

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
GRASSY GROVE, LLC,)
Appellant(s))
vs.)
ZONING ADMINISTRATOR,)
Respondent)

Appeal No. **21-088**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on September 2, 2021, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the ISSUANCE on August 18, 2021 to Enso Management Company, of a Letter of Determination (The request seeks confirmation of the following: 1) whether a proposed cannabis museum, including museum tour space, exhibition cannabis growing and processing spaces, and a gift shop containing a licensed retail cannabis dispensary would be considered a General Entertainment use; and 2) whether the gift shop, containing a licensed retail dispensary selling cannabis products, would be subject to the location controls of Planning Code Section 202.2, specifically, the required 600-foot buffer between Cannabis Retail establishments. The Zoning Administrator determined that the proposed cannabis museum would be a use that principally provides entertainment and leisure to the general public and would generally meet the definition of General Entertainment. If certain criteria are met, then the cannabis retail activity within the proposed museum is considered an accessory use and is not subject to Planning Code requirements applying to Cannabis Retail as a Principal or Conditional use, this includes the 600-foot buffer location requirements prescribed by Planning Code Section 202.2) at 145 Jefferson Street.

APPLICATION NO. Record No. 2021-001699ZAD

FOR HEARING ON December 7, 2022

Address of Appellant(s):

Address of Other Parties:

Grassy Grove, LLC, Appellant(s)
c/o Todd Williams, Attorney for Appellant(s)
Wendel, Rosen LLP
1111 Broadway, 24th Floor
Oakland, CA 94607

Enso Management Company, Determination Holder(s)
c/o James Abrams, Attorney for Determination
Holder(s)
J. Abrams Law, P.C.
One Maritime Plaza, Suite 1900
San Francisco, CA 94111



Date Filed: September 2, 2021

**CITY & COUNTY OF SAN FRANCISCO
BOARD OF APPEALS**

PRELIMINARY STATEMENT FOR APPEAL NO. 21-088

I / We, **Grassy Grove, LLC**, hereby appeal the following departmental action: **Reissued Letter of Determination (Record No. 2021-001699ZAD)** by the **Zoning Administrator** which was issued or became effective on: **August 18, 2021**, to: **Enso Management Company**, for the property located at: **145 Jefferson Street**.

BRIEFING SCHEDULE:

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: 4:30 p.m. on **October 21, 2021, (no later than three Thursdays prior to the hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy should be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, scott.sanchez@sfgov.org and jabrams@jabramslaw.com.

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **November 4, 2021, (no later than one Thursday prior to hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy should be emailed to: boardofappeals@sfgov.org, julie.rosenberg@sfgov.org, scott.sanchez@sfgov.org and toddwilliams@wendel.com.

Hard copies of the brief do NOT need to be submitted.

Only photographs and drawings may be submitted by the parties at the hearing.

Hearing Date: **Wednesday, November 10, 2021, 5:00 p.m.**, via Zoom. Information for access to the hearing will be provided before the hearing date. (Please note: Should the City's Health Orders permit in-person hearings, the Board reserves the right to hold the hearing at SF City Hall. Advance notice shall be provided to the parties.)

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any change to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to boardofappeals@sfgov.org. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

Please note that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website at www.sfgov.org/boa. You may also request a copy of the packet of materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

The reasons for this appeal are as follows:

See attachment to the preliminary Statement of Appeal

Appeal submitted electronically by Todd Williams, attorney for appellant.

**Statement of Reasons Supporting Appeal of Letter of Determination (LOD)
re 145 Jefferson Street Record No. 2021-001699ZAD (8/18/21) by Grassy Grove LLC**

1. The LOD wrongly classifies the cannabis dispensary as an "accessory use" (SFPC § 102). It is a principal Cannabis Retail use. It is not "necessary, incidental or subordinate" to the museum use (e.g., general public can access the dispensary without buying a museum ticket, museum lobby doubles as a security screening area for the dispensary), and will generate far more income than museum ticket sales. The LOD also underestimates the space devoted to cannabis manufacturing by over 2,400 sf. Areas devoted to growing, processing and display of cannabis products for sale are part of the Cannabis Retail use since they are part of the dispensary operation. Claims that the "primary" intent of the gift shop or showrooms are part of the museum use are misleading and unenforceable. The LOD wrongly classifies the proposed primary use as "general entertainment" under SFPC § 102, instead of what it is: Cannabis Retail.
2. The licensed cannabis dispensary proposed to be part of the museum gift shop does not – and must – abide by the location controls of SFPC § 202.2, including, but not limited to, the 600-foot buffer between Cannabis Retail establishments. The proposed dispensary is within 150-feet from an existing, licensed dispensary, SeaWeed SF, in clear violation of existing standards.
3. Allowing this dispensary as an "accessory use" circumvents the carefully crafted regulations and policies that all other cannabis retail establishments must abide by including location limits, social equity rules and safety requirements, undermines the investments made by primary use operators, and would create a huge loophole in the regulations. (See SFPC §§ 102, 202.2(a), 204.3(a) [limiting cannabis retail accessory uses]; SF Police Code § 1602.)
4. The City has no regulations for accessory cannabis use, and must first approve such regulations before allowing accessory cannabis uses. (SFPC § 204.3 [no Cannabis Retail as accessory use without Office of Cannabis permit; no such permit has been created by SFBOS.]



REISSUED LETTER OF DETERMINATION

August 18, 2021

Jim Abrams
J. Abrams Law, P.C.
One Maritime Plaza, Suite 1900
San Francisco, CA 94111

Record No.: **2021-001699ZAD**
Site Address: **145 Jefferson Street**
Assessor's Block/Lot: 0013 / 016
Zoning District: C-2 (Community Business)
Staff Contact: Michael Christensen - (628) 652-7567 or Michael.Christensen@sfgov.org

Dear Jim Abrams:

A letter was originally issued on July 13, 2021 in response to your request for a Letter of Determination regarding the property at 145 Jefferson Street. The original request was submitted on February 18, 2021 and a supplemental request was submitted on June 11, 2020. However, when the original letter was issued, proper notice was not provided to an interested party that had requested to receive a copy. Therefore, the letter is being reissued to provide proper notice to interested parties.

The request seeks confirmation of the following: 1) whether a proposed cannabis museum, including museum tour space, exhibition cannabis growing and processing spaces, and a gift shop containing a licensed retail cannabis dispensary would be considered a General Entertainment use; and 2) whether the gift shop, containing a licensed retail dispensary selling cannabis products, would be subject to the location controls of Planning Code Section 202.2, specifically, the required 600-foot buffer between Cannabis Retail establishments.

DESCRIPTION OF PROPOSED CANNABIS MUSEUM USE

While detailed floor plans remain in the early stages of design, an updated conceptual-level description of the proposed use of the premises is described by floor below. Please note that floor plan markups and listed square footage approximations listed below were not prepared or reviewed by a professional designer (i.e. are not verified Gross Floor Area summaries), but instead are applicant-prepared figures intended to provide sufficient understanding of how the proposed Cannabis Museum would function and comply with Planning Code use regulations.

First Floor

In its existing condition, the premise's ground floor space contains approximately 7,000 square feet of open floor area. In the proposed Cannabis Museum layout, all visitors would enter on Jefferson Street, first walking into an approximately 1,500 square foot reception and lobby space, where visitors would check in and register, queue for the beginning of a scheduled tour, and also view historical photos, artifacts, and informational displays about the Cannabis Museum's contents and purpose. The reception and lobby area would wrap around an approximately 3,600 square foot gift shop, which would be a fully licensed retail dispensary selling cannabis and cannabis products, including those grown and processed on-site. The gift shop would be open to the general public. However, its primary intent would be to serve as an end point for tours through the Cannabis Museum and items for sale would not be limited to cannabis and cannabis products, but would also include branded merchandise, books and periodicals pertaining to the cannabis industry and its history, and other items. The gift shop's size (representing approximately 15% of the premises overall floor area) is modeled on the size of analogous entertainment museum gift shops in the surrounding area, including the Aquarium of the Bay, San Francisco Dungeon, and Madam Tussauds. While exact building materials remain under review, the gift shop would be physically partitioned from the reception and lobby space, such that gift shop patrons would enter through a limited number of ingress/egress points.

Ticketed museum goers would enter the first tour area space (approximately 1,900 square feet), which would offer a glassed-in view of the dispensary and informational displays regarding the licensing and operation of dispensaries in San Francisco and California. The first-floor tour area would also lead to elevators and stairs leading to the second floor of the Premises.

A graphic markup of the first floor conceptual plan is shown in **Figure 1** below:

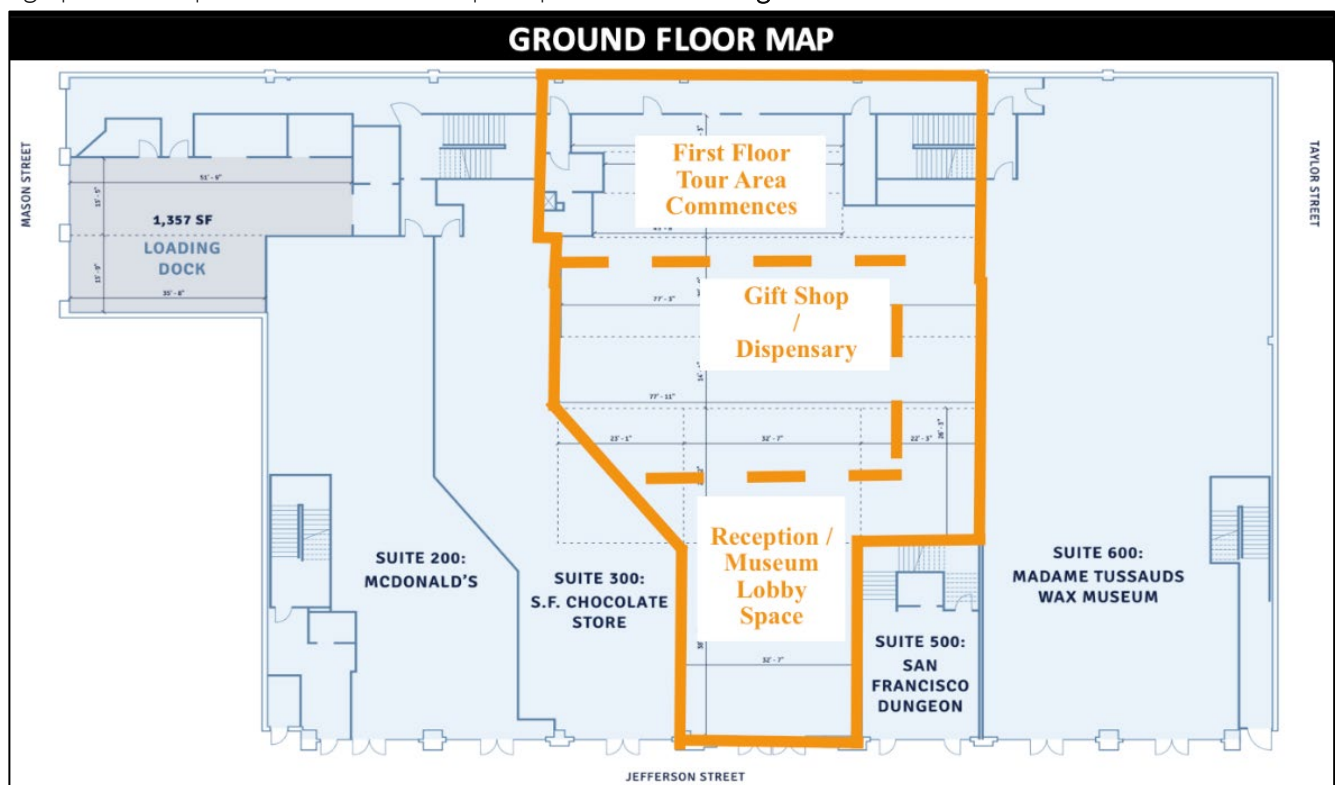


Figure 1: Conceptual floor plan for the first floor.

