

**Item No. 3**

**Supplemental Material**  
For  
**City of Sacramento  
Planning Commission  
Agenda Packet**

**For the Meeting of:** September 22, 2011

- Additional Material  
 Revised Material

**Contact Information:** David Hung, Associate Planner, 808-5530

**Project Name:** The River Church (P11-037)

**Subject:**

Attached are two letters from CVM Law Group, LLP regarding the Covenants, Conditions, and Restrictions (CCRRs) of the Natomas Crossing Business Center in response to comments from letters of adjacent property owners to the project .



## CVM LAW GROUP, LLP

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September 13, 2011

*VIA U.S. MAIL*

David Hung  
Community Development Department  
300 Richards Blvd.  
Sacramento, CA 95811

*Re: 4080 Truxel Road, Sacramento, CA  
The River City Church CUP Application*

Dear Mr. Hung:

CVM Law Group, LLP, represents Natomas Crossing Phase I, LLC, the developer of the Truxel Road property. I was the attorney involved with the development while at Panattoni Law Firm and I drafted the Declaration of Covenants, Conditions, and Restrictions and Grant of Easements that govern the development dated April 26, 2004, and recorded on June 8, 2004 (the "CC&R's").

I am writing to correct some mis-statements and distortion that may have been created by the letter of Mr. Mark Drobny dated September 6, 2011. As stated by Mr. Drobny, the Developer does still own two properties in the development and under the terms of the CC&R's does still control the Board of Directors of Natomas Crossing Business Center Owners' Association. The Developer has been encouraging the individual property Owners to participate in the proceedings of the Board so that the transition between Developer and Owner will go smoothly when the Developer has sold all of the properties. As a result the Developer disclosed the potential sale of one of its two buildings to the River City Church and asked for a vote of the Owners as an advisory vote. The vote of the Owners was very close but initially the church use was approved by a bare majority. Mr. Drobny initially voted for the church and then along with another owner changed his vote so that it appeared the church use was disapproved.

David Hung  
Community Development Department  
September 13, 2011  
Page 2

Mr. Drobny is incorrect in his assessment of the CC&R's. A church use is absolutely allowed by the CC&R's so long as the church obtains a conditional use permit as required by the applicable Zoning Code.

Section 11.1 of the CC&R's is entitled "Permitted Uses" and it specifically provides as follows:

"All Lots in the Covered Property shall be used for no purpose other than purposes permitted by the City's zoning ordinances as of the date of this Declaration of Covenants, Conditions, and Restrictions and Grant of Easements, which including the following uses: office, high-tech manufacturing, physician clinic, pharmacy, optician lab or clinic, dental offices, educational/vocational/training (public or private), bank/savings and loan office, post office, and child care center; and excepting the following uses which shall specifically be prohibited: hospitals, skilled nursing facilities, convalescent hospitals, drug/alcohol treatment center, psychiatric hospital or clinics, convenience stores, sale and other support retail services (as defined in the City Zoning Code) which would cause excessive vehicle traffic or numbers of vehicles in excess of the allotted parking per Lot. No part of the Covered Property shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any residential or other non-business purpose."

A church use is allowable under the City Zoning Code specific to this Property so long as the church obtains a conditional use permit. Thus, since it is allowable under the Zoning Code and not specifically prohibited in the CC&R's it is an allowable use without the necessity of approval by the Board of the Association. However, the current Board has specifically approved the church use.

Mr. Drobny's opinion that the Property is subject to a limited use is wrong. While the zoning requires commercial type uses as opposed to residential, clearly a church is a proper commercial use as is a child day care center or PORAC which is a political and trade association but which does not meet with Mr. Drobny's very limited definition of business use. PORAC is an owner of one of the properties.

Certainly one could argue that a church which collects tithing from its members and worshipers and carries out various church business and activity is no different than a trade organization that collects dues and donations from members to promote the members' interests and political activities.

The church, if it completes the sale and obtains the CUP, will have to comply with the CC&R's including the parking restrictions. It is my understanding that the church has met with the Owners and has agreed to mitigate its use to comply with the concerns voiced by the Owners and has committed to comply with the terms of the CC&R's.

David Hung  
Community Development Department  
September 13, 2011  
Page 3

Contrary to Mr. Drobny's letter, as you can see the Developer is not in violation of the CC&R's in electing to sell a building to the church so long as the church obtains the CUP as required by the Zoning Code. The CUP is a condition precedent to the closing of the sale. But the issuance of the CUP by the City would not be in violation of the CC&R's and certainly a church use is within the contemplation of the drafters of the CC&R's.

If you have any further questions on this matter, please telephone me.

Very Truly Yours,

***CVM LAW GROUP, LLP***



Robert D. Collins



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September 15, 2011

**VIA U.S. MAIL**

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**Re: 4080 Truxel Road, Sacramento, CA  
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I am writing to correct some mis-statements and distortion that may have been created by the letter from The Peace Officers Research Association dated September 13, 2011. This letter contains much of the same mis-statements as stated in the letter from Mr. Drobny date September 6, 2011. So rather than go through and correct them, I just enclose a copy of my response to Mr. Drobny's letter.

Like Mr. Drobny, Ms Bravo is incorrect in her representation of the CC&R's. A church use is absolutely allowed by the CC&R's so long as the church obtains a conditional use permit as required by the applicable Zoning Code.

Section 11.1 of the CC&R's is entitled "Permitted Uses" and it specifically provides as follows:

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Ms Bravo's opinion that the Property is subject to a limited use is wrong. While the zoning requires commercial type uses as opposed to residential, clearly a church is a proper commercial use as is a child day care center (specifically allowed by the CC&R's) or PORAC which is a political and trade association.

Certainly one could argue that a church which collects tithing from its members and worshipers and carries out various church business and activity is no different than a trade organization that collects dues and donations from members to promote the members' interests and political activities.

The church, if it completes the sale and obtains the CUP, will have to comply with the CC&R's including the parking restrictions. It is my understanding that the church has met with the Owners and has agreed to mitigate its use to comply with the concerns voiced by the Owners and has committed to comply with the terms of the CC&R's.

Contrary to Ms. Bravo's letter, as you can see the Developer is not in violation of the CC&R's in electing to sell a building to the church so long as the church obtains the CUP as required by the Zoning Code. The CUP is a condition precedent to the closing of the sale. But the issuance of the CUP by the City would not be in violation of the CC&R's and certainly a church use is within the contemplation of the drafters of the CC&R's.

If you have any further questions on this matter, please telephone me.

Very Truly Yours,

**CVM LAW GROUP, LLP**



Robert D. Collins