



Gmail

Darryl Cotton <indagrodarryl@gmail.com>

Re: 6176 Federal Blvd-Project No. 520606 MMCC CUP Application

Darryl Cotton <indagrodarryl@gmail.com>

Fri, Jul 27, 2018 at 8:12 AM

To: "Cac, Cherlyn" <CCac@sandiego.gov>, Ken Malbrough <kmalbrough@att.net>, "Sokolowski, Michelle" <msokolowski@sandiego.gov>, "Blake, Martha" <mblake@sandiego.gov>, "Tirandazi, Firouzeh" <FTirandazi@sandiego.gov>, "Hoy, Cheri" <choy@sandiego.gov>, "FitzGerald, Pj" <PFitzgerald@sandiego.gov>, gbraun@sandiego.gov, "Black, Laura" LBlack@sandiego.gov

Ms. Cac;

Thank you for your response. As you no doubt have seen from the other emails I had sent off yesterday, there is an increasing concern on my part that the DSD MMCC CUP application at 6176 Federal Blvd (Project No 520606) and the competing MO CUP application at 6220 Federal Blvd (Project No 598124) are not being processed fairly and impartially by DSD. Perhaps you, or anyone reading this, can help to dispel that concern.

As to your directing me to seek out additional information from Ken Malbrough, Chairperson CVCPG, unfortunately that is longer an option for me. In an email exchange I had with Mr. Malbrough ([attachment 9.1.5](#)) he told me will no longer respond to my inquiries and as of today he has not responded to my email at the beginning of this thread. Based on that email exchange and the fact that CVCPG has given the 6220 CUP preferential treatment by listing the Community Planning Group task on the 06-18-18 CVCPG Agenda ([attachment 9.1.6](#)) and not on the next month's agenda on 07-16-18 ([attachment 9.1.8](#)) as had been stated in paragraph 5C of the 06-18-18 Agenda, I now have elevated concerns that need to be addressed and Mr. Malbrough, is being ([attachment 9.1.8](#)) derelict in his sworn duties by refusing any further communications with me.

It is, as a result of that breakdown in communications, that I've now included Mr. Gerry Braun, Chief of Staff, San Diego City Attorney's Office in this email. If, through the inquiry I'm making here, there are found to be any improprieties that exist between Mr. Malbrough, CVCPG, Planning, DSD or any other city staff or agencies, than this email will hereby serve as notice that the matter I'm concerned about is specifically related to the way the two CUP's are being processed and WOULD, if CVCPG is participating in a favoritism scheme, put Mr. Malbrough personally and potentially the CVCPG as a group, in direct violation of Council Policy 600-24 ([attachment 9A.1](#)) The Standard Operating Procedures and Responsibilities of Recognized Community Planning Groups (The Brown Act), and violations as stated within the CVCPG Bylaws ([attachment 9A.2](#)): Article II Sections 2, 3 & 4 - Article III Sections 5 & 6 - Article 6 Sections 1 & 2 (a) Meeting Procedures, (d)(1-4) Meeting Documents and Records- Article VII Section 2 Chairperson Responsibilities, Article VIII Section 1 (a) Community Participation - Article IX Sections 1,2 & 3 (a) (b) Rights and Liabilities of Community Planning Groups.

The MMCC CUP application at 6176 has been in process with DSD now since 10/31/16. I am in litigation with Larry Geraci who has listed his agent Rebecca Berry as the applicant for this CUP. With a competing Marijuana Outlet CUP being applied for and accepted by DSD in March 2018, the real importance to me, and I would expect Geraci and other parties who have an interest in the successful processing of the 6176 CUP application, would have by now reached out to you to make certain that the 6220 CUP application is not getting any type of preferential treatment as a way to make up for their late start.

By Geraci's own counsel statement ([attachment 5.1](#)), as of March 22, 2017 his client had already spent more \$300K on the 6176 Berry CUP application. Certainly after adding another 1-1/2 years to that total the amount Geraci has invested would have only increased. With that kind of investment they must be wary of any credible threat to their 6176 CUP application and with the 6220 CUP already further along in the Review Cycles than the

6176 CUP, 6220 represents an extremely credible threat. If there has not been an effort by Geraci and/or his agents to make sure that there is nothing that would go awry in the DSD processing of these two CUP applications I would be very surprised. But as I am just listed as an Agent on the 6176 CUP application DSD would know if there have been any concerns or objections coming from anyone listed on the DSD 6176 Customer Information form relative to how the 6220 CUP application is being processed where I would not be privy to that information. Which is why I'm bringing it up now so there might be an open and transparent exchange of questions and answers. Please forgive me if I appear overly zealous in my attempts to ferret out this information but if I don't ask, I can't be sure anyone else is doing so.

