



CITY OF SALINAS PLANNING COMMISSION REPORT

DATE: JANUARY 20, 2021

TO: PLANNING COMMISSION

FROM: COURTNEY GROSSMAN, PLANNING MANAGER

BY: RYAN RUSSELL, RINCON CONSULTANTS, INC.

TITLE: APPEAL OF SALINAS SELECTION COMMITTEE'S DENIAL OF TWO COMMERCIAL CANNABIS BUSINESS PERMITS FOR DISTRIBUTION (CCP 2020-014) AND MANUFACTURING (CCP 2020-015) LOCATED AT 743 SANBORN PLACE IN THE IG - GW-5 - AR (INDUSTRIAL-GENERAL – SANBORN AT U.S. 101 GATEWAY OVERLAY – AIRPORT OVERLAY) DISTRICT

RECOMMENDED MOTION:

A motion to approve a Resolution finding the project exempt pursuant to Section 21065 of the CEQA Guidelines and upholding the Salinas Selection Committee's denial of two Commercial Cannabis Business Permits for Distribution (CCP 2020-014) and Manufacturing (CCP 2020-015) located at 743 Sanborn Place.

RECOMMENDATION:

Approve a Resolution finding the project exempt pursuant to Section 21065 of the CEQA Guidelines and upholding the Salinas Selection Committee's denial of two Commercial Cannabis Business Permits for Distribution (CCP 2020-014) and Manufacturing (CCP 2020-015) businesses located at 743 Sanborn Place.

EXECUTIVE SUMMARY:

On August 21, 2020, the applicant's representative, Jennifer Rosenthal, Esq. from the Law Offices of Jennifer S. Rosenthal, filed an appeal (see attached Exhibit H Letter of Appeal) of the Selection Committee's decision to deny Sanborn Distribution LLC and Sanborn Manufacturing LLC Commercial Cannabis Permit applications. Due to the low scores received from the Selection Committee based on in-person interviews and application materials, and especially related to the

proposed location of the businesses, principle qualifications, lack of environmental benefits, and labor and employment factors, the Sanborn Distribution LLC and Sanborn Manufacturing LLC Commercial Cannabis Permit applications were denied pursuant to Municipal Code Section 5-07.07(e).

BACKGROUND:

Sanborn Distribution LLC, Sanborn Manufacturing LLC, and Sanborn Retail LLC submitted three applications to the City of Salinas for three Commercial Cannabis Business Permits (CCP) for distribution, manufacturing, and dispensary operations within existing buildings located at 743 Sanborn Road (see Exhibit A Vicinity Map). On December 26, 2019, the City's Selection Committee denied Sanborn Retail LLC's CCP application for a dispensary business pursuant to Municipal Code Section 5-07.07(e) because it was located within 1,000 feet of an alcohol-related use and Municipal Code Section 5-07.27(b) does not allow for exceptions regarding sensitive use conflicts for dispensaries. An appeal was not filed within 10 calendar days after the denial of the Sanborn Retail LLC CCP application, pursuant to Municipal Code Section 5-07.10.

On August 14, 2020, the City's Selection Committee denied Sanborn Distribution LLC and Sanborn Manufacturing LLC CCP applications for distribution and manufacturing businesses at 743 Sanborn Road pursuant to Municipal Code Section 5-07.07(e) because the applications did not achieve high enough scores from the Selection Committee pursuant to the CCP Application Guidelines. On August 21, 2020, the applicant's representation, Jennifer Rosenthal, Esq. from the Law Offices of Jennifer S. Rosenthal, filed an appeal of the Selection Committee's decision to deny the CCP applications (see attached letter from Jennifer Rosenthal, Esq.). The appeal is focused on the original CCP applications.

The appeal was initially scheduled for the November 18, 2020 Planning Commission, but the appellant requested a later date to provide at least 10 days of notification pursuant to Municipal Code Section 5-07.10(b). On December 30, 2020 Jennifer Rosenthal, Esq. from the Law Offices of Jennifer S. Rosenthal, provided an amended appeal letter (see attached letter from Jennifer Rosenthal, Esq.).

