



City of Culver City

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Staff Report

File #: 22-1214, **Version:** 1

Item #: PH-1.

PC - PUBLIC HEARING: Consideration of a Conditional Use Permit to allow a Cannabis Retailer-Storefront business in a new 3,824 square foot building at 3800 Sepulveda Boulevard (Project).

Meeting Date: July 13, 2022

Contact Person/Dept: Jose Mendivil, Associate Planner
Erika Ramirez, Current Planning Manager

Phone Number: 310-253-5757

Fiscal Impact: Yes No **General Fund:** Yes No

Public Hearing: **Action Item:** **Attachments:**

Public Notification: (E-Mail) Meetings and Agendas - Planning Commission (07/08/22); (Posted) City Website (06/22/22); (Mailed) Property owners and occupants within a 2,500-foot radius (06/21/22).

Department Approval: Sol Blumenfeld, Community Development Director (07/05/2022)

RECOMMENDATION

Staff recommends the Planning Commission adopt a resolution adopting a Mitigated Negative Declaration and approving Conditional Use Permit, P2021-0276-CUP, subject to conditions of approval to allow a Cannabis Retailer-Storefront in a new, single story, 3,824 square foot building with 11 surface parking spaces in the CG (Commercial General) zone.

PROCEDURES

1. Chair calls on staff for a brief staff report and the Planning Commission poses questions to staff as desired.
2. Chair opens the public hearing, providing the Applicant the first opportunity to speak, followed by the general public.
3. Chair seeks a motion to close the public hearing after all testimony has been presented.
4. Planning Commission discusses the matter and arrives at its decision.

BACKGROUND/DISCUSSION

Cannabis Ordinance relating to Cannabis Retailer-Storefront businesses

On March 26, 2018, the City Council adopted Ordinance No. 2018-007, reflecting the City's Commercial Cannabis Businesses regulations, codified in Culver City Municipal Code (CCMC) Chapter 11.17, governing cannabis related sales, manufacturing, processing, distribution, delivery, testing and cultivation. A cannabis Retailer-Storefront is a specific type of retail land use that requires a Conditional Use Permit per Zoning Code Section 17.220.015B. The applicant for the proposed Conditional Use Permit (CUP), TGS CC Ventures, LLC (dba Beyond Hello) ("Beyond Hello"), is considered a Cannabis Retailer-Storefront business. Chapter 11.17 and CCMC Title 17 (Zoning Code), define a Cannabis Retailer-Storefront as:

A storefront retailer is a commercial cannabis business facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale to customers at an on-site fixed location, including an establishment that also offers delivery of cannabis and cannabis products as part of a retail sale, in addition to on-site sales, and where the permittee holds a valid Commercial Cannabis Business Permit authorizing the operation of a retailer, and a valid state license as required by state law to operate a retailer.

In addition to a validly issued CUP, Chapter 11.17 requires the issuance of a Commercial Cannabis Business Permit to engage in any commercial cannabis business or activity. The procedures governing the application process for a Commercial Cannabis Business Permit are set forth in City Council Resolution No. 2018-R014, adopted by the City Council on February 2, 2018, which includes the procedures for the application and selection process for commercial cannabis storefront retail businesses (Attachment No. 9). The City application process included a 2-step merit-based screening process for prospective storefront retailers; only the top three applicants selected through the screening process are permitted to submit a CUP application with the Current Planning Division. Prospective storefront retailers were required to submit a proposal that included, among other materials, the proposed location, store front design, floor plans, business plan, and security plan. Applicants were also required to submit to a background security review with the Police Department.

The first screening involved review of all storefront retailer submissions by a 3-member panel comprised of a representative from the Current Planning Division, the Police Department, and the Economic Development Division. Twenty-three applicants submitted proposals; after review and scoring by the panel, 8 applicants were selected to move to the second screening phase. Beyond Hello submitted their proposal to the first panel on September 27, 2018, and received approval on March 22, 2019, to move to the next step in the process.