Second Floor

In its existing condition, the premise's second floor space contains approximately 12,260 square feet of floor area, with an existing approximately 2,500 square foot commercial kitchen on the Taylor Street side of the Premises. In the proposed Cannabis Museum layout, visitors entering the second level would exit stairs and elevators into a large tour area, containing a small theater space (intended for informational movie displays, talking events, performances, etc.) and various informational displays and exhibits geared towards educating visitors on the basic elements of the history of cannabis, specifically cannabis in San Francisco and California.

The central tour area (approximately 10,460 square feet) would be anchored by two show rooms on either side of the space. On the Mason Street side of the second floor there would be an approximately 900 square foot indoor cannabis cultivation room separated by a glass wall, where visitors would be able to observe and learn about cultivation, including the standards and quality required in cannabis cultivation. Informational displays in the tour area near the cultivation show room would educate visitors on how cannabis is selected for its aromas and flavors. The show room would not be designed as an industrial-scale cultivation area intended to produce cannabis for off-site sale, but instead would be primarily designed and curated to educate visitors of the museum and produce cannabis products sold in the first-floor gift shop dispensary.

On the Taylor Street side of the second floor the existing commercial kitchen would be reduced in size to about 900 square feet and similarly be partitioned by a glass wall, with the kitchen area used to prepare and package edible cannabis products. Visitors would be able to observe kitchen activity from their side of the glass wall. The commercial kitchen area would not be used for extraction of cannabis flowers to create oil, but instead would prepare edibles from cannabis flowers grown and dried on site for sale in the gift shop dispensary.

A graphic markup of the second floor conceptual plan is shown in Figure 2 below:

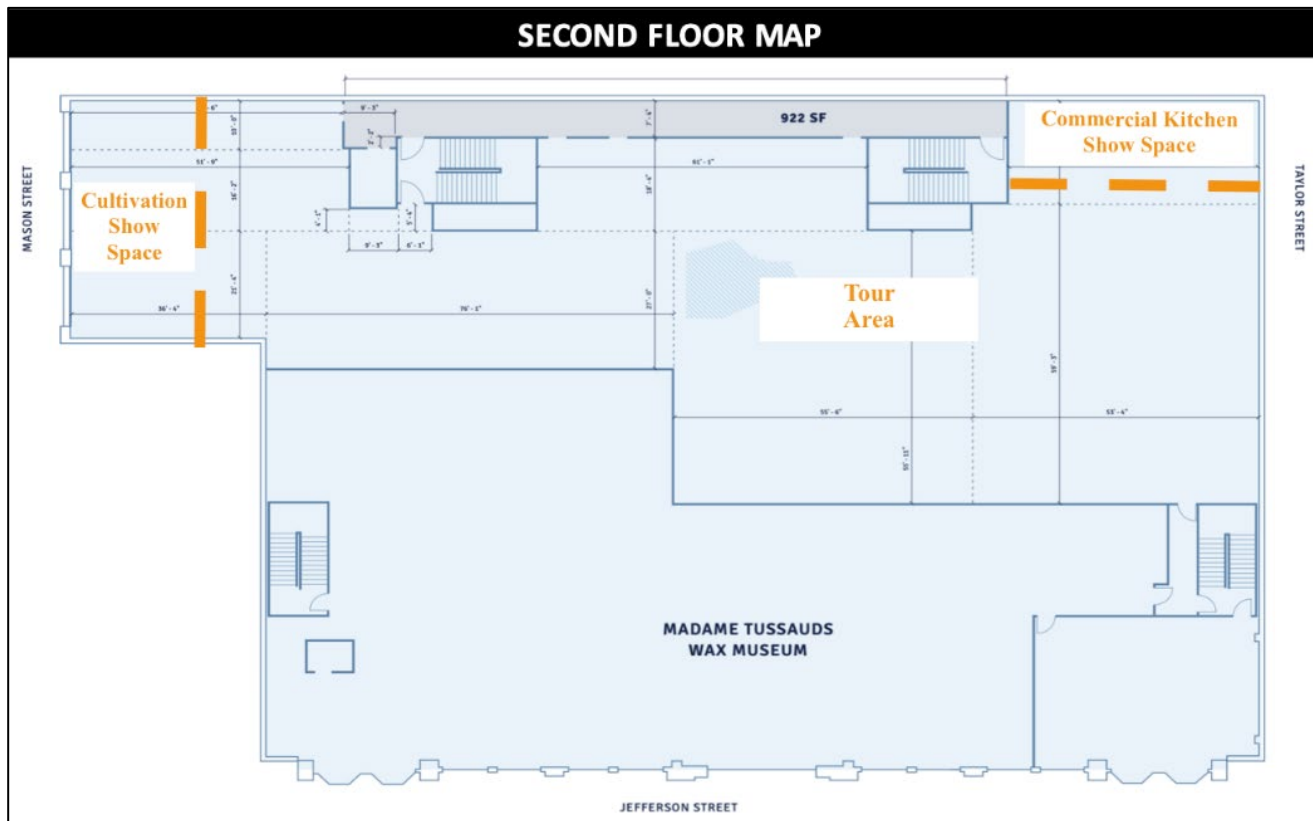


Figure 2: Conceptual floor plan for the second floor.

Third Floor

In its existing condition, the premises' third floor space contains a total of approximately 4,960 square feet in two discrete spaces: an approximately 2,900 square foot open floor space and an approximately 2,060 square foot irregularly shaped floor area that offers views to the second floor area of the Premises below. In the proposed Cannabis Museum layout, the 2,900 square foot room would contain a show room space (approximately 610 square feet) for drying the cannabis flowers grown in the second-floor cultivation show room and then either packaged for sale in the gift shop dispensary or moved to the second-floor kitchen show room for cooking into edible cannabis products. The remainder of the 2,900 square foot room (approximately 2,290 square feet) would contain tour area (separated by a glass wall), where visitors could view into the drying room and read informational displays on the drying and packaging process. The noncontiguous 2,060 square foot space would be used for site administration (i.e. accessory office and storage).

A graphic markup of the third floor conceptual plan is shown in **Figure 3** below:

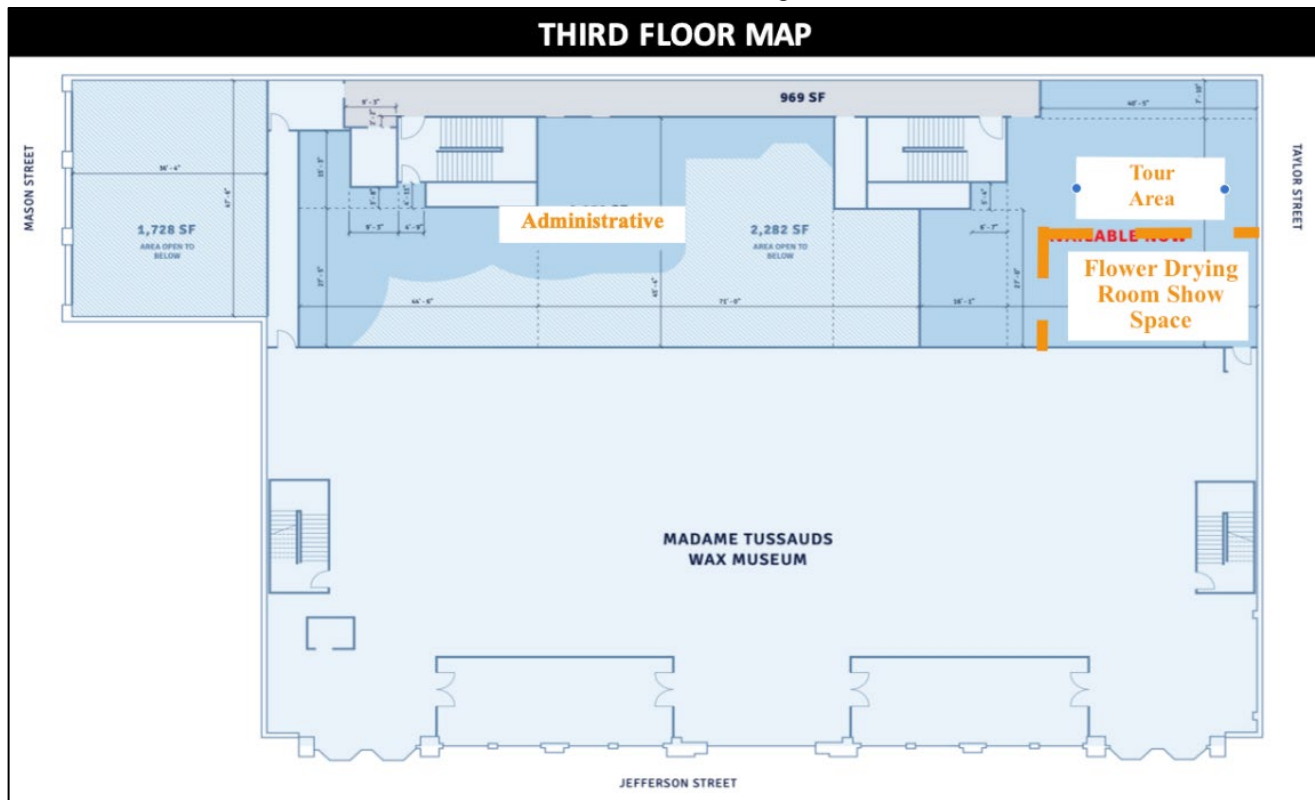


Figure 3: Conceptual floor plan for the third floor.

