HEREBY RESOLVES, DETERMINES, AND FINDS AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and are incorporated herein by reference.

SECTION 2. A copy of Planning Commission Resolution No. 5848-15 is on file in the office of the City Clerk, was concurrently submitted in the agenda materials for the September 3, 2015, Public Hearing regarding Variance No. V-011-2015

(hereafter, "Variance"), and incorporated herein by reference with the same force and effect as if set forth in full.

SECTION 3. In order to approve the Variance, all of the findings required by California Government Code Section 65906 and set forth in Garden Grove Municipal Code Section 9.32.030.D.6 must be made. In this case, based on the totality of information provided, the City Council finds that for the following reasons the following required finding for approval of the requested Variance cannot be made:

Required Finding:

The granting of the requested Variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located.

Reasons Required Finding Cannot Be Made:

The Applicant is proposing to operate a restaurant in a portion of the 30,000 square foot building that was previously occupied entirely by an Office Depot retail use. The parking demand generated by the proposed restaurant use is anticipated to be significantly greater than the parking demand generated for a retail use in the same tenant space. As a result, the Applicant is requesting a variance to allow it to offer 44 (or 19.8%) fewer parking spaces on the subject Site than would otherwise be required by the Municipal Code for the combination of uses proposed.

The subject Site is functionally part of a larger shopping center with a Reciprocal Easement Agreement (REA) providing for reciprocal access and parking between the subject Site and the adjacent properties occupied by Costco Wholesale and Del Taco. As indicated by the testimony and evidence provided at the Public Hearing, observed parking and circulation challenges already exist in this shopping center. Because the proposed new restaurant use would generate more parking demand than the retail use that previously occupied the same tenant space, granting of the requested Variance to permit operation of the proposed restaurant will result in an overall reduction in available parking for the shopping center as a whole, thus potentially exacerbating the existing parking and circulation challenges in the shopping center.

Evidence was presented that granting of the requested Variance, which would allow for the operation of a restaurant use that has a higher parking demand than a retail use, would result in a reduction in the availability of parking for customers of other businesses within the shopping center, which would result in a loss of sales and harm to these businesses. Additionally, both the Appellant and Del Taco have expressed opposition to the approval of the requested Variance citing concerns relating to, but not limited to, loss of availability of parking spaces on their properties and negative economic impacts to the existing Del Taco restaurant. Significant loss of sales, reduction in property values, or other harm to these adjacent businesses would be contrary to the City's interests and detrimental to the overall public welfare. The

evidence provided by the Applicant and/or in the record does not sufficiently demonstrate that granting of the requested Variance to allow operation of the proposed combination of restaurant and retail uses on the Site without the addition of the parking spaces required by the Municipal Code will not adversely affect the neighboring properties or exacerbate the existing parking and circulation issues in the area, even with the Conditions of Approval proposed.

For these reasons, the City Council concludes that it is unable to affirmatively make the required finding that the granting of the requested Variance would not be materially detrimental to the public welfare or result in injury to the property or improvements in the same vicinity and zone as the subject Site.

RELIANCE ON THE RECORD

Unless otherwise provided, each and every one of the findings and conclusions in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the requested Variance. The findings and conclusions constitute the independent findings and conclusions of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole. Unless otherwise provided, all summaries of information in this Resolution are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 4. Based upon the foregoing findings, and upon the facts, findings and reasons set forth herein, the Appellant's appeal is hereby approved, the Planning Commission's decision is overturned, and Variance No. V-011-2015 is hereby denied.

Adopted this 10th day of November 2015.

ATTEST:

/s/ BAO NGUYEN
MAYOR

/s/ TERESA POMEROY, CMC
DEPUTY CITY CLERK

