



A G E N D A

GARDEN GROVE PLANNING COMMISSION

REGULAR MEETING

AUGUST 6, 2015

COMMUNITY MEETING CENTER
11300 STANFORD AVENUE

REGULAR SESSION - 7:00 P.M. COUNCIL CHAMBER

ROLL CALL: CHAIR O'NEILL, VICE CHAIR KANZLER
COMMISSIONERS MAI, MARGOLIN, PAK, PAREDES, ZAMORA

Members of the public desiring to speak on any item of public interest, including any item on the agenda except public hearings, must do so during Oral Communications at the beginning of the meeting. Each speaker shall fill out a card stating name and address, to be presented to the Recording Secretary, and shall be limited to five (5) minutes. Members of the public wishing to address public hearing items shall do so at the time of the public hearing.

Any person requiring auxiliary aids and services due to a disability should contact the City Clerk's office at (714) 741-5035 to arrange for special accommodations. (Government Code §5494.3.2).

All revised or additional documents and writings related to any items on the agenda, which are distributed to all or a majority of the Planning Commissioners within 72 hours of a meeting, shall be available for public inspection (1) at the Planning Services Division during normal business hours; and (2) at the City Council Chamber at the time of the meeting.

Agenda item descriptions are intended to give a brief, general description of the item to advise the public of the item's general nature. The Planning Commission may take legislative action it deems appropriate with respect to the item and is not limited to the recommended action indicated in staff reports or the agenda.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

- A. ORAL COMMUNICATIONS - PUBLIC
- B. APPROVAL OF MINUTES: July 16, 2015
- C. ITEMS FOR CONSIDERATION (Not a Public Hearing)
 - C.1. VARIANCE NO. V-011-2015

APPLICANT: DAVID WEBBER
LOCATION: SOUTH SIDE OF GARDEN GROVE BOULEVARD,
WEST OF EUCLID STREET AT 11100 AND 11102
GARDEN GROVE BOULEVARD (CIVIC CENTER CORE
(CC-3) ZONE)

REQUEST: For the Planning Commission to consider and act on a proposed Resolution denying the Applicant's request for Variance approval 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. A Public Hearing was held on June 18, 2015 and July 16, 2015. On July 16, 2015, following conclusion of the Public Hearing, the Planning Commission voted to direct Staff to prepare a Resolution of Denial of the requested Variance for its consideration.

STAFF RECOMMENDATION: Staff recommends the Planning Commission either, (1) adopt the proposed Resolution denying Case No. Variance No. V-011-2015 and authorize the Chair to execute said Resolution, or (2) provide further direction to Staff.

- D. MATTERS FROM COMMISSIONERS
- E. MATTERS FROM STAFF
- F. ADJOURNMENT

GARDEN GROVE PLANNING COMMISSION
Community Meeting Center, 11300 Stanford Avenue, Garden Grove, CA 92840

Regular Meeting Minutes
Thursday, July 16, 2015

CALL TO ORDER: 7:00 p.m.

ROLL CALL:

Chair O'Neill
Vice Chair Kanzler
Commissioner Mai
Commissioner Margolin
Commissioner Pak
Commissioner Paredes
Commissioner Zamora

Absent: Mai, O'Neill

PLEDGE OF ALLEGIANCE: Led by Margolin.

ORAL COMMUNICATIONS - PUBLIC: None.

JUNE 18, 2015 MINUTES:

Action: Received and filed.

Motion: Margolin Second: Zamora

Ayes: (5) Kanzler, Margolin, Pak, Paredes, Zamora
Noes: (0) None
Absent: (2) Mai, O'Neill

CONTINUED PUBLIC HEARING - VARIANCE NO. V-011-2015. FOR PROPERTY LOCATED AT 11100 AND 11102 GARDEN GROVE BOULEVARD, SOUTH SIDE OF GARDEN GROVE BOULEVARD, WEST OF EUCLID STREET.

Applicant: David Webber
Date: July 16, 2015

Request: Variance approval 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 site is in the CC-3 (Civic Center Core) zone.

