

# Opposition Statement Regarding 2400 Bayshore/5 Leland

## Supervisors, Planning Got it Right.

On May 27, 2021, The Planning Commission heard and denied the request for a Conditional Use Authorization (CUA) for a cannabis storefront at 2400 Bayshore/5 Leland Ave in Visitacion Valley. This project was given a fair hearing. Both sides had the opportunity present reasons to approve or reasons to deny.

This project faced overwhelming opposition from the neighborhood, not because of an “anti-cannabis” mindset, rather because **Visitacion Valley has an established cannabis storefront on the same block, less than 100 ft away from the CUA site. This is an indisputable fact that the project Sponsors knowingly omitted in their Appeal documentation.**

As you are aware, Sec 202(b) of the Planning code is crystal clear on locational limitations regarding cannabis storefronts. Sec 202(b) restricts cannabis storefronts from operating within 600 ft of one another. Again, there is an existing cannabis storefront on the same block as the CUA site. The CUA site is in direct violation of the intent of Sec 202(b).

All City agencies related to the oversight of cannabis, including the BOS, approved these restrictions because all stakeholders understood the **negative impacts associated with the clustering of cannabis uses along commercial corridors.** The approval of this CUA would be in direct violation of the intent of Planning Code and this City. The Planning Commission acted accordingly.

The specific “grandfathering” language in the Planning Code (Sec 190) that allowed for **the hearing** does not bar the Planning Commissioners from using the 600 ft restriction as a consideration. **In fact, if they did not consider the intent of Sec 202(b) they would have been grossly negligent.**

**The hearing on May 27<sup>th</sup> was fair.** It honored the language of Sec. 190. The Planning Commissioners used their knowledge and experience to make their determination. The Planning Commissioners thoughtfully discussed the matter. When the votes were counted, **the CUA was denied.**

**The Planning Commissioner got it right.** The project sponsors presented a project that was in direct violation of the intent of the Planning Code regarding clustering. The project was deemed not “necessary” because of the existing cannabis storefront. The project was clearly not “desirable” as evident from the overwhelming opposition from

community members. The project simply did not meet the threshold to approve a CUA, therefore it was rightfully denied. **Planning got it right.**

**Nothing has changed since this determination.** The established cannabis storefront is still open. Cannabis home delivery options are ubiquitous. The residents of Visitacion Valley are still overwhelmingly opposed to a second cannabis storefront on the same block as an existing cannabis storefront.

**Supervisors, Planning got it right. There are no factual or procedural grounds to overrule the Planning Commission's determination.**

### **The Appeal Document.**

Each side has the right to an Appeal. As you are aware, the path to an Appeal requires signatures. **This Appeal is before you because five of you signed an official document confirming your willingness to review the Commissioner's determination.** It is understood that by signing this document, the signatory is not taking a position. The facts of the matter must be heard first. However, **it must be pointed out that the document circulated to a select few of you contains a blatant misrepresentation (Statement 1) of the MOST pertinent fact.**

**Statement 2 confirm the community's opposition.**

**Statement 3** should be deemed **irrelevant.**

#### **Statement 1.**

This is a 100% false statement... "We challenge denial based clustering of cannabis retail due to the fact that there is no other cannabis retail store for 1 mile in any direction". The project sponsors know that this is false, yet **they still asked some of you to sign an official document with this lie.** This was not a mistake, or a misunderstanding of a fact. **It is a knowingly false statement in an official document.**

If any one of you signed this document based upon this statement, you were intentionally misled. **There should be repercussions to this.**

Clearly the Project Sponsors do not have to make statements that would undermine their position, **but they cannot make statements that are verifiably false and still earn your support.**

**This one act alone should disqualify them from your consideration on this matter.**

## **Statement 2.**

The project sponsors second statement "community opposition for this project is matched by overwhelming community support" actually **confirms that the Visitacion Valley community is strongly opposed to a second cannabis storefront** on the same block.

But they are again trying to mislead you with *their* level of support. **The vast majority of their support is from individuals and organizations that are not from or within Visitacion Valley.** A project that cannot earn the support from a neighborhood should tell you something.

Support from individuals with no connection to the neighborhood should not be given equal weight to the opposition of the people that walk, drive, shop, own businesses, and live in the neighborhood.