In the second screening step, the remaining eight applicants were interviewed by a 5-member City panel comprised of executive level staff from the Police Department, Fire Department, Community Development Department, Finance Department, and Administrative Services Department. The panel interviewed the applicants, reviewed the submitted materials, and selected the top three prospective storefront retailers to move onto the CUP process with the Current Planning Division. Beyond Hello was among the top 3 applicants and received notification of selection to move forward in the application process on May 13, 2019.

There were two administrative appeals after the second screening process. The City waited until the end of the appeal period after the second screening before beginning the CUP process. The City notified Beyond Hello that it could proceed with the CUP application process on September 9, 2019.

Appeals on the Screening Results and Court Action

After the two administrative appeals by applicants not selected to move forward after the second screening, one of the appellants filed a writ of mandate action in the Superior Court, challenging the outcome of its administrative appeal. The City requested that the top three applicants, including Beyond Hello, acknowledge in writing that there was ongoing litigation over the outcome of the screening process, and a court ruling had the possibility of impacting the selection of the top three applicants. In addition, the City informed the three applicants that the CUP is subject to the final decision in the writ of mandate proceeding. All three applicants, including Beyond Hello, signed the acknowledgement letter (Attachment No. 10 - Advisory Court Action Letter). After a hearing on the writ petition, the court granted the writ petition in part and remanded the matter back to the City for further proceedings. The Court did not invalidate the selection process or disturb the selection of the top three candidates that are each moving forward in the CUP application process.

Request

The request involves a proposed Cannabis Retailer-Storefront at 3800 Sepulveda Boulevard (Project Site or Site). The use will sell cannabis products for medicinal, recreational (including edibles and liquids), and topical/non-gastronomic applications. The approval of a CUP will allow a new retail building and surface parking lot at the Site. The new building area is below the threshold requiring a Site Plan Review. There are no other required Zoning entitlements. The Project Summary (Attachment No. 3), Preliminary Development Plans (Attachment No. 4), and Business Operations Plan (Attachment No. 8) provide a synopsis of the project details and plan lay out.

Existing Conditions/Project Site

The Project Site is a generally flat, rectangular shaped, 13,000 sf parcel. It is located at the southeast corner of Sepulveda and Vernice Boulevards. The Project Site was developed as a fueling station and in early 2000, all structures were demolished and removed. The site is vacant and contains a paved surface and sparse vegetation.

Surrounding Area/Zoning/General Plan

The Project Site is located within an urbanized area with commercial uses along both Sepulveda and Venice Boulevards, the 405 Freeway west of the Site, and residential uses southeast of the Site beyond the commercial uses along the two boulevards. A more detailed description of the surrounding uses and zoning is in the Project Summary (Attachment No. 2). The Project Site is zoned Commercial General (CG) and has a General Corridor General Plan Land Use designation. The use is allowed in the Zone with approval of a CUP.

Project Description

The Project involves removal of existing vegetation, concrete surfacing, removal of approximately six feet of topsoil, regrading and topsoil compaction, and construction of a 3,824 sf, single story retail building located at the north half of the Project Site with 11 surface parking spaces at the south half of the Site. Other improvements include a trash enclosure, onsite and offsite landscaping, onsite bicycle parking, and sidewalk and bus stop improvements. The structure complies with CG development standards regarding height, setbacks, and parking. The Project applicant provides a business operation plan that is consistent with the Zoning Code and the City's cannabis ordinance and which details hours of operations, security procedures, customer check-in and ID check, and curbside delivery. Project details and plan layout are provided in the Project Summary (Attachment No. 2), the Preliminary Development Plans (Attachment No. 4), and Business Operations Plan (Attachment No. 8).

ANALYSIS/DISCUSSION

Architectural Design

The building is rectangular in shape with a combined pitched and flat roof. The west or Sepulveda Boulevard elevation acts as the front and is dominated by full glazing and a structural canopy acting as a porch trellis giving this view a recessed, residential look. Transparency at the front provides an inviting, commercial, and pedestrian feel, reducing safety concerns sometimes associated with cannabis use. The north or Venice Boulevard frontage and the south or Project parking facing frontage are treated mainly with tan colored, wood siding. The east elevation facing a commercial property along Venice Boulevard is finished with tan painted smooth stucco. The building occupies 29% of the Project Site and at 32 ft in height, is consistent with neighboring, small, single-story commercial buildings. The overall design does not result in an over massed structure and fits within the character of other nearby commercial developments.

