



APPEAL APPLICATION FORM

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FEB 1 2016

DEV SERVICES

Appeal the decision of the:

- Zoning Administrator
Planning Commission

STAFF USE ONLY

Date Received: 2/1/16
Fee: \$ 250.00
Receipt #:
Case #: PCC-15014

Application Information

Name of Appellant CARRILLO COMMERCIAL PROPERTIES LLC Phone 619-407-4082
Address 2088 OTAY LAKES ROAD UNIT #102, CHULA VISTA, CALIFORNIA, 91915
Business Address SAME
Project Address 2088 OTAY LAKES ROAD, SUITES 101 & 201
Project Description RANCHO VISTA COVENANT CHURCH / CONDITIONAL USE PERMIT

(Example: variance, conditional use permit, design review, etc.)

Please use the space below to provide a response to the decision you are appealing. Attach additional sheets, if necessary. Grounds for an appeal must be based on at least one of the following:

- (1) Factual Error. The statements or evidence relied upon by the decision maker when approving, conditionally approving, or denying a permit, map, or other matter was inaccurate;
(2) New Information. New information is available to the applicant or the interested person that was not available through that person's reasonable efforts or due diligence at the time of the decision; or
(3) Findings Not Supported. The decision maker's stated findings to approve, conditionally approve, or deny the permit, map, or other matter are not supported by the information provided to the decision maker.

In order for an appeal to be valid, detailed responses must be included which cite at least one of the above reasons for the appeal along with substantiation of the facts and circumstances on which the claim of the appeal is based. If an appeal is filed within the time limit specified, and determined to be valid, it automatically stays proceedings in the matter until a determination is made by the City Council.

SEE ATTACHMENT

Appeal Form Directions

Pursuant to the Chula Vista Zoning Ordinance Chapter 19.14, an interested party may appeal the decision of the Zoning Administrator, or Planning Commission to the City Council. The appellant must be an interested party. An interested party means a person who was present at a public hearing from which an appeal arose and who had filed a speaker slip with the decision maker at that public hearing, or a person who expressed an interest in the project in writing to that decision maker before the close of the public hearing or a decision on an action from which an appeal may be filed. The appellant must file a complete appeal application form within the specified appeal period (10 business days after the decision has been made), complete the Disclosure Statement, and pay the required fee. Once a valid appeal form is filed, the appeal will be scheduled for a hearing by the City Council within 30 days.

[Handwritten Signature]

Signature of Appellant

Date: 1/27/16

DO NOT WRITE IN THIS SPACE

The above matter has been scheduled for public hearing before the: [ ] City Council On \_\_\_/\_\_\_/\_\_\_

Development Services Department

City Clerk

ATTACHMENT TO APPEAL APPLICATION  
RE: CASE NO. PCC-15-014

This is an appeal of the Notice of Decision by the Zoning Administrator dated January 13, 2016 regarding Rancho Vista Covenant Church (the "Applicant") / Case No. PCC-15-014. Carrillo Commercial Properties LLC, a California Limited Liability Company (the "Appellant") is an interested party with standing to appeal the decision because: (1) Appellant timely filed a written objection with the City of Chula Vista Project Planner, Harold Phelps on October 16, 2015 and (2) Appellant owns the building unit adjacent to the property which is the subject of the above conditional use permit application.

Overview. The decision of the Zoning Administrator to issue the Conditional Use Permit to the Applicant should be revoked and no conditional use permit should be issued. The project site for the Applicant is located within the Professional & Administrative (PA) land use district and is located in a professional center which was designed for business offices. Under the SPA plan religious institutions are not-permitted in the PA land use district, meaning they are not eligible for consideration for a conditional use permit without an amendment to the SPA.

The City of Chula Vista attempts to brush aside the requirements of the SPA with the argument that the SPA would be unenforceable anyways under Federal Law (under the Religious Land Use and Institutionalized Persons Act) because other similar assembly type uses are permitted in the area. However, in order for Federal Law to control, the land use regulations promulgated under the SPA would need to be shown to place a substantial burden on the exercise of religion. Because religious institutions are permitted in several other neighboring zones, the City and the Applicant have failed to show that the SPA indeed creates this substantial burden. Consequently, the zoning requirements under the SPA need to be followed.

