

DROBNY LAW OFFICES, INC.

A Professional Corporation

Attorneys

Mark S. Drobny*‡
Colin T. Smith*
Juliette T. Robertson
Emily A. Foehr

*Master of Laws (LL.M.) in Taxation

‡ Certified Specialist, Estate Planning, Trust and Probate Law,
The State Bar of California Board of Legal Specialization

Legal Assistants

Michelle Glenn
Tracy Wilson
Ann von Platen
Barbara Goulding
Monique Mitchell
Gloriela Garcia

November 8, 2011

Mayor Kevin Johnson and City Council Members

Via E-mail ONLY at: dhung@cityofsacramento.org;
gbitter@cityofsacramento.org;
Lalagozian@cityofsacramento.org

RE: 4080 Truxel Road, Sacramento, California
The River City Church

Dear Mayor Kevin Johnson and City Council Members:

I am a neighboring property owner to the 4080 Truxel Road, Sacramento, California property. I am also a member of the Natomas Crossing Business Owner's Association, an association of property owners of which 4080 Truxel Road is included. I appealed the approval of the permit for the River Church. I would like to express my concerns regarding the approval of this permit.

Parking

Of major concern is the parking for 4080 Truxel Road. The assembly hall is designed to hold 292 people. The River Church is allotted 87 parking spaces. This discrepancy in parking will affect the entire business park especially during normal business hours Monday through Friday, as the parking is clearly insufficient.

The River Church argued that parking will not be an issue on weekdays during business hours as they do not hold many functions during that time. However, the River Church admittedly currently leases space at Inderkum High School on Sundays and has no facilities Monday through Saturday and no doubt will initiate additional activities once they own a building 24/7 and holds a week long Bible School during the year, funerals, weddings, community luncheons and other events during normal business hours and plans to increase the frequency of those activities once they have their own facility and no longer rent Inderkum High School on Sundays. The River Church currently rents at a high school only on Sundays, so past activities will not dictate their future activities. Without a solution, these events will cause parking congestion issues during normal business hours and interfere with adjacent owners' use and enjoyment of their property Monday through Friday, 8 a.m. to 5 p.m.

At the public hearing, the resolution offered by the Community Development Department was a parking attendant, who would direct cars to the designated spaces. However, this will not increase the number of parking spaces available to the River Church. Even if all 292 people doubled up, taking 146 cars, there would be a deficiency of 59 spaces. There is no condition of requiring a parking attendant in the proposed occupancy permit.

4180 Truxel Road, Suite 100
Sacramento, CA 95834
(916) 419-2100 Fax (916) 419-1222
E-Mail: dlo@drobnylaw.com

Modesto: (209) 578-2800
San Ramon: (925) 829-6968
Stockton: (209) 464-3408

A second resolution offered by the City Planning Commission was the encouragement of ride-sharing and use of public transportation. Encouragement is not a requirement. There is no guarantee that three and one-half (3 ½) persons will fill each car attending an event at the River Church, take public transportation or that light rail will make its way to Natomas in my lifetime.

The final resolution was that the River Church was to enter into agreements with other owners for reciprocal parking. Although the River Church stated that they had verbal commitments a few owners, at this time, none of the owners in the association, except for the developer, has any written or verbal or written agreement with the church for reciprocal parking. Most owners will not sign written reciprocal parking agreements due to the liability imposed on other owners, as the parking spaces were deeded to each property owner.

Even if the developer were to enter into a reciprocal parking agreement (which they have not), where would the occupants of that now vacant building park Monday through Friday, 8 a.m. to 5 p.m., when The River Church is hosting a funeral, community luncheon, etc.?

These are clearly insufficient resolutions to the parking concerns as these recommendations do not actually address the lack of parking for the River Church and their intended use of the property.

Traffic

At the public hearing, an individual from the department of transportation stated that there would be no traffic issues. This is not possible. The left turn signal to Truxel Road only allows **two (2)** cars per green light. If an event occurs with a significant number of people (292), this light will cause traffic issues as it could literally take over 100 cycles to empty the lot. The queue will weave throughout the entire parking lot, hindering employees and clients of the other twelve (12) buildings from leaving their parking spaces.