My questions to DSD are;

- 1) The 6176 CUP application is currently in a Cycle 7/8 Cycle Review status. It took DSD 5 months from 10-31-16 to 03-13-17 to even get past preliminary approvals whereby a Project Number/Manager was assigned. How is it that the 6220 CUP application has reached a Cycle 12 Review status when it was only introduced to DSD in March of 2018?
- 2) With the accelerated process that the 6220 CUP is being processed at has anyone, other than myself, contacted DSD to inquire as to how a competing CUP has managed to get so far past the 6176 CUP in less than 4 months? If so did they contact you in writing where there would be an official documentation of the inquiry or protest? Is so who were they?
- 3) The 6176 DSD Customer Information sheet ([attachment 3.5](#)) lists the architect and design firms on that form. Neither Strom or Magagna who are listed on the 6220 DSD Customer Information sheet ([attachment 8.2.0](#)) are licensed as architects, designers or engineers yet they are the only two contacts listed on this DSD form. What company(s) performed the licensed professional architectural, design and engineering services as per IB-514 ([attachment 3.2.10](#)) that went into the 6220 CUP submittal process?
- 4) Why did DSD change the property location and APN from the original 4-05-18 online approval details ([attachment 8.1.0](#)) to show a new location and APN on 06-08-18 ([attachment 8.1.1](#)) under the same project number?
- 5) Has anyone who is listed in DSD documents, or any unlisted agents who in the past or present represented the 6176 Federal Blvd Berry MMCC CUP application had anything to do with DSD in the application or processing of the MO CUP application at 6220 Federal Blvd? If so who were they?

I realize that if you choose to answer these questions, complete responses may take a little time. In anticipation of that I would ask that I receive a courtesy reply to this email by no later than 12:00 today to see if I can expect a full response from DSD and when I can expect it.

Thank you for your immediate attention to this matter and in anticipation of your reply I will remain.

Darryl Cotton
Property Owner of Record
6176 Federal Blvd SO CA 92114

On Thu, Jul 12, 2018 at 4:18 PM, Cac, Cherlyn <CCac@sandiego.gov> wrote

Mr. Cotton,

REDACTED TEXT AS CONFIDENTIAL COMMUNICATIONS

Please contact the chair of the community planning group for meeting minutes.

Sincerely,

Cherlyn Cac

Development Project Manager

City of San Diego, Development Services

1222 First Ave., MS 501

San Diego, CA 92101

(619) 236-6327

CONFIDENTIAL COMMUNICATION

This electronic mail message and any attachments are intended only for the use of the addressee(s) named above and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not an intended recipient, or the employee or agent responsible for delivering this e-mail to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you received this e-mail message in error, please immediately notify the sender by replying to this message or by telephone. Thank you.

From: Darryl Cotton <indagrodarryl@gmail.com>

Sent: Wednesday, July 25, 2018 7:31 AM

To: Cac, Cherlyn <CCac@sandiego.gov>; Ken Malbrough <kmalbrough@att.net>

Subject: 6176 Federal Blvd-Project No. 520606 MMCC CUP Application

Good Morning Cherlyn and Ken,

(Cherlyn) I see that the DSD website shows the Community Planning Group task having been completed on 7-20-18. Does completed mean that there has been a community meeting that has taken place or does it mean

there is one going to be scheduled to take place? If there has been one that has taken place would you direct me to the minutes of that meeting?

(Ken) Is ENCPG still the planning group for these community meetings or is it the new group Chollas Valley Community Neighborhood Planning Group that will take over? If so are you still the point of contact for these meetings? The SO Planning dept website says 'formerly' so I just wanted to make sure I know who to make future contact with if it's not you.

<https://www.sandiego.gov/planning/community/profiles/encanto/agendas>

Thank you

Darryl Cotton
Property Owner of Record
6176 Federal Blvd., SD CA 92114

11 Attachments

The image displays a grid of 11 PDF attachments. The first row contains four documents: a Gmail email titled 'Re: 6176 Federal Blvd CUP Application', a 'Chollas Valley Community Planning Group' meeting agenda for July 14, 2014, another 'Chollas Valley Community Planning Group' meeting agenda for July 17, 2014, and 'CITY OF SAN DIEGO ADMINISTRATIVE GUIDELINES FOR IMPLEMENTATION OF COUNCIL POLICY 400-24'. The second row contains four documents: 'City of San Diego ADMINISTRATIVE APPROVAL OF COMMUNITY PLANNING GROUP BY-LAWS AMENDMENT', 'FERRIS & BRITTON' meeting agenda for March 20, 2014, '6176 Federal Blvd' meeting agenda for March 20, 2014, and '6176 Federal Blvd' meeting agenda for March 20, 2014. The third row contains three documents: 'Approval #2114346 - Conditional Use Permit' from the Development Services Department, another 'Approval #2114346 - Conditional Use Permit' from the Development Services Department, and 'Professional Certification Process Development Permit Completion Review' from the Development Services Department.