Site Plan/Ground Floor

The Project Site Plan centers the building in the north half of the Site providing setbacks sufficient to accommodate a service driveway on the east side and the main entrance with walkway, trellis overhead, and landscaping on the west side. The north side is also setback to ensure onsite landscaping is installed to enhance the Venice Boulevard frontage. Project parking and perimeter landscaping are in the south half of the Site.

The floor plan is designed to be consistent with State and local cannabis law. A lobby area facing Sepulveda Boulevard acts as a holding area for patrons that are required to provide identification and access into the retail product display area is controlled from the lobby area. The center west area contains the retail display area and customer restroom and is serviced by enough employees to assist customers and ensure product security. Both the display area and lobby are visible from Sepulveda Boulevard with full height glazing. The pitched roof is over the display area providing a high ceiling and creating a sense openness. The east side of the building contains the staff only areas, also called back of house. This back of house area includes an employee restroom, offices, product storage areas, staff lounge, and a delivery bay. The back of house has no glazing to ensure security.

Landscaping

The Project includes 2,080 square feet of on-site landscaping and consists of species that require low to medium water use. Four existing trees, including one palm tree, on the boundary of the Project Site are removed and nine trees, including the *Olea Europaea*, *Aloe Barbarae*, and *Platanus x Acerfolia* species, are planted along the northern and western borders of the building and within the parking lot. Project landscaping include succulents and grasses, vines, and a sculpture garden. In addition, two trees are planted within the public right-of-way, with one tree on Sepulveda Boulevard and one tree on Venice Boulevard. A project condition requires zero scape and/or drought tolerant landscaping.

Signage

Signage will be simple with only the name of the business spelled out in individual letters on the front Sepulveda Boulevard glazing, behind the glazing within the lobby area, and on the north Venice Boulevard frontage. Cannabis signage cannot explicitly state cannabis or cannabis products and generally, marketing involves the following:

- Highly targeted age-appropriate customers with use of non-traditional communication methods.
- Use of social media.
- Use of specific digital websites that are age-appropriate (21 and over).

Lighting / Security

Building security includes 24-hour surveillance cameras on both interior and exterior walls. There are several ceiling-mounted 360-degree cameras and contact point, motion detector, and alarms in both the retail floor area and in the back of house. Back of house is secured with employee only access and patrons needing to use the restrooms are escorted by an employee as required in CCMC Chapter 11.17. Keyed employee access is from both the parking lot frontage and the east frontage.

Operations

Business operations (Attachment No. 8) are compliant with State law and CCMC Chapter 11.17 and are subject to operating requirements stipulated in CCMC Section 11.17.200 and 11.17.205 with hours of operation from 9 AM to 9 PM, 7 days per week. The lobby serves as a security check to ensure only people 21 and older enter the store. After customers' identifications are reviewed and scanned, they can enter the sales area. Employees help customers retrieve cannabis products that although visible, are locked behind display cases. Items come in sealed containers and after point of sale are placed in nondescript bags that state "Beyond Hello". Customers exit through the lobby. Beyond Hello also delivers products and provides curbside pickup as allowed per the CCMC. A project condition requires signage that is posted on-site stating loitering and consumption of cannabis products on-site or in public areas are prohibited. Employees driving with deliveries enter and exit out of the back entry of the building. The applicant is committed to staffing 15 to 18 employees with 5 full time employees and the rest hired as part time employees.

Vehicle Parking, EV Parking, and Access

The Project provides the code required 11 parking spaces, 4 of which are the code required Electric Vehicle (EV) parking spaces. The Preliminary Development Plans dated January 6, 2022 (Attachment No. 4) shows the parking layout which includes standard 90-degree parking and sufficient drive aisle width for vehicle maneuverability. The Site is accessed from 2 driveways, one at the far east side with the drive approach off Venice Boulevard and the other at the far south side with the drive approach off Sepulveda Boulevard. The Sepulveda Boulevard drive approach is the main access for patrons and the Venice Boulevard approach will serve Beyond Hello staff.