SUMMARY OF PROPOSED PLANNING CODE USES

Table 1 (below) summarizes the approximate principal and accessory use square footages proposed as part of the Cannabis Museum:

TABLE 1 SUMMARY OF PROPOSED PLANNING CODE USES		
Floor	Use	Approximate Square Footage
Floor 1	General Entertainment	7,000
	Principal General Entertainment	3,400
	Accessory Cannabis Retail	3,600
Floor 2	General Entertainment	12,260
Floor 3	General Entertainment	4,960
	Principal General Entertainment	2,900
	Accessory Office and Storage Space	2,060
Total	Retail General Entertainment	24,220

Planning Code Section 102 defines General Entertainment as:

"A Retail Entertainment, Arts and Recreation Use that provides entertainment or leisure pursuits to the general public including dramatic and musical performances where alcohol is not served during performances, arcades that provide eleven or more amusement game devices (such as video games, pinball machines, or other such similar mechanical and electronic amusement devices), billiard halls, bowling alleys, skating rinks, and mini-golf, when conducted within a completely enclosed building, and which is adequately soundproofed or insulated so as to confine incidental noise to the premises. Mechanical amusement devices are further regulated in Sections [1036](#) through [1036.24](#) of the Police Code."

Planning Code Section 102 defines Accessory Use as:

"A related minor Use that is either necessary to the operation or enjoyment of a lawful Principal Use or Conditional Use, or appropriate, incidental, and subordinate to any such use, and is located on the same lot."

Planning Code Section 204.3(a)(1) stipulates that an accessory use cannot occupy more than one-third of the total floor area occupied by such use, any additional accessory uses, and the Principal or Conditional Use to which it is accessory, except in the case of accessory off-street parking or loading. Additionally, Planning Code Section 204.3(a)(3) states the following regarding Cannabis Retail as an accessory use:

*"**Limitations on Cannabis Retail Accessory Uses** The sale of cannabis as an accessory use is subject to any applicable limitations or regulations imposed by the Office of Cannabis. Cannabis Retail is not permitted as an Accessory Use unless the Cannabis Retail establishment holds a permit from the City's Office of Cannabis specifically permitting Cannabis Retail accessory to another activity on the same premises."*

DETERMINATION

Based on the information provided above, it is my determination that the proposed cannabis museum would be a use that principally provides entertainment and leisure to the general public and would generally meet the definition of General Entertainment. The proposed accessory uses represent 23.4% of the total floor area, of which approximately 15% would be devoted to the gift shop containing the accessory cannabis retail use. In order to ensure the accessory uses are incidental and subordinate to the principle General Entertainment use, the following provisions must be met: 1) the growing and manufacturing of cannabis products on-site is principally conducted as an exhibition for the entertainment and view of the general public and not for the production of cannabis for distribution to other facilities, and 2) the proposed gift shop, conducting adult use sales of cannabis products, is not signed or marketed separately from the museum activity and is not open for sales when the museum activity is not in operation.

Please note that the Office of Cannabis has not yet formally established a permit for accessory cannabis retail. Therefore, such a permit must be created, and the business must obtain such a permit demonstrating that the accessory cannabis retail is accessory to another activity on the same premises, before an accessory cannabis retail use may be authorized under the Planning Code.

If the criteria above are met, then the cannabis retail activity within the proposed museum is considered an accessory use at the site and is not subject to Planning Code requirements applying to Cannabis Retail as a

Principal or Conditional use. This includes the location requirements prescribed in Planning Code Section 202.2 (e.g. 600-foot buffer). If the criteria above are not met, then the sale of cannabis on-site may only be conducted as a separate Principal or Conditional use and would be subject to the location requirements prescribed in Planning Code Section 202.2. As of the writing of this letter, any principal Cannabis Retail use at 145 Jefferson Street would not be compliant with the location standards of Section 202.2 because it is within 600 feet of 2627 Taylor Street, which contains a Cannabis Retail use licensed by the Office of Cannabis.

Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.

APPEAL: An appeal may be filed with the Board of Appeals within 15 days of the date of this letter if you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator. Please contact the Board of Appeals in person at 49 South Van Ness Ave, Suite 1475, call (628) 652-1150, or visit www.sfgov.org/bdappeal.

Sincerely,



Corey A. Teague, AICP
Zoning Administrator

cc: Property Owner
Neighborhood Groups
Michael Christensen, Senior Planner
Claudine Asbagh, Principal Planner, NE Quadrant

BRIEF SUBMITTED BY THE APPELLANT(S)

September 29, 2022

ELECTRONIC MAIL ONLY (BOARDOFAPPEALS@SFGOV.ORG)

San Francisco Board of Appeals
49 South Van Ness Avenue, Suite 1475
San Francisco, CA 94103

Re: Appeal No. 21-088
Grassy Grove, LLC vs. ZA
Appeal of Letter of Determination for 145 Jefferson Street
Record No.: 2021-001699ZAD)
Our File No.: 521238.0001

Dear Board of Appeals:

This letter brief is submitted on behalf of Appellant Grassy Grove, LLC in the above-referenced appeal of the Zoning Administrator's Letter of Determination (LOD) re 145 Jefferson Street.

I. The Appeal Is Moot Since the LOD Request Is Being Withdrawn

As an initial matter, we are informed that the applicant of the LOD (i.e., the determination holder), Enso Management Company, no longer has any interest in the property located at 145 Jefferson Street and is not pursuing the use described in the LOD and wishes to withdraw the request for an LOD. Enso does not own or lease said property, indicates the property is not available and does it have a business license to operate there. We are informed that Mark Vargas of Enso has asked the property owner to confirm that the location is not available and the proposed cannabis museum is not going forward.

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As such, we believe that the LOD should be declared moot and depublished given that the request is being withdrawn and proposed use is not being pursued at this site.

II. The Appeal Should Be Upheld for the Reasons Stated

The main basis of this appeal is that the LOD essentially creates a giant loophole in San Francisco's cannabis regulations. Were Cannabis Retail be allowed to constitute an Accessory Use, it would be exempt from many of the controls placed on all other Cannabis Retail businesses in San Francisco. As such, existing (and prospective) cannabis retailers who have complied with all rules, would have to compete with rival businesses that may largely be masquerading as cannabis retailers under the veil of a different primary use, such as the proposed "museum." One can imagine an art gallery, or other similar cultural space, proposing to have a Cannabis Retail accessory use that could sidestep compliance with the City's regulations providing and unlevel and inequitable playing field for cannabis retailers.

A. The Land Use Analysis for Accessory Sales Is Flawed

Zoning Administrator Teague argues in the LOD that if a cannabis retailer meets the criteria for accessory use, i.e. uses only a portion of the premises' square footage: "then the cannabis retail activity...is not subject to Planning Code requirements applying to Cannabis Retail as a Principal or Conditional use. This includes the location requirements prescribed in Planning Code Section 202.2 (e.g. 600-foot buffer)."

The problem with this conclusion is that there is no such thing in the SF Planning Code as "cannabis retail activity" that is not "Cannabis Retail." If an operator sells cannabis on-site, it is a Cannabis Retailer -- and a Cannabis Retailer is subject to the restrictions thereon.

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Planning Code Sec. 102: “*Cannabis Retail. A **Retail Sales and Service Use that sells or otherwise provides cannabis** and cannabis-related products...This use is **subject to operating and location restrictions** set forth in Section 202.2(a).*” [Emphasis added]

Police Code Sec. 1602: “‘*Cannabis Retailer*’” means **a fixed place of business where Cannabis and/or Cannabis Products are Sold** to Customers.” [Emphasis added]

It is our view that any “cannabis retail activity” is “Cannabis Retail” activity, subject to all the same regulations and restrictions regardless of its square footage, or whether it is accessory, principal, or conditional. But even if one were to concede Mr. Teague’s point, the matter still lands back at the Office of Cannabis.

B. The Office of Cannabis Cannot Approve Accessory Sales

The Board of Supervisors’ original 2017 cannabis legislation specifically carved out Cannabis Retail as subject to stricter regulation regarding accessory use, adding this to Planning Code 204.3(a):

***Limitations on Cannabis Retail Accessory Uses.** The sale of cannabis as an accessory use is subject to any applicable limitations or regulations imposed by the Office of Cannabis. Cannabis Retail is not permitted as an Accessory Use unless the Cannabis Retail establishment holds a permit from the City’s Office of Cannabis specifically permitting Cannabis Retail accessory to another activity on the same premises.*

This is a restriction, not an authorization. It is a requirement imposed on Cannabis Retail that other potential retail accessory uses are not subject to, rather only the Office of Cannabis can permit it. However, the Board of Supervisors and the Mayor have not created such a permit anywhere in the Planning Code. As such, the Office of Cannabis has no legal authority to issue an accessory use Cannabis Retail permit.

San Francisco Board of Appeals

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C. The Office of Cannabis and Board Should Not Approve Accessory Sales

The Board of Supervisors has not adopted legislation creating an accessory use Cannabis Retail permit. The LOD should not be used in the absence of such legislative direction.

Allowing a Cannabis Retailer to circumvent the anti-clustering, Social Equity, safety, access, or other regulations that other Cannabis Retailers must follow — simply because that Retailer operates inside a larger premises — would be counter to everything the Office of Cannabis has been working to build for the past five years.

It would be irredeemably unfair to existing retailers who were told they could count on some exclusivity in their immediate area. It would undermine the cause of Social Equity broadly, and the actual businesses of Social Equity Applicants specifically. It would be counter to the Board's, the Mayor's, and the community's goals in creating San Francisco's cannabis regulations. And it would send a message to everyone who has worked so hard to follow the rules that the faith they placed in the City was wrong. Someone else bypassed those rules. Someone with more square footage, more money, more access, snuck in through the side door.

For instance, consider the Social Equity Applicants who signed leases in early 2018. They worked with lawyers, created partnerships, cobbled together the money they needed. And when applications opened in May of 2018, they were denied the opportunity to open their business because someone within 600 feet beat them to it. Who wants to tell them the 600 foot rule does not matter anymore? Who wants to let them know, that years later, someone else is getting the opportunity they did not?