Action: Continued Public Hearing held. One letter of opposition

submitted by Costco Wholesale and a second letter of opposition submitted by Josh McIntosh were entered into the record. Speaker(s): David Webber (Applicant), Xiu Fang Chen (Proposed Restaurant Owner), Gil Cozine (Costco Wholesale), Graham Allchorn (Red Mountain Retail Group on behalf of property owner), Tiffany Giordano (RK Engineering Group, Inc.). Commissioner Zamora advised the Commission that she had been contacted by three (3) members of the public, the owner of the Del Taco restaurant adjacent to the subject Site, Josh McIntosh, and another resident, each of whom expressed concerns regarding the proposed Variance. The Public Hearing was closed.

Action: A motion by Commissioner Pak to adopt a Resolution to approve the requested Variance was withdrawn by Commissioner Pak prior to being seconded.

Action: A motion to direct staff to prepare, for consideration by the Planning Commission at the next regular Planning Commission meeting, a Resolution of Denial of the requested Variance based on the inability of the Commission to make the following required Finding required for approval of the Variance for the reasons stated by Costco Wholesale and articulated by the Planning Commissioners at the meeting:

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.

Motion: Margolin Second: Zamora

Ayes: (3) Margolin, Paredes, Zamora

Noes: (2) Kanzler, Pak

Absent: (2) Mai, O'Neill

MATTERS FROM COMMISSIONERS: Commissioner Zamora commented that a Vietnamese coffee house on Lincoln Way was always packed with customers even though the business was dirty with tables on the sidewalk. She spoke to the owner regarding clean up and the tables, however, a week later there had been no change. She also mentioned the parking lot was dangerous, especially with the wrought iron fence on the corner, which splits and obstructs the shared driveway on Euclid Street. Staff replied that the Dalat property owner installed the fence to delineate his property from the corner property and that the owners do not have a congenial relationship.

Commissioner Zamora then mentioned that drivers going northbound on Taft Street into the Costco parking lot were backed up and asked if there was a solution to the congestion and also wondered if southbound drivers were making illegal left turns over the double yellow lines. Staff responded that there was no room to widen the intersection nor to fit a turn pocket and that it was not illegal to turn left over the double yellow lines. Zamora also asked for a solution, perhaps an eye-level sign, to prohibit drivers from making illegal left turns from Taft Street onto Garden Grove Boulevard. Staff replied that the vicinity already had too many signals and that the Police Department and Traffic Engineering Division would revisit and study the area.

Commissioner Kanzler asked staff to provide information on Assembly Bill 551 (AB551), the Urban Agriculture Incentive Zone.

MATTERS FROM STAFF: Staff stated that the requested Resolution of Denial would be brought back to the Thursday, August 6, 2015 Planning Commission meeting and that the Thursday, August 20, 2015 Study Session at 6:00 p.m. would include the General Plan, Zoning, Mixed Use, and AB551.

ADJOURNMENT: At 8:55 p.m. to the next Regular Meeting of the Garden Grove Planning Commission on Thursday, August 6, 2015, at 7:00 p.m. in the Garden Grove Council Chamber, 11300 Stanford Avenue, Garden Grove.

Motion: Margolin Second: Zamora

Ayes: (5) Kanzler, Margolin, Pak, Paredes, Zamora

Noes: (0) None

Absent: (2) Mai, O'Neill

Judith Moore, Recording Secretary

COMMUNITY DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

AGENDA ITEM NO.: C.1.	SITE LOCATION: South side of Garden Grove Boulevard, west of Euclid Street, at 11100 and 11102 Garden Grove Boulevard
HEARING DATE: August 6, 2015	GENERAL PLAN: Civic Center Mixed Use
CASE NO.: Variance No. V-011-2015	ZONE: CC-3 (Civic Center Core)
APPLICANT: David Webber	CEQA DETERMINATION: Exempt
PROPERTY OWNER(S): Emerald Square II, LLC	APN: 099-105-40 & 42

REQUEST:

For the Planning Commission to consider and act on a proposed Resolution denying the Applicant's request for Variance approval 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.