The zoning decision and building permits also authorize construction of both classrooms and a nursery, which violate the CC&Rs of the project and are not protected by Federal law as a religious use. These findings are also not supported because the classrooms and nursery were not disclosed in the CUP Application and the public notice of consideration sent by the Zoning Administrator expressly states: "No pre-school or day care uses are proposed as part of this permit application."

Finding #1. The finding that the proposed use is necessary or desirable in this area is not supported by information available in the SPA. Religious institutions are expressly not permitted in the PA land use district. While it is true, that a religious institution is desirable for residents of eastern Chula Vista, there are several other land use districts covered by the SPA where the Church would actually be allowed by conditional use permit such as the residential land use districts and would still be just as convenient and desirable for Chula Vista residents.

Finding #2. The Applicant proposes seven days of operations at the proposed locations but the City of Chula Vista has only required the Applicant to meet the 43 parking space allocation for one day of the week (Sunday). Despite only occupying 10.00% of the square footage in the professional center, the Applicant will use more than 20.00% of the available parking at peak times, increasing traffic to the property. Once the CUP has been issued, the City of Chula Vista will have a difficult time monitoring whether the Applicant is exceeding its

parking allocation only on Sundays, or in practice is reaching its peak occupancy on other days of the week, days on which it does not have the 43 parking space allocation.

Finding #3. The use does not comply with the regulations and conditions specified in the code. The code requires 43 parking spaces which represent approximately twenty percent of the parking space in the development. The Applicant has only provided a temporary parking allocation for one day of the week. The code does not state that meeting the parking requirement on 1/7 of the days is sufficient and once the CUP is issued there is no reliable enforcement mechanism for prohibiting the applicant from exceeding its 26 space parking allocation on the other six days of the week.

Finding #4. The SPA prohibits religious institutions in the PA land use district. The City of Chula Vista attempts to dispose with this requirement, by finding the SPA unenforceable under Federal Law because other similar assembly type uses are permitted in the PA land use district. This analysis is incorrect on multiple grounds.

It is factually incorrect, because the other assembly type uses which are cited: nurseries, libraries, day care schools, etc. are not expressly permitted in the PA land use district, instead they might be considered a case by case basis for a conditional use permit.

The findings are also not supported by the law. The zoning restrictions set forth under the SPA are not being followed and the standard provided by the Zoning Administrator regarding the Federal Law (Religious Land Use and Institutionalized Persons Act) was not correct. The threshold under Federal Law for limiting local zoning authority is where the land use regulation places a "substantial burden" on the exercise of religion. This burden has typically been found where the land use regulation is oppressive and imposes a significant restriction on where religion can be practiced. The SPA contemplated the need for land for religious purposes by permitting religious institutions in several other land use districts within a 5 square mile radius of the proposed location of the applicant. Land use regulations have generally been upheld and not been found to place a substantial burden on the exercise of religion where the religious activity is permitted in other neighboring zones.

Conditions. There is no limiting condition contained in the proposed CUP to prevent the Applicant from operating a pre-school or a daycare. The CUP Application submitted by the Applicant on August 24, 2015 does not mention daycare or a nursery school as part of the project. The Notice of Consideration sent by the project planner specifically describes the project as containing no pre-school or day care uses under the project description. The zoning decision authorizes construction of both classrooms and a nursery, neither of which were disclosed in the conditional use permit application, violate the CC&Rs of the project, and are not protected by Federal law as a religious use.



## DISCLOSURE STATEMENT\*\*\*

Pursuant to City Council Policy 101-01, prior to any action on a matter that requires discretionary action by the City Council, Planning Commission or other official legislative body of the City, a statement of disclosure of certain ownerships, financial interests, payments, and campaign contributions must be filed. The following information must be disclosed:

1. List the names of all persons\* having a financial interest in the project that is the subject of the application, project or contract (e.g. owner, applicant, contractor, subcontractor, material supplier).