**Our opposition is indigenous, their support is imported.**

## **Statement 3.**

"Community ownership in this project has dramatically increased to a majority stake.." is a meaningless statement. "Community ownership" is not a recognized or defined term found in any code or regulation that controls cannabis in this City. This was verified by conversations with a representative from the Department of Cannabis. The Project sponsors made it up. **This meaningless statement is a meaningless commitment.**

**Planning asked for clarification (probably because they too saw it as meaningless).** The Project Sponsor's clarification, "San Francisco Equity Group has been given an option to purchase 98% of the ownership of the Project if the disapproval is overturned". This response should deeply concern you on numerous levels.

A windfall for the Project Sponsors by selling controlling interest to a unvetted 'group' after they steamrolled the neighborhood? Please note that this 'group' has members directly linked to the Project Sponsors!

**Supervisors, this one statement illustrates the disdain the Project Sponsors have for the Visitacion Valley community.**

## **Equity.**

The project sponsors are desperately trying to convince you that this project has a strong "Equity" commitment and that this should be a factor in overturning Planning's determination. This is not true. Please consider that the Project Sponsors had years to

put together a strong Equity ownership team. They did not. The best that they could do was to add selected individuals **weeks before the initial hearing date as "owners" with a minority (32%) stake.** However, there is no documentation confirming that the ownership structure was contractually changed. The Department of Cannabis has no record of this change.

**Given the project sponsors misrepresentations, their statements cannot be taken at face value.**

The public faces of this project, do not have a real financial stake in this. They never did, and likely never will. The real owners and financial backers are **highly capitalized, established business owners, that are vertically integrated cannabis investors, growers, and wholesalers** in this City and Statewide.

**Members of the real ownership team have access to 10s of Millions in investment dollars.**

They are NOT small, local, independent operators. **Ask them for a list of individuals that are on record as "partners". Google a few names to verify this.**

#### **In Closing.**

**Supervisors, Planning Got It Right!** It really is that simple. The Project Sponsors had nearly 5 years to prepare for May 27<sup>th</sup>, 2021. They came up short. Instead of accepting this, **they lied their way this appeal.** If you overturn this, you are rewarding a small group of wealthy investors over the very clear opposition of the Visitation Valley community. **If you overturn this you are saying that Visitation Valley doesn't deserve the same level of land use protections afforded to every other neighborhood in the City.**

**Please, Don't try to make it work.** Don't try to negotiate a compromise on our behalf. Doing so sends the message that somehow that all this is OK. **It is not.** The Planning Code clearly says that this is not OK.

**They lied to get here.** Send them a, and all future appellants, a strong message. Show them that the BOS will not tolerate a lie. Do not overturn the denial of this CUA.

**Planning got it right.**

**On behalf of the "opposition" in Visitation Valley**

Thank you for your consideration on this matter.

Russel Morine, Visitation Valley Resident

## **Top 10 Reasons NOT to Overturn Planning's Determination.**

- 1. The hearing was fair. Each side presented their arguments. Planning Got It Right!**
- 2. There is an established cannabis storefront on the same block.** A second one would be a clear violation of the Planning Code.
- 3. The Appeal offers no new information. It is a desperate attempt to circumvent the Planning Code and the Planning Commission** to force a rejected project into to a neighborhood that said, "We have one, we DO NOT need TWO" on the same block
- 4. The Project Sponsors lied to the BOS to secure this appeal.** This behavior must not be rewarded.
- 5. Please consider the implications of giving equal weigh to unverified statements that were not presented to the Planning Commission.** Future appellants could lose at Planning, secure an Appeal at BOS, and then feel free to present a significantly different project for your consideration.
- 6. The Project Sponsors all have DEEP ties to the cannabis industry and millions of dollars at their disposal. They are NOT small independent operators.**
- 7. The Planning Code is designed to protect ALL neighborhoods EQUALLY. Visitacion Valley deserves the same protections afforded to every neighborhood in San Francisco.**
- 8. Planning Got It Right!**
- 9. The project "Partners" failed to meet Planning's threshold of "necessary" and "desirable" in order to approve their CUA. Nothing has changed since May 27<sup>th</sup>, 2021.**
- 10. This is not an "Equity Ownership" project because (as detailed by Planning staff) the "Equity Applicants" do not have a controlling interest in the business. The project is owned and controlled by a by non "Equity" "Partners".**