DISCUSSION:

On July 16, 2015, following conclusion of the Public Hearing, the Planning Commission voted 3-2 (Commissioners O'Neill and Mai absent) to direct Staff to prepare a Resolution of Denial of the requested Variance for its consideration, based on the inability of the Commission to make the following required finding for approval of a variance, based on the reasons stated by Costco Wholesale and articulated by the Planning Commissioners at the meeting:

"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."

Staff has prepared the attached Resolution of Denial for the Planning Commission's consideration.

Subsequent to the July 16th meeting, the Applicant's representative provided Staff with an email containing additional information and conditions the Applicant would be willing to accept if the Planning Commission would reconsider its decision to deny the Variance request. A copy of this email is attached to this Report. The Public Hearing for this matter has been closed. Therefore, if the Planning Commission wishes to reconsider its action of July 16th and/or take further public testimony or evidence on this matter, a new Public Hearing will need to be scheduled and noticed.

RECOMMENDATION:

Staff recommends that the Planning Commission either:

1. Adopt the proposed Resolution denying Variance No. V-011-2015, and authorize the Chair to execute the Resolution; or
2. Provide further direction to Staff.



Karl Hill
Planning Services Manager



By: Chris Chung
Associate Planner

Parking Variance No. V-011-2015 Reconsideration Request

From : David W <david@rdscompany.com>

Fri, Jul 17, 2015 02:53 PM

Subject : Parking Variance No. V-011-2015 Reconsideration Request**To :** chrisc@ci.garden-grove.ca.us, Karl Hill <karlh@ci.garden-grove.ca.us>**Cc :** Graham Allchorn <GAllchorn@rmrginc.com>, joycechen99@yahoo.com

Hi Chris & Karl,

Per our conversation this morning Chris, the applicant would like staff to provide the planning commission with additional information and conditions that we would be willing to accept in order for the planning commission to reconsider the resolution for our Variance No. V-011-2015 being voted on at the August 6th, 2015 public hearing.

1. Per the email below, the Tenant is willing to provide managed valet parking during peak hours of restaurant activity. This would alleviate any further parking concerns on our site and would also help to police the overflow parking coming from the Costco property onto our site.
2. The property owner is willing to add pedestrian crossing signage and flashing stop signs at the two major exits of their property on to Garden Grove Blvd. indicating that there is pedestrian and bicycle traffic crossing the drive-aisle in those areas to provide additional visibility and measures to preserve public safety.
3. Please also advise the commission that per current code and zoning, our building can be re-tenanted with any reasonable retail use as allowed by current code & zoning by right at 5/1000 without any parking variance and no additional conditions for improvement. We have requested our variance as we would prefer to tenant our building as currently proposed with East Seafood Buffet and provide the improvements requested by staff with this approval rather than doing nothing as we think it makes it a better development both for us and for the city overall.

Please confirm receipt of this request and we will be in attendance at the hearing on 8/6/15 to answer any questions or to provide any further clarifications if requested by the planning commission for their reconsideration for an approval of our variance request.

Sincerely,

David T. Webber

Retail
Development
Solutions
5670 Wilshire Blvd. – Suite 1800

RESOLUTION NO. 5848-15

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE DENYING CASE NO. VARIANCE NO. V-011-2015, A REQUEST FOR A VARIANCE TO DEVIATE FROM THE REQUIRED NUMBER OF PARKING SPACES FOR PROPERTIES LOCATED AT THE SOUTH SIDE OF GARDEN GROVE BOULEVARD, AT 11100 AND 11102 GARDEN GROVE BOULEVARD, PARCEL NOS. 099-105-40 AND 42.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on August 6, 2015, does hereby deny Case No. Variance No. V-011-2015.