III. Summary of Reasons to Grant the Appeal

In summary, the appeal should be granted for the following four reasons:

First, the LOD wrongly classifies the cannabis dispensary as an "accessory use" (SFPC § 102). It is a principal Cannabis Retail use. It is not "necessary, incidental or subordinate" to the proposed "museum" use. For example, the general public can access the dispensary without buying a museum ticket; the museum lobby doubles as a security screening area for the dispensary; and will generate far more income than museum ticket sales. In essence, the museum use is a front for the Cannabis Retail use.

The LOD also underestimates the space devoted to cannabis manufacturing by over 2,400 square feet. Areas devoted to growing, processing and display of cannabis products for sale are part of the Cannabis Retail use since they are part of the dispensary operation. Claims that the "primary" intent of the gift shop or showrooms are part of the museum use are misleading and unenforceable. The LOD wrongly classifies the proposed primary use as "general entertainment" under SFPC § 102, instead of what it is: Cannabis Retail.

Second, the licensed cannabis dispensary proposed to be part of the museum gift shop does not – and must – abide by the location controls of SFPC § 202.2, including, but not limited to, the 600-foot buffer between Cannabis Retail establishments. The proposed dispensary is within 150-feet from an existing, licensed dispensary, SeaWeed SF, in clear violation of existing standards.

Third, as noted above, allowing this dispensary as an "accessory use" circumvents the carefully crafted regulations and policies that all other cannabis retail establishments must abide

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by including location limits, social equity rules and safety requirements; undermines the investments made by primary use operators; and would create a huge loophole in the regulations. (See SFPC §§ 102, 202.2(a), 204.3(a) [limiting cannabis retail accessory uses]; SF Police Code § 1602.)

Fourth, the City has no regulations for “accessory” cannabis retail use, and must first approve such regulations before allowing accessory cannabis uses. (SFPC § 204.3 [no Cannabis Retail as accessory use without Office of Cannabis permit; no such permit has been created by SF Board of Supervisors.] The LOD should not create a new path to circumvent a use (i.e., accessory cannabis retail use) that does not exist in the Planning Code.

For the reasons stated herein, we respectfully request that the appeal be granted.

Sincerely,

FENNEMORE WENDEL



Todd A. Williams

TAWI/tawi

cc: Julie Rosenberg
Alec Longaway
James Abrams (jabrams@jabramslaw.com)
Romwald (Ray) Connolly (ray@castroplace.com)

THE DETERMINATION HOLDER DID NOT SUBMIT A BRIEF

BRIEF SUBMITTED BY THE DEPARTMENT



BOARD OF APPEALS BRIEF

HEARING DATE: December 7, 2022

December 1, 2022

Appeal Nos.: 21-088
Project Address: 145 Jefferson Street
Block/Lot: 0013/016
Zoning/Height: C-2 (Community Business), Waterfront SUD No. 2 / 40-X
Staff Contact: Corey Teague, Zoning Administrator – (628) 652-7328
corey.teague@sfgov.org

Introduction

This brief is intended to provide a concise response to the appeal filed against the Letter of Determination issued for the property at 145 Jefferson Street on August 18, 2021. The letter itself goes into detail to explain the technical issues and consideration. This brief serves as a supplement to the letter to provide key, underlying points and specific responses to the issues raised in the appeal.

Key Points

The requestor asked the Zoning Administrator to determine 1) if a cannabis museum with a gift shop containing a licensed dispensary and lawful accessory office and storage space--would all be classified as a Retail General Entertainment use, and 2) if such a gift shop dispensary would be subject to the location controls of Planning Code Section 202.2, specifically, the required 600-foot buffer between Cannabis Retail establishments. The issued determination was that the principal use described in the request would be a General Entertainment use and that the gift shop dispensary would meet the definition of an accessory use

under the Planning Code, and therefore would not be subject to the Planning Code controls applicable to Cannabis Retail as a separate, principal use.

The responses to the Appellant's primary issues are as follows:

1. **The determination is moot because the requestor no longer plans to proceed with the project.**

When a determination is sought from the Zoning Administrator to interpret the Planning Code, that determination and interpretation has relevance beyond the proposed project that may have been the impetus for the request. As such, the determination is not moot if the requestor no longer intends to act pursuant to the interpretation.

2. **Allowing the sale of cannabis as an accessory use would be a loophole around the specific controls in place for Cannabis Retail, such as the 600-foot buffer.** Any question regarding loopholes in existing regulations and the need or desire to address them are a policy matter for consideration by policy boards, such as the Planning Commission and the Board of Supervisors. The Zoning Administrator's determination is an interpretation of the controls as they exist now. If this determination is upheld, the City will have the option to amend the Planning Code's cannabis controls if desired.

3. **Any cannabis sales are a Cannabis Retail use and cannot be considered an accessory use.** The Planning Code explicitly states which uses cannot be considered an accessory use, such as Adult Sex Venues citywide (Sec. 204.3(d)) and Bars in Neighborhood Commercial Districts (Sec. 703(d)). The Planning Code does not expressly prohibit Cannabis Retail from being an accessory use. Instead, Planning Code Section 204.3(a) provides the following guidance on Cannabis Retail

as an accessory use:

“Limitations on Cannabis Retail Accessory Uses” The sale of cannabis as an accessory use is subject to any applicable limitations or regulations imposed by the Office of Cannabis. Cannabis Retail is not permitted as an Accessory Use unless the Cannabis Retail establishment holds a permit from the City’s Office of Cannabis specifically permitting Cannabis Retail accessory to another activity on the same premises.”

This provision does not prohibit Cannabis Retail as an accessory use, but instead clearly states that such an accessory use must have a valid permit from the Office of Cannabis and would be subject to any associated controls for such permit imposed by the Office of Cannabis. As such, the implied policy intent is that accessory Cannabis Retail was considered within the adopted Planning Code controls and its potential legality is left to the Office of Cannabis for creating an appropriate permit and associated controls, which would theoretically address any of the “loophole” issues raised by the Appellant.

This point was made in the Zoning Administrator’s determination, which is that even with the issued determination, no such accessory Cannabis Retail use can be approved by the Planning Department until the Office of Cannabis creates an accessory permit and associated controls.

It’s also important to note that the Planning Code’s controls on specific uses only apply to those uses when they are the principal use, and not when they are an accessory use. For example, if a Light Manufacturing use has a small accessory retail use to sale goods made on-site, the accessory retail is not subject to any specific controls on retail for that property (i.e., use size limits, impact fees, etc.). As such, accessory Cannabis Retail would not be subject to the specific

controls of Planning Code Section 202.2(a)(5), such as the 600-foot buffer. One exception to this is Formula Retail. Planning Code Section 303.1(c) specifically states that Formula Retail controls apply to the applicable uses whether they are “functioning as a Principal or Accessory Use.” If the policy intent was to apply Cannabis Retail controls in the Planning Code to accessory uses, then the Code language would need to be explicit, as it is for Formula Retail uses.

4. **The Office of Cannabis and the Board of Supervisors should not permit accessory cannabis sales.** This is a policy statement that is not relevant to the interpretation of the Planning Code as it currently exists. As noted above, even with this interpretation of the Planning Code, no accessory cannabis sales may occur until the Office of Cannabis creates the appropriate permit and related controls. And if the legislative intent had been to completely prohibit any chance of accessory Cannabis Retail use, such language would be explicit in the Code as it is for other uses.

Conclusion

To conclude, the determination in question provided clear and technically correct guidance regarding the proposed museum and accessory gift shop cannabis dispensary, while noting that such determination did not allow such a project to move forward unless and until the Office of Cannabis created the necessary accessory permit and a project met any associated controls. The Planning Code does not expressly prohibit accessory Cannabis Retail, as it does for certain other uses. Instead, the only additional limit placed on accessory Cannabis Retail is the need for action by the Office of Cannabis. Appellant’s arguments regarding the policy rationale behind permitting accessory Cannabis Retail is not relevant to the interpretation of the Planning Code as it currently exists.

Considering the information provided in the Letter of Determination and this brief, the Department respectfully requests that the Board of Appeals uphold the Zoning Administrator's determination and deny the appeal.

cc: Todd Williams (Appellant)
James Abrams – Determination Requestor
Mathew Chandler, Planning Department

PUBLIC COMMENT

Longaway, Alec (BOA)

From: David Goldman <brownie.marysf@gmail.com>
Sent: Monday, October 17, 2022 4:41 PM
To: BoardofAppeals (PAB)
Subject: re: OPPOSE approval of the accessory license at 145 Jefferson Street

Follow Up Flag: Follow up
Flag Status: Completed

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Members of the Board of Appeals:

My name is David Goldman. I am the President of the Brownie Mary Democratic Club of San Francisco. On behalf of our membership, I am writing to you today to say we strongly oppose the approval of an accessory license with cannabis growing and processing spaces, gift shop; and a licensed retail dispensary at 145 Jefferson Street.

The proposed "Cannabis Retail Accessory uses" with a licensed retail dispensary is a cover up to bypass the Office of Cannabis permit for a Retail License. It violates the City's Planning code Section 202.2 where another Retail License dispensary should not be within 600 feet of another licensed retail cannabis dispensary. The approval for this "Accessory Use" will open the flood gates to other "Accessory Use" applicants throughout the city.

Please reconsider the decision because we feel that any "Licenses" for retail use should only be approved by the Office Of Cannabis, and Planning Code Section 202.2 should never be compromised or be exempt.

Thank you for your time and consideration.

Sincerely,

David Goldman
President, San Francisco Chapter
Brownie Mary Democratic Club
Brownie.MarySF@gmail.com
https://url.avanan.click/v2/___www.browniemarydemclub.com___YXAzOnNmZHQyOmE6bzo5ZTFhODQwMjRjNTEwNWQ3OGM2ZDZjMjVkyjQxNDhkNzo2OmMxMmU6MmUwYTgyYjYkxNTMzNjk3NjU4OThjNWl5MTgyMTk3MGExMzA2YjMxOWY0N2JmZTcwMDUwODIlZjQ4MWE0ZTM2Nzp0OIQ
Instagram: @bmsf415
m: 415-728-7631

From: [DR. J](#)
To: [BoardofAppeals \(PAB\)](#)
Subject: accessory licensing of cannabis retail
Date: Tuesday, October 18, 2022 2:47:09 PM
Attachments: [Agenda Item #3 SF-Cannabis-Oversight-Committee August-25 Minutes Final.pdf](#)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear members of the board,

my name is Ali Jamalian. I am the founder of Sunset Connect as well as the chairman of the San Francisco Cannabis Oversight Committee and the State Advisory Committee.

I am writing to you in order to enter this email to the public record.