Carrillo Commercial Properties LLC (Appellant in CUP Case No. PCC-15-014)

2. If any person\* identified in section 1. is a corporation or partnership, list the names of all individuals with an investment of \$2000 or more in the entity.

Frank Carrillo

3. If any person\* identified in section 1. is a non-profit organization or trust, list the names of any person who is the director of the non-profit organization or the names of the trustee, beneficiary and trustor of the trust.

N/A

4. Please identify every person,\* including any agents, employees, consultants, or independent contractors, whom you have authorized to represent you before the City in this matter.

Benjamin S. Green Esq./Green & Green LLP

Frank Carrillo

Christina Suggett

5. Has any person\* identified in 1., 2., 3., or 4., above, or otherwise associated with this contract, project or application, had any financial dealings with an official\*\* of the City of Chula Vista as it relates to this contract, project or application within the past 12 months? Yes \_\_\_ No X

If Yes, briefly describe the nature of the financial interest the official\*\* may have in this contract.

6. Has any person\* anyone identified in 1., 2., 3., or 4., above, or otherwise associated with this contract, project or application, made a campaign contribution of more than



**CITY OF  
CHULA VISTA**

**DISCLOSURE STATEMENT\*\*\***

\$250 within the past twelve (12) months to an official of the City of Chula Vista?  
Yes \_\_\_\_\_ No X If yes, which official?

\_\_\_\_\_

- 7. Has any person\* identified in 1., 2., 3., or 4., above, or otherwise associated with this contract, project or application, provided more than \$460 (or an item of equivalent value) to an official\*\* of the City of Chula Vista in the past twelve (12) months? (This includes any payment that confers a personal benefit on the recipient, a rebate or discount in the price of anything of value, money to retire a legal debt, gift, loan, etc.)  
Yes \_\_\_\_\_ No X

If Yes, which official\*\* and what was the nature of item provided?

\_\_\_\_\_

\_\_\_\_\_

- 8. Has any person\* identified in 1., 2., 3., or 4., above, or otherwise associated with this contract, project or application, been a source of income of \$500 or more to an official\*\* of the City of Chula Vista in the past twelve (12) months?  
Yes \_\_\_\_\_ No X

If Yes, identify the official\*\* and the nature of the income provided?

\_\_\_\_\_

Date: 1/27/16

\_\_\_\_\_  
Signature of Contractor/Applicant

Carrillo Commercial Properties, LLC, a California  
Limited Liability Company

By Frank Carrillo, Manager

\_\_\_\_\_  
Print or type name of Contractor/Applicant

This Disclosure Statement must be completed at the time the project application, or contract, is submitted to City staff for processing, and updated within one week prior to consideration by the legislative body.

\* Person is defined as: any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, any other county, city, municipality, district, or other political subdivision, or any other group or combination acting as a unit.

\*\* Official includes, but is not limited to: Mayor, Council member, Planning Commissioner, Member of a board, commission, or committee of the City, and City employees or staff members.



**FEE RECEIPT  
DEVELOPMENT SERVICES DEPARTMENT**

PRINTED ON: 02/01/2016  
RECEIPT NUMBER: 677027

APD #: PCC-15-014  
SITE ADDRESS: 2088 OTAY LAKES RD 101  
PARCEL: 5950707311

TYPE: Conditional Use Permit/NA

TRANSACTION DATE: 02/01/2016

TOTAL PAYMENT: \$250.00

TOTAL PAID FROM TRUST: \$0.00

**TRANSACTION LIST**

Type	Method	Amount
Payment	Quadrant	\$250.00

**ACCOUNT ITEM LIST:**

Item #	Description	Acct Code	Fee Amt	Cur. Pmt
CUP090	Appeal Filing Fee	2000	\$250.00	\$250.00
			<b>TOTAL:</b>	<b>\$250.00</b>

Receipt Issued by: AAC      Receipt Date: 2/1/2016 10:43 AM

Development Services Department - 276 Fourth Ave Chula Vista, CA 91910 - (619) 691-5007