BE IT FURTHER RESOLVED in the matter of Variance No. V-011-2015, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by David Webber on behalf of the property owner, Emerald Square II, LLC ("Applicant").
2. The subject Site is located on the South side of Garden Grove Boulevard at 11100 and 11102 Garden Grove Boulevard and consists of two properties identified as Assessor's Parcel Numbers 099-105-40 and 099-105-42. The two properties have a combined gross area of approximately 2.5 acres, make up an integrated development, and are developed with an existing approximately 30,000 square foot building and 152 on-site surface parking spaces. The 30,000 square foot building has recently been divided into two separate tenant spaces.
3. The property has a General Plan Land Use designation of Civic Center Mixed Use, and is currently zoned CC-3 (Civic Center Core).
4. The Applicant is requesting Variance approval 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, in a newly created tenant space with an address of 11102 Garden Grove Boulevard, in conjunction with the operation of an Office Depot retail establishment in a newly modified smaller tenant space with the address of 11100 Garden Grove Boulevard. The Garden Grove Municipal Code requires a minimum of 222 parking spaces for the combined proposed two uses on the subject Site. Since there are only 152 parking spaces on the subject Site, the Applicant has requested a Variance from the required number of onsite parking spaces required in order to allow for the proposed combination of uses on the subject Site.
5. 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.
6. Existing land use, zoning, and General Plan designation of property in the vicinity of the subject property have been reviewed.

7. Report submitted by City staff was reviewed.
8. Pursuant to a legal notice, a public hearing was opened on June 18, 2015, and duly continued to, and held on, July 16, 2015, and all interested persons were given an opportunity to be heard. The public hearing was closed on July 16, 2015.
9. Following the conclusion of the public hearing on July 16, 2015, and after giving due and careful consideration to the matter, the Planning Commission voted to direct City staff to prepare this Resolution denying the Applicant's requested Variance based on the facts and reasons stated in this Resolution. The Planning Commission gave further due and careful consideration to this matter prior to adopting this Resolution on August 6, 2015.
10. Because the application is denied, the Project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to the provisions of Article 19, Section 15270(a) of the CEQA Guidelines.

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Planning Commission, as required under Municipal Code Section 9.32.030 are as follows:

FACTS:

The subject (2) properties (with Assessor's Parcel Nos. 099-105-40 & 42) have a gross lot area of approximately 2.5 acres, making up an integrated development, and are developed with an existing approximately 30,000 square foot building. The properties are zoned CC-3 (Civic Center Core) and have General Plan Land Use Designations of Civic Center Mixed Use. The properties abut CC-3 zoned properties to the north, across Garden Grove Boulevard, south, east, and west.

The existing 30,000 square foot building is located in the center with parking lots located at the front, fronting along Garden Grove Boulevard, and at the rear, behind the building, to the south. The Site provides a total of 152 parking spaces, of which eighty-four (84) parking spaces are located in the front parking lot area, and the remaining sixty-eight (68) parking spaces are located in the rear parking lot area.

Office Depot previously occupied the entire existing 30,000 square foot building. In April of 2015, a building permit was obtained for the construction of a demising wall, splitting the existing 30,000 square foot tenant space into a 15,700 square foot tenant space and a 14,300 square foot tenant space. Office Depot has downsized its operation and is now occupying the 15,700 square foot tenant space, with the address of 11100 Garden Grove Boulevard. If the Variance were approved, the proposed East Seafood Buffet restaurant would occupy the newly created 14,300 square foot tenant space, which has a new address of 11102 Garden Grove Boulevard.

For a retail commercial use under 40,000 square feet in gross floor area, the Garden Grove Municipal Code ("Code") requires a minimum of one (1) parking space per 200 square feet of gross floor area. Thus, prior to the division of the existing 30,000 square foot Office Depot tenant space, Code required a minimum of 150 parking spaces for the Office Depot retail use. The existing site provides a total of 152 total parking spaces, which is a surplus of two (2) parking spaces above the minimum required if the entire building contained retail uses.

Following the division of the existing 30,000 square foot tenant space into two (2) tenant spaces, the Office Depot will occupy the 15,700 square foot tenant space. Based on the Code requirement of a minimum of one (1) parking space per 200 square feet of gross floor area for retail uses, a minimum of seventy-nine (79) parking spaces would thus be required by Code for the reduced-sized Office Depot retail store ($15,700/200 = 78.5$). For restaurant/eating establishment uses in this location, the Garden Grove Municipal Code requires a minimum of one (1) parking space per 100 square feet of gross floor area – or double the amount required for retail uses. Thus, the proposed East Seafood Buffet restaurant, which would occupy the newly created 14,300 square foot tenant space, would require a minimum of 143 parking spaces ($14,300/100 = 143$). Therefore, based on Code for restaurant and retail land use parking rates, a total of 222 parking spaces ($79 + 143$) would be required for the subject Site for the proposed combination of restaurant and retail uses on the Site.