I would also like to use this opportunity to refresh your memory and resubmit the COC's unanimous recommendation against accessory use of cannabis retail in San Francisco from August 25th 2021. (Meeting minutes item #6)

I trust that you will strongly consider the committee's recommendation and thank you for your time.

Best,
Ali Jamalian

I have copied item #6 below for your convenience:

Discussion re: an Accessory Use Cannabis Retail Permit Type Discussion,

Possible

Action

An Accessory Use cannabis retail permit type does not presently exist under Article 16 of the Police Code and would have to be created and legislated by the Board of Supervisors. The Zoning Administrator has determined that the 600-foot buffer rule under current Planning Code section 202.2(a)(5)(B) would not apply to a business with a cannabis retail Accessory Use permit. An Accessory Use cannabis retail permit would allow cannabis business activity that is secondary to the primary business use of a particular location. The Zoning Administrator's Letter of Determination can be found on the Committee's webpage with the other meeting materials for this meeting. The Office of Cannabis and the Planning Department provide a joint presentation, and the Committee has an opportunity to discuss and hear from the community, via public comment, about what an Accessory Use cannabis retail permit type should look like if legislated, and how equity considerations should factor into the creation of such a permit type.

- The Zoning Administrator's Letter of Determination is in response to a request concerning a

proposed cannabis museum project. In relevant part, the Zoning Administrator determined that the proposed project would require an Accessory Use cannabis business retail permit.

Notice of Meeting & Agenda 4 | Page

San Francisco Cannabis Oversight Committee Date: August 25, 2021

- The OOC and the Planning Department present on the topic of an Accessory Use cannabis retail permit. The Planning Code has a provision for cannabis retail as an Accessory Use only if such a permit is issued by the OOC; this permit type does not currently exist and would have to be created through legislative means by the Board of Supervisors. The full presentation is available by accessing this link: <https://officeofcannabis.sfgov.org/node/2750>

- As presented during Planning's portion of the presentation, Accessory Use activities can only be a third of the total floor area and must be subordinate and related to the principal activity as determined by the Planning Department.

- Per the Planning Code, the 600-foot buffer rule does not apply to Accessory Use permits.

- As presented during Planning's portion of the presentation, Accessory Use activities must have the same marketing and hours of operation as the principal activity.

- As presented during the OOC's portion of the presentation, the OOC offers a variety of factors for the Committee's and the public's consideration as part of the broader discussion around whether an Accessory Use cannabis business retail permit type should be created, and if so, what such a permit type should and should not allow.

- Public comment:

- A dispensary founder expresses that an exemption from the 600-foot buffer

rule will disrupt the equity community. He proposes changing the relevant code sections to prohibit any businesses like the proposed cannabis museum to move forward.

- A community member is against the proposal of an Accessory Use permit type, even if it is contemplated on the Planning Code, because it disrupts the Equity Program, is a threat to the Equity Program, disrupts an already saturated market that the 600-ft rule puts pressure on, interferes with a carefully calculated process that all in all works, and is unfair to those who had to go through a complex licensing process.

- A community member notes that this legislation would create more opportunity for equity applicants who are interested in pursuing other types of businesses with cannabis. They recommend that the 600-foot buffer rule is maintained with an Accessory Use license to be fair to those already in the queue.

- An equity applicant and member of the Cannabis Retailer's Alliance notes that an Accessory Use cannabis permit must be subjected to all rules and regulations a principal cannabis permit has if it is

created. They note that the 600-foot buffer exemption would be damaging to the Equity Program and goes against existing codes and policies. The floodgates will open if this exemption is allowed. Businesses, clothing stores, cafés, etc... will start selling cannabis.

- San Francisco Cannabis Retailers Alliance President notes that an Accessory Use permit type will lead to saturating a market that already has many applicants waiting to join. Approving one Accessory Use project will open a Pandora's box that will lead to individuals trying to secure the best locations in the city under the Accessory Use. If an Accessory Use cannabis business retail permit is created, it must abide by all rules and regulations including the 600-foot buffer rule. They recommend that the Committee advise the Board of Supervisors to not consider accessory use permits until it is understood how many retailers there will be in the market.

- Members discuss how they like the idea of Accessory Use if it was incorporated when the Equity Program first began, but as of this point, it is unfair and disruptive to the existing license and equity program and would need to be fully compliant. Members

Notice of Meeting & Agenda 5 | Page

San Francisco Cannabis Oversight Committee Date: August 25, 2021 note that the industry's landscape is already saturated and too unknown to be able to determine the market effects of an Accessory Use cannabis permit. Accessory Use is interesting, but because of where the process is and with not knowing what the

market will look like once the applications in the queue are processed, allowing it would be irresponsible at this time. The Board of Supervisors should consider the possibility of an Accessory Use at a later point once the landscape is more settled.

- It was clarified that cultivation can be an Accessory Use permit under the Planning Code, but would need legislation in the City code.
- It was clarified that any member of the public can appeal the Zoning Administrator's Letter of Determination by contacting the Board of Permit Appeals by September 2nd.
- Motion to recommend to the Board of Supervisors to not take up Accessory Use permits for cannabis retail at this time.

○ **Motion/Second:** Brendan Hallinan/Nina Parks | **Motion Approved** ○
Ayes:5 | Nays:0 | Abstentions:0 | Absent:3 | Vacant:1

--

Ali Jamalian

President/Owner

Kiffen LLC dba sunset connect

A verified social equity operator

[Recommended Reading](#)

San Francisco

415.900.6868

[@sunsetconnect](#)

www.sunsetconnect.co

SAN FRANCISCO CANNABIS OVERSIGHT COMMITTEE

Notice of Hearing & Agenda

Meeting held via Webex

**August 25, 2021
1:00 PM-4:00 PM
Regular Meeting**

Committee Members:

Voting Members

- Doug Bloch
- Jessica Cry
- Aaron Flynn
- Theresa Foglio-Ramirez
- Ali Jamalian
- Sara Payan
- Brendan Hallinan
- Nina Parks
- Shawn Richard

Non-Voting Members

- Mohammed Malhi or rep. from SFPDH
- Capt. Brian Philpott or rep. from SFPD
- Jeff Buckley or rep. of DBI
- Michael Christensen or rep. of SF Planning
- Quarry Pak or rep. from SFUSD
- Dylan Rice or rep. of SF Entertainment Commission
- Lt. Rick Figari or rep. from SFFD

Meeting materials are available at:

Website: www.officeofcannabis.sfgov.org

Office of Cannabis, City Hall
1 Dr Carlton B Goodlett Pl #18
San Francisco, CA 94102

Disability and language accommodations available upon request to: officeofcannabis@sfgov.org or 628-652-0420 at least 48 hours in advance, except for Monday meetings, for which the deadline is 4pm the previous Friday.

Know Your Rights Under the Sunshine Ordinance

(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at City Hall, 1 Dr. Carlton B. Goodlett Place, Room 409; phone (415) 554-7724; fax (415) 554-7854; or e-mail at sotf@sfgov.org. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Library and on the City's website at www.sfbos.org/sunshine.

Meeting Materials

Any materials distributed to the members of the Committee within 72 hours of the meeting or after the agenda packet has been delivered to the members are available for inspection at the Office of Cannabis, 49 South Van Ness, San Francisco, CA 94103, during regular office hours.

Ringling and Use of Cell Phones

The ringling of use of cell phones, pagers, and similar sound-producing electronic devices are prohibited at this meeting. The Chair may order the removal from the meeting room of any person responsible for any ringling or use of a cell phone, pager, or other similar sound-producing electronic device.

Privacy Policy Personal

Information that is provided in communications to the Office of Cannabis is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted.

Members of the public are not required to provide personal identifying information when they communicate with the Cannabis Oversight Committee. All written or oral communications that members of the public submit to the Department regarding projects or hearings will be made available to all members of the public for inspection and copying. The Department does not redact any information from these submissions. This means that personal information including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Office and its committee may appear on the Office's website or in other public documents that members of the public may inspect or copy.

San Francisco Lobbyist Ordinance

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code Section 21.00-2.160] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 25 Van Ness Avenue, Suite 220, San Francisco, CA 94102; phone (415) 252-3100; fax (415) 252-3112; and online <http://www.sfgov.org/ethics>.

Accessible Meeting Information

Committee hearings are currently being held remotely using the Microsoft WebEx meeting platform. The location is accessible to persons using wheelchairs and other assistive mobility devices.

Disability Accommodations: To request assistive listening devices, real time captioning, sign language interpreters, readers, large print agendas or other accommodations, please contact the Office of Cannabis at www.officeofcannabis.sfgov.org or 628-652-0420 at least 72 hours in advance of the hearing to help ensure availability.

Language Assistance: To request an interpreter for a specific item during the hearing, contact the Office of Cannabis at www.officeofcannabis.sfgov.org or 415-554-4420 at least 48 hours in advance of the hearing.

Allergies: In order to assist the City in accommodating persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, please refrain from wearing scented products (e.g. perfume and scented lotions) to Committee hearings.

SPANISH: Agenda para la Oficina de Cannabis. Si desea asistir a la audiencia, y quisiera obtener información en Español o solicitar un aparato para asistencia auditiva, llame al 628-652-0420. Por favor llame por lo menos 48 horas de anticipación a la audiencia.

CHINESE: 規劃委員會議程。聽證會上如需要語言協助或要求輔助設備，請致電415-554-4420 請在聽證會舉行之前的至少48個小時提出要求。

TAGALOG: Adyenda ng Komisyon ng Pagpapalano. Para sa tulong sa lengguwahe o para humiling ng Pantulong na Kagamitan para sa Pagdinig (headset), mangyari lamang na tumawag sa 628-652-0420. Mangyaring tumawag nang maaga (kung maaari ay 48 oras) bago sa araw ng Pagdinig.

RUSSIAN: Повестка дня Комиссии по планированию. За помощью переводчика или за вспомогательным слуховым устройством на время слушаний обращайтесь по номеру 628-652-0420. Запросы должны делаться минимум за 48 часов до начала слушания.

Regular Agenda:**1. Call to Order / Roll Call**

- On the call of roll, the following Committee Members were noted present [(v)= voting member]
 - Ali Jamalian (v)
 - Doug Bloch (v)
 - Shawn Richard (v)
 - Nina Parks (v)
 - Brendan Hallinan (v)
 - Mohammed Malhi, SFPDH
 - Michael Christensen, SF Planning
 - Quarry Pak, SFUSD
 - Dylan Rice, SF Entertainment Commission
 - Lt. Rick Figari, SFFD
- The following Committee Members were not present:
 - Aaron Flynn (v)
 - Theresa Foglio-Ramirez (v)
 - Sara Payan (v)
 - Sgt. Chris Oshita, SFPD
 - Jeff Buckley, SFDBI
- A quorum is established

2. Review and Consideration of Regular AgendaDiscussion,
Action

Committee members review, amend the meeting agenda as necessary and vote to approve agenda.

