

From: [David Gilmore](#)
To: [Berlino, Alyssa](#)
Cc: [Brenes, Patricia](#); [Assadzadeh, Candice](#); [Perry, Jim](#); [Medina, Diana](#); [Rick Edwards](#); [Mary Ann Lerma \(MAPJCV@aol.com\)](#); ["Chao Sun MD"](#); ["Elizabeth Crago \(ecrago@redlobster.com\)"](#); ["Justin Khorvash"](#); [Stephanie Doner](#); [Davidnguyen37921@gmail.com](#); [Ryan Edwards](#)
Subject: [External] 3740 Park Sierra Ave. (Former El Torito Restaurant) CUP, VR and PCORN Application/Notice of Public Hearing
Date: Thursday, August 01, 2019 11:09:10 AM

Alyssa,

We have received the Notice of Public Hearing for the THVS Investments (Applicant) Artivan Dance and Banquet Center CUP, VR and PCORN applications.

In response to these applications, GRAE La Sierra, LLC and SGLA Park Sierra, LLC, both adjoining property owners, object to both the (i) use and the (ii) grievous under-parking of the proposed development.

1. **Objection to Use;** Objection to the proposed change of use: the inclusion of the banquet/event center use will be significantly detrimental to the existing surrounding uses and businesses. The Applicant plans on providing banquet facilities for groups of 200 -250 people at the existing building and parking lot. This may or may not be in addition to the dance group occupancy requested for up to 40-100 people. Under the application, the Applicant can rent the facility to third party users that attract late night clientele that may result in crime, nuisance, property destruction and related actions that will have a negative and potentially dangerous impact on the surrounding uses and businesses. We had similar major problems in the past with InCahoots (a nightclub activity), that led to constant security and police involvement. As a result, we terminated the lease with the operators and demolished the building. We believe the City of Riverside has experienced similar problems in so-called banquet or event facilities operating under similar licenses that lead to crime and violence requiring constant police monitoring. Seville, operating under a similar license comes to mind. All the surrounding neighbors will all be adversely affected by such activity.
2. **Objection to Parking;** If the proposed change of use is approved, the Applicant will be required to provide a City of Riverside determined minimum requirement of 167 parking stalls. The Applicant's property provides only 54 stalls and is under-parked by 113 stalls
 - a. From a practical point of view parking will become a nightmare. The applicant's property parks only 54 cars. The overflow of cars and people will result in a parking, pedestrian and traffic burden to the adjacent L.A. Fitness, Red Lobster Restaurant and the five restaurant tenants located at the new Park Sierra Plaza building. Even a preliminary review of the overall project site plan leads to the conclusion that existing uses will be overburdened because of the under parked premises. **Take a real life look at the site plan; there is just no room to accommodate so many people without trampling on the rights of existing neighbors.**
 - b. We object to the City of Riverside's interpretation of the recorded CC&R's governing

the property. The City of Riverside has told us their interpretation of the recorded CC&R's is that the Applicant has the right to encumber 113 parking stalls located on surrounding property that the Applicant does not own. They have not told us specifically from which parcels these parking takings will come from. As a result, the non-applicant CCR property owners will lose 113 parking places and the right to develop or use parking on their own property as they see fit. This interpretation on the part of The City of Riverside would amount to a taking of property rights from the surrounding property owners for the sole benefit of the Artivan Dance and Banquet Center. . Moreover, it ignores other provisions of the CC&Rs that state when the overall property is fully developed it may contain up to 208,000 square feet of space with an overall parking ratio of no less than 5 parking spaces per 1,000 feet. The City's interpretation of the CC&Rs ignores and frustrates the overall development concept contained in the CC&Rs.

- c. Subject to the CC&R's paragraph 2.05 as amended, in reality there is no existing parcel at Park Sierra that has excess parking other than the approximate 3.5-acre currently undeveloped parcel that GRAE LA Sierra owns, located immediately south of the recently constructed LA Fitness Center. If the interpretation of the CC&R parking currently advocated by The City of Riverside is approved, GRAE La Sierra would be unable to fully develop this parcel and self-park to the satisfaction of Riverside parking requirements. **This would in fact prevent a much larger redevelopment initiative that we are contemplating on the Land we own fronting La Sierra, and it will violate and make impossible the provisions of the CC&Rs that allow for the development of up to 208,000 square feet of space on the property.**
 - d. GRAE La Sierra and SGLA Park Sierra agree that Article 4 of the recorded CC&R's provides for cross access and parking through a **non-exclusive easement agreement**, insuring that a customer could, for example, park on the L.A. Fitness property and walk over to the Red Lobster property for lunch, without risk of committing a parking violation. These types of CC&R's and mutual access agreements are common in commercial real estate developments. A nonexclusive easement is another way of referring to a property easement, which gives access rights to a property so long as the property owners rights are respected. The nonexclusive easement agreement is reciprocal and is extended to all members of the CCR's and is not for the benefit of any single member. The recorded CC&R's do not allow for one property owner to encumber another property owner's parking without permission and use that parking to facilitate their own zoning or use approvals. This Application does not respect our property rights. In any event, **the CC&R's are not a substitute for the City requiring self-parking for a tenant's intended use.**
3. We are presently uncertain if there is a variance request included in the Application and would like to receive the applicable information to understand the variance request and it's justification.