Since only 152 parking spaces are currently provided on the Site, there are seventy (70) (or approximately thirty-two percent (32%)) fewer parking spaces provided on the Site than would typically be required by Code. Municipal Code Section 9.18.140.060, Joint Use and Parking Management, states that when there is any reduction in parking beyond ten percent (10%), a parking management plan is required. However, said reduction may not exceed twenty-five percent (25%). Therefore, because the subject proposal exceeds the twenty-five percent (25%) threshold allowed by Code, the Applicant has requested approval of a Variance to deviate from the minimum number of required parking spaces and to allow it to operate its proposed combination of retail and restaurant uses with only the existing 152 spaces provided.

The subject Site is functionally part of a larger shopping center. To the west of the subject Site is an existing fast-food drive-thru eating establishment, Del Taco, and an existing large retail store, Costco Wholesale. A driveway runs along the westerly property line of the subject Site which provides reciprocal access to the Del Taco and Costco Properties utilizing the existing driveways. A Reciprocal Easement Agreement (REA) exists between the owners of three (3) sites, which provides for reciprocal access and shared parking between the subject Site and the Costco and Del Taco Properties. The REA also purports to provide for a specified number of parking spaces to be maintained on each of the properties subject to the REA according to the types of uses located on the properties.

Costco Wholesale submitted a letter, dated June 16, 2015, which was entered into the record at the public hearing. In its letter, Costco Wholesale objected to the proposed Variance on the basis that, due to the layout between the Costco Property and the Office Depot Property, the Costco parking lot will become the default parking area for the proposed restaurant, which will materially and adversely impact Costco's business operations. In addition, Costco asserted in its letter that the proposed combination of retail and restaurant uses on the subject Site would violate the terms of the REA between the owners of the Costco Property, the Del Taco Property, and the subject Site due to the increased number of parking spaces required for a restaurant use. A representative of Costco appeared at the public hearing and reiterated the concerns expressed in Costco's letter. The Costco representative also testified that Costco is aware of numerous negative comments from customers about the current availability of convenient parking for Costco and that operation of the proposed restaurant use will result in further reduced availability of parking spaces for Costco's customers, exacerbate the current parking challenges, and result in potential customers choosing not to shop at Costco. The Costco representative estimated the potential sales loss to Costco as a result of the additional parking demand generated by the proposed new restaurant within the shopping center could be as much as \$2.5 million per year.

Several emails from a nearby resident were also introduced into the record at the public hearing. In these emails, the resident noted existing parking and traffic problems associated with the Costco parking lot, asserted that Costco customers frequently park in the Office Depot parking lot, and concluded that approval of the Variance would result in more traffic problems and congestion in the area in which the subject Site is located and would be detrimental to the neighborhood in which the resident lives.

California Government Code Section 65906 places express limitations on the granting of variances. In addition to these minimum standards for variances imposed by State law, Garden Grove Municipal Code Section 9.32.030.D.6 contains additional findings that must be made in order to grant a property owner's request for a variance.

FINDINGS AND REASONS:

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 Planning Commission 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 70 (or 32%) 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.

Costco Wholesale provided evidence that granting of the requested Variance would result in a reduction in the perceived availability of parking for its customers, which would result in a material loss of sales and harm to its business. Costco Wholesale also indicated that operation of the proposed restaurant would violate the terms of the REA between the owners of the subject Site, the Costco site, and the Del Taco Site due to the higher parking demand of a restaurant use. It is reasonable to conclude that the additional parking demand generated by the proposed restaurant would have similar adverse impacts on Del Taco. 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 additional parking spaces will not adversely affect the neighboring properties or exacerbate the existing parking and circulation issues in the area.

For these reasons, the Planning Commission 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 Planning Commission 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.

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. The requested Variance does not possess characteristics that would justify the request in accordance with Municipal Code Section 9.32.030.D.6 (Variance).
2. The applicant's request for Variance No. V-011-2015 is denied in its entirety.