- Member Hallinan requests to add an update on grant funds to agenda item #4
- No public comment
- Motion to approve the meeting agenda with the amendment of an update on grant redistribution and TA contract from OOC
 - **Motion/Second:** Brendan Hallinan/ Nina Parks | **Motion Approved**
 - **Ayes:** 5 | **Nays:** 0 | **Abstentions:** 0 | **Absent:** 3 | **Vacant:** 1

3. Review and Approve Minutes from Committee Meeting on July 14, 2021Discussion,
Action

Committee members review minutes from previous Committee meetings, amending as necessary, and vote to approve.

- No public comment
- Motion to approve the minutes from Committee meeting on July 14, 2021
 - **Motion/Second:** Doug Bloch/Brendan Hallinan | **Motion Approved**
 - **Ayes:** 5 | **Nays:** 0 | **Abstentions:** 0 | **Absent:** 3 | **Vacant:** 1

4. Update Regarding Former Committee Member and Grant Distribution Program

Discussion

The Office of Cannabis provides a brief update regarding the vacancy of Seat 10 on the Cannabis Oversight Committee and on grant-related items.

- Former Vice Chair Jessica Cry resigned after the July 14, 2021 Committee meeting and Seat 10 is now vacant. Seat 10 must be held by a representative of organized labor who works with the Cannabis business labor force.

- The Board of Supervisors is in the process of posting the vacancy notice. Individuals who are interested in filling Seat 10 should contact the Clerk's Office for additional information. Once the Clerk's Office receives a sufficient amount of applications, a hearing will be held by the Rules Committee (made up by several members of the Board of Supervisors) to move forward with the selection process.
- The OOC awards former Vice Chair Jessica Cry and former Chair Nina Parks a certificate of honor for their service and contribution.
- The OOC to issue a bulletin on additional grant redistribution guidance by the end of the month. The bulletin will include an outline of program parameters, an award letter asking for intent to move forward and a grant contract to be signed by the grantee.
- Although the TA contract expires at the end of August, there will continue to be free TA opportunities for verified equity applicants. Additional TA includes legal assistance with the Bar Association of San Francisco Cannabis Law Committee and permit compliance support from the OEWD-contracted Law Offices of Matthew Kumin. Approximately 400 verified equity applicants are currently utilizing TA.
- No public comment

5. Review of Committee Bylaws

The Committee members review the amended version of the Committee bylaws and possibly vote on adopting them.

Discussion,
Possible
Action

- Chair Jamalain requests that the bylaws authorize the Committee to create subcommittees.
- The City Attorney clarifies that meetings of a subcommittee must be Brown Act compliant and would require public notice. The OOC notes that there are limited resources for subcommittee meetings.
- No public comment
- Motion to include in the bylaws the authorization of the Oversight Committee by majority vote to create subcommittees and approve the bylaws thereafter.
 - **Motion/Second:** Brendan Hallinan/Nina Parks | **Motion Approved**
 - **Ayes:** 5 | **Nays:** 0 | **Abstentions:** 0 | **Absent:** 3 | **Vacant:** 1

6. Discussion re: an Accessory Use Cannabis Retail Permit Type

An Accessory Use cannabis retail permit type does not presently exist under Article 16 of the Police Code and would have to be created and legislated by the Board of Supervisors. The Zoning Administrator has determined that the 600-foot buffer rule under current Planning Code section 202.2(a)(5)(B) would not apply to a business with a cannabis retail Accessory Use permit. An Accessory Use cannabis retail permit would allow cannabis business activity that is secondary to the primary business use of a particular location. The Zoning Administrator's Letter of Determination can be found on the Committee's webpage with the other meeting materials for this meeting. The Office of Cannabis and the Planning Department provide a joint presentation, and the Committee has an opportunity to discuss and hear from the community, via public comment, about what an Accessory Use cannabis retail permit type should look like if legislated, and how equity considerations should factor into the creation of such a permit type.

Discussion,
Possible
Action

- The Zoning Administrator's Letter of Determination is in response to a request concerning a proposed cannabis museum project. In relevant part, the Zoning Administrator determined that the proposed project would require an Accessory Use cannabis business retail permit.

- The OOC and the Planning Department present on the topic of an Accessory Use cannabis retail permit. The Planning Code has a provision for cannabis retail as an Accessory Use only if such a permit is issued by the OOC; this permit type does not currently exist and would have to be created through legislative means by the Board of Supervisors. The full presentation is available by accessing this link: <https://officeofcannabis.sfgov.org/node/2750>
- As presented during Planning's portion of the presentation, Accessory Use activities can only be a third of the total floor area and must be subordinate and related to the principal activity as determined by the Planning Department.
- Per the Planning Code, the 600-foot buffer rule does not apply to Accessory Use permits.
- As presented during Planning's portion of the presentation, Accessory Use activities must have the same marketing and hours of operation as the principal activity.
- As presented during the OOC's portion of the presentation, the OOC offers a variety of factors for the Committee's and the public's consideration as part of the broader discussion around whether an Accessory Use cannabis business retail permit type should be created, and if so, what such a permit type should and should not allow.
- Public comment:
 - A dispensary founder expresses that an exemption from the 600-foot buffer rule will disrupt the equity community. He proposes changing the relevant code sections to prohibit any businesses like the proposed cannabis museum to move forward.
 - A community member is against the proposal of an Accessory Use permit type, even if it is contemplated on the Planning Code, because it disrupts the Equity Program, is a threat to the Equity Program, disrupts an already saturated market that the 600-ft rule puts pressure on, interferes with a carefully calculated process that all in all works, and is unfair to those who had to go through a complex licensing process.
 - A community member notes that this legislation would create more opportunity for equity applicants who are interested in pursuing other types of businesses with cannabis. They recommend that the 600-foot buffer rule is maintained with an Accessory Use license to be fair to those already in the queue.
 - An equity applicant and member of the Cannabis Retailer's Alliance notes that an Accessory Use cannabis permit must be subjected to all rules and regulations a principal cannabis permit has if it is created. They note that the 600-foot buffer exemption would be damaging to the Equity Program and goes against existing codes and policies. The floodgates will open if this exemption is allowed. Businesses, clothing stores, cafés, etc... will start selling cannabis.
 - San Francisco Cannabis Retailers Alliance President notes that an Accessory Use permit type will lead to saturating a market that already has many applicants waiting to join. Approving one Accessory Use project will open a Pandora's box that will lead to individuals trying to secure the best locations in the city under the Accessory Use. If an Accessory Use cannabis business retail permit is created, it must abide by all rules and regulations including the 600-foot buffer rule. They recommend that the Committee advises the Board of Supervisors to not consider accessory use permits until it is understood how many retailers there will be in the market.
- Members discuss how they like the idea of Accessory Use if it was incorporated when the Equity Program first began, but as of this point, it is unfair and disruptive to the existing license and equity program and would need to be fully compliant. Members

note that the industry's landscape is already saturated and too unknown to be able to determine the market effects of an Accessory Use cannabis permit. Accessory Use is interesting, but because of where the process is and with not knowing what the market will look like once the applications in the queue are processed, allowing it would be irresponsible at this time. The Board of Supervisors should consider the possibility of an Accessory Use at a later point once the landscape is more settled.

- It was clarified that cultivation can be an Accessory Use permit under the Planning Code, but would need legislation in the City code.
- It was clarified that any member of the public can appeal the Zoning Administrator's Letter of Determination by contacting the Board of Permit Appeals by September 2nd.
- Motion to recommend to the Board of Supervisors to not take up Accessory Use permits for cannabis retail at this time.
 - **Motion/Second:** Brendan Hallinan/Nina Parks | **Motion Approved**
 - **Ayes:** 5 | **Nays:** 0 | **Abstentions:** 0 | **Absent:** 3 | **Vacant:** 1

7. **Discussing Policy Recommendations for Distribution to the Board of Supervisors**

Discussion,
Action

The Committee will continue its review and discussion of recommendations 7 & 8 from its November 18, 2020 meeting, and redraft, if necessary, the identified recommendations for distribution to the Board of Supervisors. This discussion will be a continuation of Agenda Item # 5 from the July 14, 2021 meeting. The Committee will also discuss and vote on strategies for presenting their recommendations to the Board of Supervisors.

Recommendations 1 -6 can be found in the meeting minutes from the Committee's July 14, 2021 meeting; they have been uploaded to the Committee's webpage with the other materials for this meeting.

Recommendation 7:

The SFCOC recommends to the Board of Supervisors the development of labor harmony and worker retention requirements for use in the cannabis industry that are consistent with other industries in the City and County of San Francisco.

- Member Bloch clarifies that labor harmony and worker retention requirements would be part of the permitting process and similar to the City's hotel industry requirements.

Recommendation 8:

The SFCOC recommends to the Board of Supervisors to move Article 16 from police code to Health Code.

- Committee members review approved Recommendations 1-6 and amend the following recommendations:

Recommendation 4:

The SFCOC recommends that the Board of Supervisors amend planning code 210.3 to change PDR zone industrial agricultural use from C (conditional) to P (principal) permitting. The

SFCOC recommend to the Board of Supervisors to not take up accessory use permits for cannabis retail.

Recommendation 5:

The SFCOC recommends to the Board of Supervisors that they reduce the Prop D Cannabis tax rates to 0% for social equity operators and create a pathway to allow for the sale of all and/or a majority interest in their cannabis businesses, including for all cannabis permit holders. The Committee also recommends requiring an equity component in the business purchasers either through ownership, incubation, or in the alternative by requiring an enforceable and impactful cannabis equity plan and contribution to support the success of the Equity program and local equity business operators.

- Members acknowledge that each recommendation addresses implementation and individual Committee member assignments are not necessary. Members are encouraged to reach out to Supervisors individually to discuss the recommendations.
- Members draft the following introductory language for the recommendations:
 - In collaboration with the public, city agencies, industry stakeholders, and equity community, the cannabis oversight committee has adopted the following policy recommendation for the Board of Supervisors to implement into municipal code.
- Chair Jamalian to work with RDA to send the recommendations to the Board of Supervisors before the next Committee meeting.
- No public comment
- Motion to approve the amended recommendations and introductory language
 - **Motion/Second:** Brendan Hallinan/Doug Bloch | **Motion Approved**
 - **Ayes:** 5 | **Nays:** 0 | **Abstentions:** 0 | **Absent:** 3 | **Vacant:** 1

8. Discussion re: Ordinance File # 210421

The Committee will discuss and vote on possible recommendations regarding Ordinance File #210421 to distribute to the Board of Supervisors in the near future and the process for doing so. If necessary, the OOC will provide a brief presentation on this ordinance.

