

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

1 message

Darryl Cotton <indagrodarryl@gmail.com>

Fri, Jul 27, 2018 at 8:13 AM

To: Joe Hurtado <j.hurtado1@gmail.com>

----- Forwarded message -----

From: Darryl Cotton <indagrodarryl@gmail.com>

Date: Fri, Jul 27, 2018 at 8:12 AM

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

To: "Cac, Cheryl" <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 months 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 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 Attorneys 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 it there have been any concerns or objections coming from anyone listed on the DSD 6176 Customer Information form (**attachment 3.5**) 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 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 IB514 (**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?

COTT-017

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 SD CA 92114

On Thu, Jul 26, 2018 at 4:18 PM, Cac, Cherlyn <CCac@sanidiego.gov> wrote:

Mr. Cotton,

DSD project managers are off-line proxy reviewers for the community planning groups, because DSD sends a copy of the plans to them. The off-line review for the community planning group instructs the applicant to contact the community planning group chair to present their project before the community planning group. Comment number 3 states that the City of San Diego has not received a community planning group recommendation on the project.

The completed proxy review by John does not state that community meeting has taken place. The completed proxy review by John does not state there is one to be scheduled. DSD does not present, nor attend, on project applications to the community planning group.

Question by Mr. Cotton: If there has been one that has taken place would you direct me to the minutes of that meeting?

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

COTT-018



Sincerely,

Cherlyn Cac

Development Project Manager

City of San Diego, Development Services

[1222 First Ave.](#), MS 501

San Diego, CA 92101

(619) 236-6327



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COTT-019

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 SD 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.

11 attachments

-  9.1.5) Malbrough to Cotton Final email 6-13-18.pdf
955K
-  9.1.7) CVCPG Minutes of 06-18-18.pdf
67K
-  9.1.8) CVCPG Minutes of 07-16-18.pdf
66K
-  9A.1) City of San Diego 600-24 Administrative Guidelines for Community Planning Groups.pdf
804K
-  9A.2) City of San Diego CVCPG Bylaws.pdf
991K
-  5.1) Weinstein Demand Letter-Highlighted (03-22-17).pdf
445K
-  3.5) 6176 DSD Online Customer Information 5-31-18.pdf
261K
-  8.2.0) 6220 DSD Customer Information 5-31-18.pdf
154K
-  8.1.0) 6220 DSD Online Approval Details 4-05-18.pdf
164K
-  8.1.1) 6220 DSD Online Approval Details 6-08-18.pdf
721K
-  3.2.10) IB-514-Professional-Certifications-Requirements.pdf
207K

COTT-020



Darryl Cotton <indagrodarryl@gmail.com>

Re: 6176 Federal BLVD CUP Application

Ken Malbrough <kmalbrough@att.net>
To: Darryl Cotton <indagrodarryl@gmail.com>

Wed, Jun 13, 2018 at 8:48 AM

Darryl,

Be advised that this will be my last communication to you regarding project 598124. The information which I provided to you was given to me by DSD. You certainly have the right to not except my response, regardless of that I am satisfied with their explanation. If you have any additional questions about this project, contact DSD directly.

Best

Ken Malbrough

On 6/13/2018 8:32:03 AM, Darryl Cotton <indagrodarryl@gmail.com> wrote:

Ken,

Your response makes no sense. Did Cherlyn Cac tell you that yesterday? All you have to do is have a look at the DSD Cycle Review Status for 6220 that's posted up on the DSD website today (screenshot attached) and you can clearly see for yourself where DSD has the Cycle 6 Review showing complete. I'm not accepting that explanation and neither should you.

Darryl Cotton

On Tue, Jun 12, 2018 at 4:55 PM, Ken Malbrough <kmalbrough@att.net> wrote:

Darryl

That information which you sent does not mean the applicant requirement has been met with the planning group. It only means that the DSD project manager has informed the applicant that they need to contact the planning group.

Best

KM

On 6/12/2018 11:49:26 AM, Darryl Cotton <indagrodarryl@gmail.com> wrote:

Hi Ken,

Thank you for calling me this morning and confirming that while the DSD CUP application for 6220 Federal Blvd does show that the Community Planning Group function has been completed, it was not done by you or ENCPG as per the normal DSD requirements. Perhaps DSD accepted another community group recommendation for this approval? I trust your call into DSD Project Mgr Cherlyn Cac can help to explain to you what happened here. I know I was confused when I saw this requirement had already been met because as you can see by the DSD Online Cycle Review Status screen capture from 5-31-18 it had not yet been submitted just a week earlier. Nonetheless I do look forward to working with you and ENCPG when it comes time to bring my CUP application to the community as I believe, as you always have in the past, speak for our community.

COTT-021

I look forward to hearing from you after you speak with Ms. Cac and I thank you for your continued service.

Darryl Cotton

On Mon, Jun 11, 2018 at 10:34 AM, Darryl Cotton <indagrodarryl@gmail.com> wrote:
Good Morning Ken,

Thank you for taking my call earlier. I'm sorry to hear that you didn't get the votes for your bid for County Supervisor. For what it's worth you had my vote.

As I told you during our call, I see that the Encanto Neighborhood Community Planning Group (ENCPG), for which you are Chairperson, has recently held a community meeting and shows that as of 6-01-18 the Development Services Department (DSD) Community Planning Group Review (ID no 1668310) for a pending Marijuana Outlet (MO) CUP at 6220 1/3 Federal Blvd had been deemed completed. I've included the DSD Online Cycle Review (screenshot dated 6-09-18) as an attachment for your review and comments should you have any.

As you know from our previous meeting at the Monica Montgomery fundraiser, I'm also in the process of obtaining a MO CUP at my 6176 Federal Blvd property and would like to know if when the time comes to hold our Community Planning Group meeting with ENCPG I can count on your support for a MO CUP at my property as well?

I'm not sure when I will be able to set up the required Community Planning Group meeting with ENCPG as I don't currently have any administrative authority or control over the MO CUP being processed at my property. But based on a 6-09-18 screenshot of the DSD Online Cycle Review Status the Community Planning Group report and submission of that ENCPG report is still showing being in a pending status. This means at some point it will become necessary to submit the ENCPG report to DSD in order to meet the same requirements for the 6220 MO CUP as to the MO CUP being processed at my 6176 property as well.

I look forward to the ENCPG endorsement of these MO businesses as I believe when they are properly managed and regulated they will become a truly positive contribution within our communities.

Thank you for your many years of community service and in anticipation of your replay I will remain.

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

COTT-022