The Project applicant is required to improve 2 bus stops, 1 on Sepulveda Boulevard and 1 on Venice Boulevard. Both bus stops will be directly in front of the Project Site providing convenient transit access to and from the Project Site for both customers and employees. There are 2 bicycle parking spaces on the surface parking lot to serve bicyclists. Customer access is from the lobby facing Sepulveda Boulevard while employees can access the building from a door facing the surface parking and another door facing the east driveway.

Mobility and Traffic

Gibson Transportation Consulting conducted a supplemental traffic analysis (Attachment 7) after determining the Project is located within the Sepulveda Venice Transit Priority Area which exempts the Project from a Vehicle Miles Travel (VMT) traffic study. The supplemental study did not identify traffic impacts and estimated the Project will result in 34 net new morning peak hour trips (19 inbound trips, 15 outbound trips) and 71 net new afternoon peak hour trips (36 inbound trips, 35 outbound trips). The Project has adequate internal circulation to accommodate vehicular, pedestrian, and bicycle traffic without impeding through traffic movements on City streets. The Project will incorporate pedestrian and bicycle-friendly designs, such as a bicycle parking and improved sidewalks. A Level of Service (LOS) analysis did not indicate the Project would contribute to worsening of LOS at study intersections.

The Project's location within the Sepulveda Venice TPA gives it an opportunity to rely on existing mobility opportunities. Culver City Bus Line 6 and Rapid 6 run along Sepulveda Boulevard and include stops located just south of Venice Boulevard. The north bound bus stop will be located directly adjacent to the Project Site. Los Angeles Metro Line 33 runs along Venice Boulevard and the east bound stop will be relocated directly adjacent to the Project Site. Both these lines connect with the Metro E Line (Expo Line). A Class II Bicycle Lane runs in both directions along Venice Boulevard and a Class II Bicycle Lane is recommended for Sepulveda Boulevard (Culver City Bicycle and Pedestrian Action Plan adopted in June of 2020). These features will provide non-vehicular transportation opportunities for customers and employees.

The Applicant has agreed to implement the following Transportation Demand Measures (TDM), in accordance with the TDM standard condition of approval:

- 1) TAP Cards - The Project will subsidize the purchase of TAP cards for up to 75% of Project employees, both full time and part time for a period of three years for employees who opt to take Metro instead of personal vehicles and will not be provided on-site parking accommodations; or, the Project will offer a cash-out bonus to individuals who opt to use other modes of commuting options such as carpools, car share, shuttles, bicycles, or walking. The cash-out bonus will count towards the 75% of employee obligation.
- 2) Transportation education / kiosk including the provision of up-to-date transportation information explaining all commuter options to employees and visitors to Beyond hello and provision of up-to-date transportation information on the project's website;
- 3) Applicant to provide routine promotions for customers to encourage alternate modes of transportation with at least 4 promotions per year; proof of promotions to be submitted to Planning at time of each promotion;
- 4) If it is determined that more bike racks will be necessary due to a noticeable excessive use, Applicant shall install additional bike racks as required by the City.

Sustainability

Energy saving and sustainable design, where applicable, will be required as part of the building permit. The following measures will be incorporated throughout the Project:

- Water saving fixtures in all locations.
- Incorporation of low-water and drought tolerant plants in the landscape plan.
- Energy efficient glazing.
- High efficiency heating and air conditioning systems.
- Reliance on fluorescent, LED, or other type of high efficiency systems for all interior and exterior lighting.
- On-site recycling including recycle, organic, and refuse containers.

Trash Removal and Loading

The proposed trash enclosure at the southwest corner of the Project Site was reviewed and approved by the City's Environmental Programs and Operation (EPO) Division. A project condition requires the applicant to submit a waste management plan to EPO for review and approval during the Building Permit review process. Large vehicle truck deliveries are not required for this use and smaller two axle delivery vehicles that temporarily occupy and area within the on-site surface parking lot that is adjacent to the delivery bay is expected. Also, one of the required spaces can provide parking for delivery vehicles that park on a limited, temporary basis.