- The OOC presents on Ordinance File #210421 that amends Article 16 to bolster the equity program. The full presentation is available by accessing this link: <https://officeofcannabis.sfgov.org/node/2750>.
- The ordinance reduces the time period before cannabis businesses can sell their businesses from 10 to 5 years. It was clarified that this includes MCDs and all cannabis retail. Chair Jamalian requests to clarify this language to cannabis retailers. Member Parks notes that no other industry restricts when a business can sell and Chair Jamalian responds that the restriction is to protect and preserve equity businesses. The OOC clarifies that the time period includes permit processing.
- The ordinance creates priority processing for temporary permit holders that commit to supporting equity applicants through shared manufacturing. It was clarified that this does not apply to retailers or MCDs, however the OOC is currently processing all MCDs and temporary permits (Tier 4). Chair Jamalian suggests that if an MCD commits to purchasing from an incubator, they should have the same benefit as a

manufacturer sharing physical space as they are sharing shelf space. The OOC clarifies that MCDs are required to fulfill their equity goal of shelf space. Member Parks notes that these equity goal commitments were not being fulfilled due to the lack of equity products and therefore prioritization should be on equity manufacturing before MCDs.

- The ordinance creates priority processing for equity applicants that own 100% of the cannabis business. Member Parks notes that this verbiage does not allow for fundraising.
- The OOC clarifies that the acknowledgment of receipt is the original timestamp when the application was submitted.
- Public Comment
 - A community member supports the amendment of the time period in which a business can sell from 10 to 5 years, but recommends eliminating the restriction. They also note that equity provisions for new buyers is important especially for shelf space.
- Motion for the Committee to create a set of recommendations in regards to the Mayor's Ordinance if time permits at the next meeting.
 - **Motion/Second:** Nina Parks/Brendan Hallinan | **Motion Approved**
 - **Ayes:** 5 | **Nays:** 0 | **Abstentions:** 0 | **Absent:** 3 | **Vacant:** 1

8. General Public Comment

Members of the public may address the Committee.

- No public comment

8. Adjournment

- Meeting is adjourned at 4:02 PM

From: [John Delaplane](#)
To: [BoardofAppeals \(PAB\)](#)
Cc: [Office of Cannabis \(ADM\)](#); [Breed, Mayor London \(MYR\)](#); [Walton, Shamann \(BOS\)](#); [Mandelman, Rafael \(BOS\)](#); [Thornhill, Jackie \(BOS\)](#); [Obana, Douglas \(DPH\)](#); [Rosenberg, Julie \(BOA\)](#); [Sanchez, Scott \(CPC\)](#); [Ray Connolly](#)
Subject: SFCRA Supports the Appeal of LOD, Case No. 21-088 at 145 Jefferson Street
Date: Tuesday, October 18, 2022 8:37:36 PM
Attachments: [SFCRA Comments Appeal No. 21-088.pdf](#)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Please see comments on Appeal No. 21-088 at 145 Jefferson Street from the San Francisco Cannabis Retailers Alliance below and attached.

"

Greetings President, Vice President, and Commissioners of the Board of Appeals,

The San Francisco Cannabis Retailers Alliance is the leading cannabis retail trade organization in San Francisco, representing nearly 20 social equity and medical cannabis retailers in San Francisco. Thank you for giving us the opportunity to comment on the proposed accessory use case at 145 Jefferson and for respecting the voice and legacy of our organization.

We strongly oppose the approval of an accessory use license with cannabis growing and processing spaces; gift shop; and a licensed cannabis retail dispensary at 145 Jefferson Street.

The proposed cannabis retail “accessory use” with a licensed retail dispensary is a workaround created to bypass the Office of Cannabis permit for a cannabis retail license. It violates the City’s Planning code Section 202.2 where one cannabis retailer should not be within 600 feet of another cannabis retailer. The approval for this “accessory use” will open the flood gates to other “accessory use” applicants throughout the city. This will undermine the city’s social equity program that creates opportunities for persons impacted by the failed war on drugs.

Cannabis retail is oversaturated in San Francisco, and the San Francisco Office of Cannabis still has 75+ social equity cannabis retail applications awaiting final permitting. There’s a potential for 125+ stores in the city. The city does not need more dispensaries. The California cannabis industry is going through a recession, with businesses closing left and right. Very few cannabis retailers in San Francisco are currently turning a profit and just making it through the cannabis recession will be difficult. If an accessory use license for cannabis retail is allowed at 145 Jefferson, it will allow for many more cannabis retailers, undermining the city’s commitment to social equity and making it even harder for social equity and legacy medical cannabis retailers to survive.

Thank you for your time and consideration.

Sincerely,

Johnny Delaplane
President, San Francisco Cannabis Retailers Alliance



Dear Board of Appeals,

Re: **Appeal No. 21-088 at 145 Jefferson Street**

The San Francisco Cannabis Retailers Alliance is the leading cannabis retail trade organization in San Francisco, representing nearly 20 social equity and legacy medical cannabis retailers in San Francisco. Thank you for giving us the opportunity to comment on the proposed accessory use case at 145 Jefferson and for respecting the voice and legacy of our organization.

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Thank you for your time and consideration.

Sincerely,

Johnny Delaplane

President, San Francisco Cannabis Retailers Alliance

From: [Brandon Brown](#)
To: [BoardofAppeals \(PAB\)](#)
Subject: Appeal No. 21-088 at 145 Jefferson Street
Date: Tuesday, October 18, 2022 9:19:29 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

My name is Brandon Brown and I am a social equity operator (CDXX LLC) and I am writing to support the appeal in case Appeal No. 21-088 at 145 Jefferson Street.

I strongly oppose the approval of an accessory use license with cannabis growing and processing spaces; gift shop; and a licensed cannabis retail dispensary at 145 Jefferson Street.

The proposed cannabis retail “accessory use” with a licensed retail dispensary is a workaround created to bypass the Office of Cannabis permit for a cannabis retail license. It violates the City’s Planning code Section 202.2 where one cannabis retailer should not be within 600 feet of another cannabis retailer. The approval for this “accessory use” will open the flood gates to other “accessory use” applicants throughout the city. This will undermine the city’s social equity program that creates opportunities for persons impacted by the failed war on drugs.

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Thank you for your time and consideration.

Sincerely,
Brandon Brown
CDXX Chief Operating Officer
4526 3rd St San Francisco CA 94124

From: [William Dolan](#)
To: [BoardofAppeals \(PAB\)](#); [rickswig](#); [jose@zeplin.io](#); [alex@alexlemborg.com](#); [deantrasvina@usfca.edu](#)
Subject: Re: Appeal No. 21-088 at 145 Jefferson Street
Date: Wednesday, October 19, 2022 12:32:14 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Mr. Swig, Mr. Lopez, Mr. Lemberg, and Mr. Trasviña,

My name is William Dolan and I am an Equity Applicant, Cannabis Business Owner, Resident of D4 (Outer Sunset). I am writing to support the appeal in case Appeal No. 21-088 at 145 Jefferson Street.

I strongly oppose the approval of cannabis retail as an accessory use, in effect allowing for cannabis cultivation and processing spaces; a cannabis gift shop; and a licensed cannabis retail dispensary at 145 Jefferson Street. Although this project was held out to the public as a so-called "museum," it is very clear that the true intentions of the project sponsor were to develop a cannabis business, with cannabis cultivation, manufacturing, processing, and sales acting more like a principal use, and to do so without having to partner with a local equity applicant, or comply with the rule of law here in San Francisco. This cannot be tolerated, and we are all relying on the Board of Appeals to make an equitable and just decision on this matter.

The proposed cannabis retail "accessory use" that would permit a museum to operate as a cannabis retail dispensary is a workaround that was created to bypass the Office of Cannabis permitting process, and to circumvent the rules and regulations applied to all other businesses seeking a legitimate cannabis business permit. Cannabis retail sales moonlighting as an "accessory use" would be a clear violation of our carefully crafted Planning code Section 202.2, which is an anti-clustering rule that prohibits any cannabis retailer from operating within 600 feet of another cannabis retailer. An approval of this "accessory use" would open the flood gates to other "accessory use" applicants throughout the City, in a wide variety of commercial storefronts (art galleries, grocery stores, corner stores, clothing stores, book stores, restaurants, etc.). This will undermine the City's social equity program and further devalue the businesses being developed by San Franciscans that have been adversely impacted by the war on drugs. We need to support our equity and legacy retailers at all costs, and need to stand firm against outside interests attempting to circumvent our laws, and undermine the legislative intent of our Board of Supervisors. I encourage you to support equity, and equal application of the law. There is only one just result in this instance, and that is approval of this appeal.

Cannabis retail is already oversaturated in San Francisco, and the San Francisco Office of Cannabis still has 75+ social equity cannabis retail applications awaiting final permitting. There's potential for more than 125+ cannabis retail stores in the City by 2023. San Francisco does not need more cannabis dispensaries, especially when every additional dispensary added to our market will only be to the detriment of our equity and legacy owned businesses who are already struggling to survive. The California cannabis industry is going through a dramatic recession, businesses are closing, and our local industry simply cannot afford more competition in a market that is retracting. Very few cannabis retailers in San Francisco are currently operating at a profit, and many will not even make it through this cannabis

recession. If an accessory use license for cannabis retail is allowed at 145 Jefferson, it will allow for many more cannabis retailers in our local community, undermining the City's commitment to social equity and making it even harder for social equity and legacy cannabis retailers to survive.

Thank you for your time and consideration.

Sincerely,

William Dolan

--

will@hyrba.com

415.935.4743

From: [John Delaplane](#)
To: [BoardofAppeals \(PAB\)](#)
Cc: [Office of Cannabis \(ADM\)](#); [Breed, Mayor London \(MYR\)](#); [Walton, Shamann \(BOS\)](#); [Mandelman, Rafael \(BOS\)](#); [Thornhill, Jackie \(BOS\)](#); [Obana, Douglas \(DPH\)](#); [Rosenberg, Julie \(BOA\)](#); [Ray Connolly](#); [Tam, Tina \(CPC\)](#)
Subject: Re: SFCRA Supports the Appeal of LOD, Case No. 21-088 at 145 Jefferson Street
Date: Wednesday, October 19, 2022 11:22:32 AM
Attachments: [Cannabis Community OPPOSES Accessory Retail Sales, 8.31.21.pdf](#)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Greetings,

I'm also surfacing a previous letter opposing accessory sales from CMAC, SFCRA, and Brownie Mary for consideration during the hearing this evening.