Property Values

We have consulted with every commercial real estate firm in Sacramento and all have confirmed that a church negatively impacts the property values of surrounding buildings because common uses of a church are day care centers, soup kitchens, sobriety meetings, funerals, etc. As the property values will decline, the tax rolls will similarly decline, affecting the taxes earned by the city and the overall community.

Furthermore, the lot across the street from the location has not been developed yet. A church will adversely affect the ability of the developers to sell their buildings at a higher price, again reducing the tax rolls for the city.

CC&Rs

The property owners of eleven (11) of the thirteen (13) buildings comprising the Natomas Crossing Business Owner's Association met with a representative of the developer (who holds 100% of the seats on the Board of Directors until the developer has sold all thirteen (13) buildings – of which two (2) remain unsold) to vote for or against The River City Church purchasing 4080 Truxel and operating a house of worship out of said premises. While BID (developer) voted in favor, the

majority of owners voted **against** allowance of a church in the association, because a church is not considered a permitted use under the CC&Rs.

As owners, each of us signed the CC&Rs as a condition of the purchase of our property. Our CC&Rs expressly prohibit the use of the property for non-business purposes. A general dictionary definition of "business" refers to "the purchase or sale of goods in an attempt to make a profit." It is our understanding that The River City Church will be used primarily as a place of worship and for gathering by a congregation, which is clearly not a "business" purpose. Worship and gathering do not involve making a profit through sales of products or services, but rather imply that the property will be used as a community center for the congregation. Although business *activities* may occur on the premises occasionally, the primary purpose of a church is worship. As such, this would clearly violate the CC&Rs, and have a significant adverse impact on the other owners' ability to lease their vacant spaces and/or re-sell their properties without incurring even greater losses.

This is a professional office park. Medical, legal, dental, professional, association office use was the intended purpose. Church activities such as summer youth camps, day care centers, soup kitchens, weddings, funerals, sobriety maintenance meetings, etc. were not contemplated uses of this property and would cause traffic problems, parking problems and interfere with the owners and tenants of the other twelve (12) buildings in the complex. Proposed plans show a hall seating 292 people and 292 people entering and leaving the property in a 30 minute block of time. This would seriously impact traffic in and around the complex every time there was a service, funeral, wedding, etc., all of which was not contemplated when the City approved this project.

By allowing a church on the premises, the developer is in clear breach of the very CC&Rs that the developer required each of us to sign as a condition of our purchases. Each owner faithfully abides by the CC&Rs and expects the same from the developer and anyone to whom it sells the remaining two (2) buildings.

Moreover, even though most of the owners in the association (excluding the developer) agreed that a church is not a permitted use under the CC&Rs, the developer ignored this vote and approved the church's application.

The developer is desperate to sell a property that has been vacant for many years. This is not the problem of the Association property owners. The developer is willing to approve a church at the neighboring property owners' expense, even though it is in clear violation of our CC&Rs. The developer cannot violate the CC&Rs for the sole purpose of financial benefit at a cost to all other owners in the Association.

Each owner agreed to the CC&Rs as a condition for ownership. The developer must comply with these rules, and an approval of these permits will violate these rules.

Negotiations

The owners have been in negotiations with the River Church since spring. The River Church verbally agreed to particular parameters as conditions of its use of the property, and stated that they would back out of the contract if the owners voted against it entering the park. The owners voted again after the approval of the permit and the further negotiation of the parameters, and again, a majority of the owners voted against the River Church entering the business park even with parameters. The River Church has not backed out of the contract.

November 8, 2011
Page 4

Even though owners voted against the River Church entering the business park, the owners want at least conditions of use on the River Church if the Council were to approve their application. The owners will forward the parameters to the River Church prior to this hearing and request that it sign the agreement to the parameters.

We respectfully request that you consider our concerns and deny approval of this permit. Please contact me directly if you should have any questions regarding our position. We will attend the hearing on Tuesday, November 15, 2011. We look forward to seeing you there.

Yours truly,

DROBNY LAW OFFICES, INC.
A Professional Corporation


MARK S. DROBNY