Neighborhood Compatibility

The Project will enhance the area by construction of a small-scale building on a vacant lot. It will economically revitalize the corner of Sepulveda and Venice Boulevards while maintaining a distance from the nearest residential uses that is screened from this Project by existing commercial developments. The Project's single story, 3,824 sf commercial building is consistent with neighboring commercial uses with similar small-scale characteristics.

PUBLIC OUTREACH

Community Meetings and Public Outreach

Pursuant to the City's Community Outreach Guidelines and Chapter 11.17, the applicant held 2 community meetings as part of its outreach to neighbors and community members for the Project. Consistent with Chapter 11.17, a notice was mailed to all property owners and applicants within 2,500-feet from the Project Site boundaries. Attachment No. 11 contains community meeting notes. At both meetings, the Applicant gave a brief overview of Beyond Hello and its business model. The applicant stated:

Beyond Hello is founded on 4 core principles. Discipline, Compliance, Operational Excellence and Transparency.

- Discipline: *We meticulously select a handful of markets to pursue at any given time in order to ensure focus from senior leadership and our award-winning operations team. Our very significant financial resources ensure timely and high-quality execution of our strategy.*
- Compliance: *We are committed to the highest quality corporate governance. In any jurisdiction where we have or seek to have operations, we take pride in educating ourselves in both state and city regulations to always ensure 100% compliance across all operations.*
- Operational Excellence: *We are an award-winning, cutting-edge operator with a commitment to excellence in safety, security and compliance and we promise to bring these operational pillars to Culver City.*
- Transparency: *We are committed to provide full information required for collaboration, cooperation, and collective decision-making with the City.*

Community Meeting Summary Notes for the first community meeting on Thursday, October 17, 2019 (Virtual Meeting). Approximately 20 people attended the meeting, and the applicant began the meeting with an overview of the Project, business operations, improvements to the Project Site, and the building architecture. This was followed with a Question-and-Answer period. Key issues raised at the meeting included:

- Blight, crime, and homelessness in the immediate vicinity.
- Whether Beyond Hello staff live in Culver City and use cannabis.
- Whether the Applicant will hire local residents.
- Working conditions at Beyond Hello.
- Percentage breakdown of vaping and edibles.
- Concern of use near children and target population.
- Addiction to cannabis.
- Prior use and site contamination.

The applicant responded to comments and questions:

- The Project will improve the area by removing a vacant lot in favor of a new building and introducing new economic activity.
- Some people associated with Beyond Hello live in the City and some use cannabis.

- The Applicant is committed to a majority local hire and providing quality employment.
- Product type breakdown depends on local demand.
- Cannabis products are highly regulated and children (as well as people under the age of 21) are not allowed in the store; advertising restrictions are like tobacco and alcohol.
- Beyond Hello promotes safe access to regulated cannabis.
- The site has undergone soil remediation and a project mitigation will be required to assure the site is safe for customers and staff.

Community Meeting Summary Notes for the second community meeting on Thursday October 28, 2021 (Virtual Meeting). Approximately 10 people attended the meeting, and the applicant began the meeting with an overview of the Project, business operations, improvements to the Project Site, and the building architecture. This was followed with a Question-and-Answer period. Key issues raised at the meeting included:

- The way the vestibule and ID check works.
- The Project appears to be approved.
- Overall site security.
- Anticipated number of employees.
- Customers using product in the parking lot.

The applicant responded to comments and questions:

- The Applicant explained the vestibule and ID check operations.
- The Project is not approved and is subject to a Planning Commission public hearing and a City Council action.
- Project security operations will include 2 guards, numerous security cameras, well-trained staff on security procedures, and compliance with Culver City safety protocols.
- Beyond Hello staffing will start with 20 people, including full-time and part-time employees and will target 75% local Culver City hires; full-time employees will receive benefits and 401K plans and average hourly rate will be \$19, with salary and bonus opportunities for manager positions.
- The Applicant encourages local businesses to inform Beyond Hello of any people consuming cannabis products in public areas and the Applicant will work with local law enforcement to resolve such activity; the Applicant is committed to educating consumers about safe consumption and compliance with Culver City and California laws.