GRAE La Sierra and SGLA Park Sierra have retained counsel to represent their interests regarding the THVS applications. It is our intention to deliver counsel's written notice of our specific objections to you by Thursday, August 8th.

Should you have any questions or comments, please contact me at 310.849.7044.

I appreciate your assistance throughout this process.

Sincerely,

Dave Gilmore

Seagrove

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Cell 310.849.7044

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Los Angeles, CA 90049

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August 6, 2019

Patricia Brens, Principal Planner
Alyssa Berlino, Assistant Planner
Planning Department
City of Riverside
3900 Main Street, 2nd Floor
Riverside, CA 92522

Re: Applicant THVS Investments, LLC
CUP P18-0849, VR P18-0850, PCORN 19-0512

Dear Ms. Brens & Ms. Berlino:

Our office represents GRAE La Sierra, LLC. GRAE owns property in the immediate vicinity of the proposed project including the parcels that contain McDonalds, Walgreens, Raising Cane, and the County of Riverside building.

The applicant seeks a CUP for a dance studio and banquet facility. The proposed project should be denied for the following reasons:

A. The use is inappropriate for the area.

The surrounding center is devoted primarily to office and restaurant uses. The proposed banquet facility is akin to a nightclub use. The banquet use is likely to conflict with the existing uses in the area and bring security issues to the parking lot and area businesses. The city's recent experience with Sevilla and its late hour nightclub use should serve as a lesson for how this use can detrimentally affect a surrounding office and restaurant area.

B. The parking demand created by the project is excessive and will impact the parking available for adjacent parcels.

The applicant's parking study shows a parking demand of 168 spaces. There are only 53 on site spaces. Although a reciprocal parking agreement affects the subject property, the areas to the immediate north (the Burger IM center) and to the northwest (a portion of the McDonald's) are not subject to this mutual parking agreement and will receive unauthorized parking from the new use. Although the LA Fitness parcel is part of the reciprocal parking agreement, its lot is frequently full. The area with the most available parking is south of the Red Lobster—too far away from the proposed use to provide effective parking relief. This 3.5 acre

Patricia Brens, Principal Planner
Alyssa Berlino, Assistant Planner
Planning Department
City of Riverside
August 6, 2019
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parcel, owned by my client, is currently undeveloped. The proposed project will absorb a significant number of the available spaces on this parcel, effectively taking my client's property without compensation. If the customers of the proposed project do not use my client's parcel for parking, the most likely area for parking will be unauthorized parking at the Kaiser facility across the street, an unacceptable alternative.

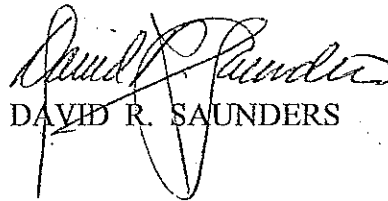
C. The parking demand for the project is not properly calculated.

The applicant's building is 10,666 sq. ft. The parking analysis shows the parking demand generated by 4,995 sq. ft. of a public assembly use. No parking demand is calculated for the office and other areas in the remaining 5,671 sq. ft. in the building. A correct calculation of the parking demand will confirm the need for even more parking spaces.

D. The use may not be permitted by the existing Declaration.

The project is governed by a Declaration Establishing Reciprocal Easements, Restrictions and Covenants, as amended, recorded December 31, 1980 in Book 1980, Page 244662, Riverside County Recorder (the "Declaration"). The dance school banquet center may not be a permitted use under Section 3.01 and 3.02 of the Declaration. The applicant should provide assurances that the use is permitted under the Declaration before the city approves the use.