See attached. Thank you for your consideration.

best,

johnny

On Tue, Oct 18, 2022 at 8:37 PM John Delaplane <johnny@access-sf.org> wrote:

Please see comments on Appeal No. 21-088 at 145 Jefferson Street from the San Francisco Cannabis Retailers Alliance below and attached.

"

Greetings President, Vice President, and Commissioners of the Board of Appeals,

The San Francisco Cannabis Retailers Alliance is the leading cannabis retail trade organization in San Francisco, representing nearly 20 social equity and medical cannabis retailers in San Francisco. Thank you for giving us the opportunity to comment on the proposed accessory use case at 145 Jefferson and for respecting the voice and legacy of our organization.

We strongly oppose the approval of an accessory use license with cannabis growing and processing spaces; gift shop; and a licensed cannabis retail dispensary at 145 Jefferson Street.

The proposed cannabis retail “accessory use” with a licensed retail dispensary is a workaround created to bypass the Office of Cannabis permit for a cannabis retail license. It violates the City’s Planning code Section 202.2 where one cannabis retailer should not be within 600 feet of another cannabis retailer. The approval for this “accessory use” will open the flood gates to other “accessory use” applicants throughout the city. This will undermine the city’s social equity program that creates opportunities for persons impacted by the failed war on drugs.

Cannabis retail is oversaturated in San Francisco, and the San Francisco Office of Cannabis still has 75+ social equity cannabis retail applications awaiting final permitting. There’s a potential for 125+ stores in the city. The city does not need more dispensaries. The

California cannabis industry is going through a recession, with businesses closing left and right. Very few cannabis retailers in San Francisco are currently turning a profit and just making it through the cannabis recession will be difficult. If an accessory use license for cannabis retail is allowed at 145 Jefferson, it will allow for many more cannabis retailers, undermining the city's commitment to social equity and making it even harder for social equity and legacy medical cannabis retailers to survive.

Thank you for your time and consideration.

Sincerely,

Johnny Delaplane
President, San Francisco Cannabis Retailers Alliance



August 31, 2021

To: Marisa Rodriguez
Director, Office of Cannabis (OoC)

Re: OPPOSE Accessory Use Cannabis Sales
Zoning Administrator Letter of Determination, 2021-001699ZAD
145 Jefferson Street

Director Rodriguez,

We write to express our strong opposition to the possibility of Cannabis Retail occurring as an Accessory Use, exempt from many of the controls placed on all other Cannabis Retail businesses in San Francisco. Thank you for engaging the Cannabis Oversight Committee on this issue last week. We suspect, and certainly hope, their sentiments will be similar to ours.

1. The Land Use Analysis for Accessory Sales Is Flawed

Zoning Administrator Teague argues that if a cannabis retailer meets the criteria for accessory use, i.e. uses only a portion of the premises' square footage: "then the cannabis retail activity...is not subject to Planning Code requirements applying to Cannabis Retail as a Principal or Conditional use. This includes the location requirements prescribed in Planning Code Section 202.2 (e.g. 600-foot buffer)."

The problem here is, there is no such thing in the code as "cannabis retail activity" that is not "Cannabis Retail". If you sell cannabis on-site, you are a Cannabis Retailer. And if you are a Cannabis Retailer, you are subject to the restrictions thereon.

Planning Code Sec. 102: "*Cannabis Retail. A **Retail Sales and Service Use that sells or otherwise provides cannabis** and cannabis-related products...This use is **subject to operating and location restrictions** set forth in Section 202.2(a).*" [Emphasis added]

Police Code Sec. 1602: "*"Cannabis Retailer" means **a fixed place of business where Cannabis and/or Cannabis Products are Sold** to Customers.*" [Emphasis added]

It is our view that any "cannabis retail activity" is "Cannabis Retail" activity, subject to all the same regulations and restrictions regardless of its square footage, or whether it is accessory, principal, or conditional. But even if we were to concede Mr. Teague's point, the matter still—as he makes very clear—lands back at the Office of Cannabis.

2. The OoC Cannot Approve Accessory Sales

The Board of Supervisors' original 2017 cannabis legislation specifically carved out Cannabis Retail as subject to stricter regulation regarding accessory use, adding this to Planning Code 204.3(a):

Limitations on Cannabis Retail Accessory Uses. *The sale of cannabis as an accessory use is subject to any applicable limitations or regulations imposed by the Office of Cannabis. Cannabis Retail is not permitted as an Accessory Use unless the Cannabis Retail establishment holds a permit from the City's Office of Cannabis specifically permitting Cannabis Retail accessory to another activity on the same premises.*

This is a restriction, not an authorization. It is a requirement imposed on Cannabis Retail that other potential retail accessory uses are not subject to—the OoC must permit it.

But the Board of Supervisors and the Mayor have not created such a permit anywhere in the code. Thus, **the OoC has no legal authority to issue an accessory use Cannabis Retail permit.**

3. The OoC and Board Should Not Approve Accessory Sales

If the Board of Supervisors considers legislation creating an accessory use Cannabis Retail permit, we will vociferously oppose it. Allowing a Cannabis Retailer to circumvent the anti-clustering, Social Equity, safety, access, or other regulations the rest of follow—simply because that Retailer operates inside a larger premises—would be counter to everything the Office of Cannabis has been working to build for the past four years.

It would be irredeemably unfair to existing retailers, who were told they could count on some exclusivity in their immediate area. It would undermine the cause of Social Equity broadly, and the actual businesses of Social Equity Applicants specifically. It would be counter to the Board's, the Mayor's, and the community's goals in creating San Francisco's cannabis regulations. And it would send a message to everyone who has worked so hard to follow the rules that the faith they placed in the City was wrong. Someone else bypassed those rules. Someone with more square footage, more money, more access, snuck in through the side door.

Think of the Social Equity Applicants who signed leases in early 2018. They worked with lawyers, created partnerships, cobbled together the money they needed. And when applications opened in May of 2018, they were denied the opportunity to open their business because someone within 600 feet beat them to it. Who wants to tell them the 600 foot rule does not matter anymore? Who wants to let them know, that years later, someone else is getting the opportunity they did not?

As representatives of San Francisco's social equity and cannabis business communities, we believe the Board of Supervisors and the OoC are better than that. We believe you would not do that.

Please show we are right. Thank you.



Brandon Brown
Treasurer
SF Cannabis Retailers Alliance



Conor Johnston
Board Member
CA Music & Culture Association



David Goldman
President
Brownie Mary Democratic Club



Shawn Richard
CEO
Brothers Against Guns
Social Equity Retailer

CC:

Board of Supervisors
Office of Mayor Breed
Board Clerk, Angela Calvillo
Cannabis Oversight Committee

From: [Kevin Reed](#)
To: [BoardofAppeals \(PAB\)](#)
Subject: Opposition to Accessory Use at 145 Jefferson Street
Date: Wednesday, October 19, 2022 11:40:52 AM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Members of the Board of Appeals:

My name is Kevin Reed, and I am the Founder and President of The Green Cross, a local cannabis retailer located in the heart of the Excelsior District. As a nonprofit public benefit corporation in operation since 2004, The Green Cross is an integral part of the San Francisco community. We are one of the first licensed dispensaries in San Francisco and have worked hard to build strong relationships and gain trust with local public officials, constituents, residents, and our members.

On behalf of our organization, I write today in opposition of the approval of a license for 145 Jefferson Street. By approving an Accessory License with cultivation and processing spaces, gift shop, and a licensed dispensary, you would be allowing the applicant to bypass the Office of Cannabis. It violates San Francisco Planning Code Section 202.2, which states that another cannabis retailer cannot be located within 600 feet of another licensed cannabis retailer. The approval of this "Accessory Use" will open up the floodgates for other applicants to apply for "Accessory Use" permits and take advantage of a loophole in the permitting process.

With the ongoing pandemic, supply chain issues, inflation, costly cannabis taxes, decreases in local tourism, fluctuations in BART ridership, necessary COVID-19 safety measures, influx of cannabis competition, and a 50% decline in overall sales, cannabis retailers are struggling to stay in business.

With more competitors entering the market and an estimated 90+ San Francisco cannabis retailer applications in process at present, the market has become oversaturated. Many of the applicants are new to the area, come from corporate funding, and do not have an invested interest in our community beyond lining their pockets. If San Francisco does not take steps to limit cannabis licenses, especially for opportunists trying to bypass the system, many existing and longstanding cannabis businesses, like The Green Cross, will be forced to close our doors.

We strongly urge you to reconsider approval of an "Accessory Use" permit at 145 Jefferson Street. We believe all cannabis retailers should be approved and permitted by the Office of Cannabis and adhere to Section 202.2 of the Planning Code.

Thank you in advance for your time and consideration. If you have any questions or concerns, please don't hesitate to reach out.

Sincerely,

--

Kevin Reed

Founder & President
The Green Cross
4218 Mission Street
San Francisco, CA 94112

Mobile: [415.846.7671](tel:415.846.7671)

Office: [415.648.4420](tel:415.648.4420)

Fax: [415.431.2420](tel:415.431.2420)

Email: KevinReed@TheGreenCross.org

Web: TheGreenCross.org



From: [Marty Higgins](#)
To: [BoardofAppeals \(PAB\)](#)
Subject: Appeal No. 21-088 at 145 Jefferson Street
Date: Wednesday, October 19, 2022 3:14:39 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

My name is Marty Higgins and I am a legacy cannabis retailer (7 years of operation) and I am writing to support the appeal in case Appeal No. 21-088 at 145 Jefferson Street.

I strongly oppose the approval of an accessory use license with cannabis growing and processing spaces; gift shop; and a licensed cannabis retail dispensary at 145 Jefferson Street.

The proposed cannabis retail “accessory use” with a licensed retail dispensary is a workaround created to bypass the Office of Cannabis permit for a cannabis retail license. It violates the City’s Planning code Section 202.2 where one cannabis retailer should not be within 600 feet of another cannabis retailer. The approval for this “accessory use” will open the flood gates to other “accessory use” applicants throughout the city. This will undermine the city’s social equity program that creates opportunities for persons impacted by the failed war on drugs.

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Thank you for your time and consideration.

Sincerely,

Marty Higgins
Founder/CEO
[Urbana](#)