



City of Culver City

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Staff Report

File #: 22-398, **Version:** 1

Item #: A-2.

CC - Consideration of the Selection of Sweetflower Culver, LLC, at 10000 Culver Boulevard for a Culver City Storefront Retail Commercial Cannabis Business Permit Pursuant to Culver City Municipal Code Chapter 11.17.

Meeting Date: October 25, 2021

Contact Person/Dept: Jesse Mays, Assistant City Manager
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Fiscal Impact: Yes ☐ No ☒

General Fund: Yes ☐ No ☒

Public Hearing: ☐ **Action Item:** ☒ **Attachments:** ☒

Commission Action Required: Yes ☒ No ☐ **Date:** Planning Commission (09/29/2021)

Public Notification: (E-Mail) Meetings and Agendas - City Council (10/20/2021); Cannabis (10/20/2021)

Department Approval: John Nachbar, City Manager (10/20/2021)

RECOMMENDATION

Staff recommends the City Council consider the selection of Sweetflower Culver, LLC, 10000 Culver Boulevard to receive a Storefront Retail Commercial Cannabis Business Permit at 10000 Culver Boulevard pursuant to Culver City Municipal Code (CCMC) Chapter 11.17.

BACKGROUND

In December 2017, the City Council adopted the original Commercial Cannabis Business Ordinance, which was refined on March 26, 2018, when the City Council adopted Ordinance No. 2018-007, reflecting the City's current Commercial Cannabis Businesses regulations, codified in CCMC Chapter 11.17, governing cannabis related sales, manufacturing, processing, distribution, delivery, testing, and cultivation, as well as application and permitting requirements and enforcement of the regulations. A cannabis "Retailer-Storefront" is a specific type of retail land use that requires both a Conditional Use Permit (CUP) from the Planning Commission and a Commercial Cannabis Business Permit as determined by the City Council.

The applicant to be considered at the October 25, 2021 regular City Council meeting for the

proposed Commercial Cannabis Business Permit is Sweetflower Culver, LLC (“Sweet Flower”) a proposed Cannabis Retailer-Storefront business. Chapter 11.17 and CCMC Title 17 (Zoning Code), define a Cannabis Retailer-Storefront as follows:

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.

Chapter 11.17 requires a Storefront Retailer business to obtain a Commercial Cannabis Business Permit to engage in any commercial cannabis business or activity in the City. Applicants are required to participate in a multi-stage screening process and no applicant is guaranteed any particular result in the application process. The procedures governing the application process for a Storefront Retailer Commercial Cannabis Business Permit, which is a competitive, merit-based system of selecting the top applicant(s), are set forth in City Council Resolution No. 2018-R014, adopted by the City Council on February 2, 2018 (Attachment No. 1). Resolution No. 2018-R014 also provides that the maximum number of Storefront Retail Commercial Cannabis businesses operating in the City at any one time shall not exceed three. There are currently no storefront retail commercial cannabis businesses operating in the City.

Cannabis Storefront Retail Permit Application Process

The Culver City cannabis retail storefront permit application process opened in July 2018, and the application acceptance period closed on September 27, 2018. During that time, the City received 23 applications for the possible three commercial cannabis storefront retail permits. After the initial steps of the application and selection process, described in detail below, up to three applicants would then be eligible to apply to the Planning Commission for a CUP. If an applicant successfully obtained a CUP, the City Council would consider awarding the applicant one of up to three commercial cannabis storefront retail permits.

During Step 1 of the application process, the City used a rigorous multi-departmental review process to verify that the proposals from the applicants met basic criteria established in the CCMC, including that the proposed location met zoning and parking requirements, all owners and responsible persons had cleared background checks, and proposed locations had obtained the property owner’s consent. Three of the applicants were rejected at this stage because they did not meet the minimum criteria.

During Step 1a, the 20 remaining applications were reviewed by a three-person panel of City staff (in the Planning Division, Economic Development Division, and the Police Department), who used a forced ranking system to determine the top-ranking applicants to proceed to Step 1b. Only the eight highest scoring applicants out of the 20 remaining were selected to move forward to Step 1b, including Sweet Flower. (Note: The application process allowed only the top six applicants to move forward, but there was a three-way tie for sixth place, so eight were selected to move forward.) The scoring methodology used by the three-person panel is included in Attachment 1, pages 7-8.

During Step 1b, the applications from each of the top eight scoring applicants were rated by a five-person review committee, consisting of City Executive staff members in the Police, Fire, Community

Development, Finance, and Administrative Services Departments. The 5-person review committee conducted an in-person interview with representatives from each of the top eight applicants. The review committee then scored each applicant using a scoring system established by City Council Resolution (Attachment 1, page 9-12). Only the top three applicants were invited to move forward and apply for a CUP. Sweet Flower was among the top three applicants and received notification of selection to move forward in the CUP application process on May 13, 2019; however, there were two administrative appeals after Step 1b. The City waited until the end of the appeal period after Step 1b before allowing applicants to begin the CUP process. The City notified Sweet Flower that it could proceed with the CUP application process on September 9, 2019.