Very truly yours,



DAVID R. SAUNDERS

DRS:dr
cc: GRAE La Sierra, LLC

DRS: GRAE La Sierra, LLC/General.0/LTR/080619Riverside



August 7, 2019

Federal Express Overnight & E-Mail Correspondence

City of Riverside Community & Economic Development Dept.
Planning Division
3900 Main Street
Riverside, CA 92522
Attn: Alyssa Berlino, Assistant Planner
(951) 826-5628
aberlino@riversideca.gov

Re: "Notice of Public Hearing" on August 22, 2019, concerning Applicant David Vanderzell of THVS Investments, LLC--Artivan Dance and Banquet Center; Project Location 3740 Park Sierra Avenue; Case Numbers P18-0849 (CUP), P18-0850 (VR) and P19-0512 (PCORN) (the "Proposed Project")

Dear Ms. Berlino,

I am Senior Real Estate Counsel to Fitness International, LLC, the company that owns and operates LA Fitness health and fitness clubs ("LA Fitness"). This correspondence is in response to the above-referenced Notice of Public Hearing.

LA Fitness has a long-term leasehold interest in the property located at 10988 Magnolia Avenue, Riverside, CA, whereon LA Fitness operates one of its full-service health and fitness clubs ("Riverside Magnolia LA Fitness," and the parcel on which the Riverside Magnolia LA Fitness is located is referred to herein as the "Riverside Magnolia Parcel"). The Riverside Magnolia Parcel is located adjacent to the property that is the subject of the Proposed Project.

For the reasons stated herein, LA Fitness strongly objects to the development of the Proposed Project.

The Proposed Project is extremely under-parking for the proposed use—i.e., the Applicant will be required by the City to provide a minimum of 167 parking stalls, while its parcel only contains 54 parking stalls. Therefore, the Applicant will be forced to use possibly over one hundred of the 255 parking stalls located on the Riverside Magnolia Parcel for the benefit of the property that is the subject of the Proposed Project, **potentially leaving only 142 parking spaces for use by LA Fitness' members, guests and employees on the Riverside Magnolia Parcel.**

While the recorded CC&Rs benefitting and burdening these properties provide for certain cross-access and cross-parking rights through non-exclusive easements, such rights are given to an adjacent property owner with the understanding that the parking rights of the property owner giving such rights are not materially infringed upon. The recorded CC&Rs simply do not permit one property owner (in this case, the Applicant) to encumber another property owner's parking rights to such an extent that the other property owner (LA Fitness) has insufficient parking for its approved use. Parking is critical to health clubs such as LA Fitness and without available parking stalls, LA Fitness will not receive the benefit given to it by virtue of its leasehold interest and the recorded CC&Rs.

As such overflow of vehicles onto the Riverside Magnolia Parcel will result in an extreme burden on the Riverside Magnolia Parcel to the detriment of the rights already granted to LA Fitness, LA Fitness strongly objects to the development of the Proposed Project.

Thank you for your time and consideration on this important matter.

Sincerely,



Diann D. Alexander
Director of Lease Administration
VP—Senior Real Estate Counsel

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August 30, 2019

Kristi Smith
Deputy City Attorney
City of Riverside

**Re: Applicant THVS Investments, LLC
CUP P18-0849, VR P18-0850, PCORN 19-0512**

Dear Ms. Smith:

Our office represents GRAE La Sierra, LLC. GRAE owns property in the immediate vicinity of the proposed project including the parcels that contain McDonalds, Walgreens, Raising Cane, and the County of Riverside building.

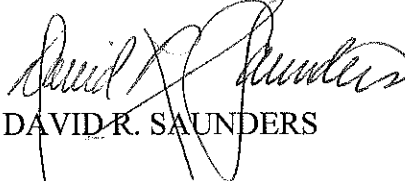
The applicant seeks a CUP for a dance studio and banquet facility. The proposed project should be denied for the following reasons:

The project is governed by a Declaration Establishing Reciprocal Easements, Restrictions and Covenants, as amended, recorded December 31, 1980 in Book 1980, Page 244662 (the "Declaration"). The dance hall and banquet facility may not be permitted uses under Section 3.01 and 3.02 of the Declaration.

Moreover, the applicant's parking study shows a parking demand of 168 spaces. The applicant will provide only 53 on site spaces. The applicant relies on my client's parcels and other parties' parcels that are subject to the Declaration to provide the remaining 105 spaces. This use is excessive and will compel my client and the other owners to seek a court injunction to restrain the excessive use. If my client is successful, the applicant's customers will be compelled to find parking on public streets in the neighborhood, an undesirable result for everyone.

When an applicant relies on offsite parking to satisfy its parking demand, the city should determine that the applicant actually has the right that the applicant claims. In this case, this applicant cannot establish its right to sufficient offsite parking. For that reason, the project should be denied.

Very truly yours,



DAVID R. SAUNDERS

DRS:dr

Grae La Sierra LLC/Proposed Dance Hall.1/LTR/083019Smith