The property is located in the IG - GW-5 - AR (Industrial-General – Sanborn at U.S. 101 Gateway Overlay – Airport Overlay) Zoning District. The following provides an overview of the land uses and zoning districts adjacent to the project site:

North:	Restaurant and Residential / IG - GW-5 - AR
South:	Industrial Complex and Multifamily/ IG - GW-5 - AR
East:	Industrial Complex / IG - GW-5 - AR
West:	Sanborn Place and South Sanborn Road

DISCUSSION:

In November 2017, the City of Salinas adopted Chapter 5, Article VII of its City Code to allow for the operation of commercial cannabis activity within the City of Salinas. Municipal Code Chapter 5 allows for five (5) types of Commercial Cannabis businesses. The table below shows the permit types and the number of allowed/issued permits:

	Type	Maximum Permits Allowed	Issued	Remaining
1.	Cultivation	5	2*	3*
2.	Delivery	3	3	0
3.	Dispensary	5	5	0
4.	Distribution	5	4	1
5.	Manufacturing	5	4	1
*One Cultivation CCP is currently being processed, which may change the numbers of cultivation CCPs that are issued and remaining.				

Pursuant to Municipal Code Section 5-07.07, in order to operate a Commercial Cannabis Business in the City of Salinas, a CCP must be obtained from the City in accordance with the requirements of Section 5-07.07. Sanborn Distribution LLC and Sanborn Manufacturing LLC submitted an application for two CCPs; one for a distribution and the other for a manufacturing cannabis business, both of which were proposed to be located at 743 Sanborn Road.

Sanborn Distribution LLC CCP (CCP 2020-014) applied for a cannabis distribution permit to distribute commercial cannabis products to licensed operators in the City of Salinas and Monterey County area within an existing structure located at the rear of the property at 743 Sanborn Road (see attached Sanborn Distribution LLC Commercial Cannabis Business Application).

Sanborn Manufacturing LLC CCP (CCP 2020-015) applied for manufacturing permit to develop cannabis products for recreational and adult use sales in the City of Salinas and Monterey County area. The manufacturing operations are proposed to occur in an existing structure located in the center of the property at 743 Sanborn Road (see attached Sanborn Manufacturing LLC Commercial Cannabis Business Application). The manufacturing operations propose to develop a range of cannabis products including, but not limited to, vapor cartridges, oral sprays, edibles, balms, and lotions.

The applications were denied by the Selection Committee pursuant to Municipal Code Section 5-07.07(e) because they did not achieve high enough scores in accordance with the CCP Application Guidelines as described below. The amended appeal letter included amended CCP applications and a request that Planning Commission review the CCP applications starting anew. However, pursuant to Municipal Code Section 5-07.10, the appeal and Planning Commission consideration is related to the Selection Committee decision linked to the original applications (included as Exhibit B and C). Also, according to the CCP Application Guidelines available to the applicants and the Selection Committee, applicants are not allowed to make amendments to their applications or to supplement their applications.

Pursuant to Municipal Code Section 5-07.07(c), the applications contained all the required material to be considered by the Selection Committee. In accordance with the CCP Application Guidelines, the applications must achieve a Selection Committee score of at least 1,050 out of 1,500 points to be considered for interviews and final scoring. Sanborn Distribution LLC and Sanborn Manufacturing LLC CCP applications received scores of 1,196 for distribution and 1,176 for manufacturing, which were high enough scores to move to the interview phase (see attached CCP Round 2 Final Score Sheet).

While the initial scoring was high enough to move to the interview and final scoring phase, both applications received low initial scoring from the Selection Committee related to their location and neighborhood compatibility. 743 Sanborn Road is within 1,000 feet of four uses containing alcohol sales. The proximity to alcohol uses is prohibited under Municipal Code Section 5-07.27 except for cultivation, delivery, manufacturing, or distribution businesses when the Selection Committee can establish a finding that the intent of the distance requirements are met, pursuant to Municipal Code Section 5-07.27(b). In addition, the Selection Committee found both applications contained insufficient plans that did not show intended physical improvements to the site for the proposed businesses. Because the initial scores are added to the final scores during the interview phase, the lower scores received compared to other CCP application impacted the ability of the Sanborn Distribution LLC and Sanborn Manufacturing LLC CCP applications to get high enough overall scores, as explained below.