Comments Received During Public Comment Period

A public notice was mailed to all property owners and occupants within a 2,500-foot radius of the Project Site on June 21, 2022, advising the public of a hearing at the regularly scheduled Planning Commission meeting of July 13, 2022. As of the writing of this staff report, one comment opposing the Project was submitted to the City (Attachment No. 12). The opposition comment expressed concern about driving under the influence of cannabis. The individual stated that they will not support cannabis retailer storefronts until there is a way to control and enforce laws prohibiting driving while under the influence of cannabis.

CUP Renewal, City Council Business Permit Approval, and Business Tax Certificate Requirement

The Zoning Code states that a Cannabis Retailer-Storefront shall obtain a CUP that must be renewed every five years. Chapter 11.17 further requires that after approval of the CUP, the business must obtain a Commercial Cannabis Business Permit at a public City Council meeting which must be renewed annually. After approval by the City Council, the business is required to secure a Business Tax Certificate with the City's Finance Department which must also be renewed annually. These City approvals cannot be transferred to other business entities, individuals, or companies nor can the Cannabis Retailer-Storefront change the business location, unless such actions are approved by the City Council.

ENVIRONMENTAL DETERMINATION

Initial Study and Technical Reports

Attachment Nos 5, 6, and 7 include California Environmental Quality Act (CEQA) related studies including the Mitigated Negative Declaration and Environmental Initial Study, Soil Management Plan and Phase I Summary, and the Project Traffic Study. The Initial Study determined the Project will not result in significant impacts except for impacts related to hazardous materials. The Project's Phase I Site Assessment concluded the project site currently contains contaminated soil resulting from the Site's former Mobil gasoline service station operations. Due to the potential release of perchloroethylene or other hazardous materials, soil vapor impacts could extend beneath the project site. A Project mitigation outlined in Attachment No. 5 (Mitigated Negative Declaration (MND) and Initial Study) will require that a soil management plan be prepared that includes a vapor barrier system to ensure that there are no soil contamination or vapor impacts to construction workers or users of the proposed facility. This plan will be due prior to issuance of grading and building permits. Implementation of this mitigation measure will reduce potential hazardous materials to less than significant.

Pursuant to CEQA guidelines, an Initial Study prepared for the project determined that the project will not have a significant adverse impact on the environment and that a MND finding is appropriate. A copy of the proposed MND as well as other documents concerning the project were made available for public review and online from **June 22, 2022, through July 13, 2022**, at the Planning Counter in City Hall.

CONCLUSION/SUMMARY

Based on the proposed preliminary development plans and recommended conditions of approval, the Project is compatible with the surrounding neighborhood, adequately served by public facilities and, consistent with the General Plan, Zoning Code, and all CCMC requirements. The findings for Conditional Use Permit P2021-0276-CUP are made as outlined in Resolution No. 2022-P013 (Attachment No. 1).

FISCAL ANALYSIS

There is no fiscal impact from this project to the City

ATTACHMENTS:

1. Proposed Planning Commission Resolution No. 2022-P013 with Exhibit A, Conditions of Approval and Exhibit B, Code Requirements
2. Project Summary
3. Vicinity Map
4. Preliminary Development Plans dated January 16, 2022.
5. CEQA Mitigated Negative Declaration and Initial Study dated June 22, 2022.
6. CEQA Soil Management Plan and Phase I Summary Dated January 4, 2022 and Prepared by Rincon Consultants
7. CEQA Traffic Study Dated December 2021 and Prepared by Gibson
8. Business Operations Plan for Beyond Hello
9. City Council Resolution 2018-R014 Maximum Allowed Commercial Cannabis Storefronts
10. Advisory Court Action Letter

- 11. Community Meetings Notes, October 17, 2019, and October 28, 2021
- 12. Public Correspondence

MOTION

That the Planning Commission:

Adopt a resolution adopting a Mitigated Negative Declaration and approving Conditional Use Permit P2021-0276-CUP subject to conditions of approval.