Appeals of the Screening Results and Court Action

As discussed at the bottom of page 2 in the staff report for the September 29th Planning Commission meeting (Attachment 6), after decisions were rendered on the two administrative appeals by applicants not selected at the Step 1b screening phase, one of the unsuccessful applicants filed a writ action in the Superior Court, challenging the outcome of its administrative appeal. The top three applicants, including Sweet Flower, acknowledged in writing that there was ongoing litigation over the outcome of the screening process, and any court ruling had the possibility of impacting the selection of the top three applicants. Sweet Flower also acknowledged that the CUP would be subject to any final decision in the writ of mandate proceeding if the court invalidated the process or altered the outcome. (Attachment 2).

Public Meetings

Chapter 11.17.115.A.2 provides for a community meeting, as follows:

“One stage of the process shall include a public meeting where the public may comment on the proposed storefront retail commercial cannabis business applicants. At least ten (10) days prior to the public meeting, the proposed premises will be posted, and notice of the public meeting will be delivered to all property owners and occupants located within two thousand five hundred (2,500) feet of the proposed premises of each of the applicants that will be present at the meeting.”

Pursuant to the City’s Community Outreach Guidelines involving entitlement requests such as CUPs and Chapter 11.17, the applicant held two community meetings as part of its outreach to neighbors and community members. Consistent with Chapter 11.17, a notice was mailed to all property owners and applicants within 2,500-feet from the Project Site boundaries. The applicant held the two meetings and addressed neighborhood concerns. Additional details can be found in the Planning Commission Staff Report (Attachment 6).

Conditional Use Permit Planning Commission Public Hearing

A public notice of the September 29, 2021 Planning Commission hearing on the CUP was mailed to all property owners and occupants within a 2,500-foot radius of the Project Site on September 7, 2021.

On September 29, 2021, the Planning Commission unanimously voted to adopt a resolution approving Conditional Use Permit, P2021-0039-CUP, subject to the Conditions of Approval and

applicable Code Requirements as stated in Resolution No. 2021-P011 (Attachment 3).

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.

CEQA/Categorical Exemption

No new environmental analysis is required because the Planning Commission determined the project to be Categorical Exempt. More information can be found in the Planning Commission Resolution (Attachment 3).

DISCUSSION

City Council Meeting to Consider Whether to Award Cannabis Business Permit

CCMC 11.17.115.A.5 provides that *"City Council shall select the applicants to be awarded a storefront retail Commercial Cannabis Business Permit at a public City Council meeting. The City Council's decision as to those applicants that are issued a Commercial Cannabis Business Permit shall be final."*

Resolution No. 2018-R014 further describes the City Council meeting in Step 1(d):

"At a public City Council meeting, the applicant will present its proposal. City Council will either approve or deny a storefront-retail cannabis business permit based on all information compiled throughout the application process." Then, "the City Council will vote to approve a permit, contingent on the successful completion of the remainder of the approval process."

Sweet Flower plans to present its proposal (Attachment 4) as part of this Agenda Item. More details about Sweet Flower's proposal can be found in Sweet Flower's preliminary project plans (Attachment 5), the Planning Commission staff report (Attachment 6), and the Planning Commission meeting minutes (Attachment 7).

City staff recommends that the City Council selects SweetFlower Culver, LLC as one of up to three Storefront Retail Commercial Cannabis Business permittees, subject to completion of the remainder of the permit approval process, including obtaining a license to operate from the State of California.

FISCAL ANALYSIS

There is no fiscal impact associated with this action. Cannabis Business Permit applicants and permit holders pay annual fees to cover the City's cost of application selection and regulation, as well as a cannabis business tax in accordance with CCMC Chapter 11.32.

ATTACHMENTS

1. City Council Resolution No 2018-R014
2. Advisory Court Action Letter
3. Planning Commission Resolution No 2021-P011
4. Sweet Flower Proposal
5. Predevelopment Plans
6. Planning Commission Staff Report
7. Planning Commission Minutes

MOTION

That the City Council:

1. Select Sweetflower Culver, LLC to be awarded a storefront retail commercial cannabis business permit at 10000 Culver Boulevard;
2. Direct the City's Permit Administrator to issue the permit, subject to the successful completion of the remainder of the permit approval process established by the CCMC and City Council Resolution No. 2018-R014; and
3. Direction to the City Manager as deemed appropriate.