Pursuant to CCP Application Guidelines, in order to obtain a CCP, the combined scores from the Selection Committee must be at least 2,800 points. Based on the final Selection Committee scoring, Sanborn Distribution LLC CCP application had a final score of 2,439 and Sanborn Manufacturing LLC CCP application has a final score of 2,407, which both did not meet the 2,800-point requirement (see attached CCP Round 2 Final Score Sheet).

The Selection Committee members based their final scoring on location, community benefits, enhanced product safety, environmental benefits, labor and employment practices related to wages and benefits for employees, locally managed enterprise, and qualifications of principles (see attached CCP Application Guidelines for full evaluation criteria). The areas where Sanborn Distribution LLC and Sanborn Manufacturing LLC CCP applications received the lowest scores from the Selection Committee, which contributed to the inability to reach the 2,800 point limit, were qualification of principles (average of 125 points out of 500) environmental benefits (average of 75 points out of 200), and labor and employment (average of 137.5 points out of 300). Along with these areas, the average scores for community benefits, product safety, and local enterprise categories were not greater than 70 percent of the total possible points.

The amended appeal letter states that the scores received by the Selection Committee were arbitrary. The Selection Committee performed the final scoring based on in-person interviews with the applicants (principals) as well as review of application materials pursuant to the CCP Application Guidelines (see attached CCP Application Guidelines). Pursuant to Municipal Code Section 5-07.07(d) and (e), each member of the Selection Committee represents a different City department

and has the authority to grant or deny a CCP application. While there was a range of scores from different Selection Committee members for the Sanborn Distribution LLC and Sanborn Manufacturing LLC CCP applications, the same Selection Committee members also approved five other CCPs during the same round of application review.

Staff recommends that Planning Commission deny the appeal and uphold the Committee's decision based on the low scores received from the Selection Committee on in-person interviews and application materials, but especially related to location of the businesses, principle qualifications, environmental benefits, and labor and employment.

CEQA CONSIDERATION:

This appeal is exempt from the California Environmental Quality Act (CEQA) because it is not defined as a project under CEQA, pursuant to Section 21065 of the CEQA Guidelines.

TIME CONSIDERATION:

The CCP's were appealed on August 21, 2020. Pursuant to Municipal Code Section 5-07.10(b), a hearing before Planning Commission shall occur within 60 days of the appeals. However, due to the COVID-19 pandemic and the local fires occurring during the appeal period, the 60-day requirement was waived, as to not exceed 90 days. The public hearing for the appeals was scheduled on November 18, 2020, before the 90-day deadline of November 19th. Jennifer S. Rosenthal, Esq., the applicant's representative, requested a continuance to this date due to timing concerns.

ALTERNATIVES AVAILABLE TO THE COMMISSION:

The Planning Commission has the following alternatives:

1. Affirm the findings set forth in the attached Resolution, find the application exempt from the California Environmental Quality Act (CEQA), uphold the denial of two Commercial Cannabis Business Permits for Distribution and Manufacturing businesses at 743 Sanborn Road, with modifications; or
2. Overturn the decision by the Selection Committee and approve one or two CCPs for Distribution and/or Manufacturing businesses located at 743 Sanborn Road. Staff notes there are available permits as shown on the table, above.

ATTACHMENTS:

Exhibit "A"	Vicinity Map
Exhibit "B"	Sanborn Distribution LLC Commercial Cannabis Business Application
Exhibit "C"	Sanborn Manufacturing LLC Commercial Cannabis Business Application
Exhibit "D"	CCP Application Guidelines

Exhibit "E" Selection Committee Initial Scoring Notes
Exhibit "F" CCP Round 2 Final Score Sheets
Exhibit "G" Sanborn Notice of Denial, dated August 14, 2020
Exhibit "H" Notice of Appeal, dated August 21, 2020
Exhibit "I-1" Amended Notice of Appeal, dated December 30, 2020: Distribution
Exhibit "I-2" Amended Notice of Appeal, dated December 30, 2020: Manufacturing

Cc: Sal and Jose Alvarez, Sanborn Distribution and Manufacturing LLC, Applicants
 Jennifer Rosenthal, Esq., Law Offices of Jennifer S. Rosenthal, Representative