

REPORT

REPORT TO: Chair and Members of the Planning, Public Works and Transportation Committee

REPORT FROM: Keith Hamilton, Planner - Policy

DATE: March 8, 2019

REPORT NO.: PLS-2019-0022

RE: Cannabis Cultivation and Processing in Halton Hills – Directions Report

RECOMMENDATION:

THAT REPORT NO. PLS-2019-0022 dated March 8, 2019 regarding directions for cannabis cultivation and processing in Halton Hills, be received;

AND FURTHER THAT the proposed directions pertaining to cannabis cultivation and processing in Employment Areas and the broader Agricultural/Rural Area, as set out in this report and the draft Official Plan and Zoning By-law Amendments, be endorsed in principle;

AND FURTHER THAT a Statutory Public Meeting, in accordance with the Planning Act, be held to obtain public comments on the draft Official Plan and Zoning By-law Amendments.

BACKGROUND:

The purpose of this report is to inform Committee on the ongoing cannabis cultivation and processing study for the Town of Halton Hills, including a summary of public and agency engagement to date. The report will also provide Committee with a recommended policy direction for the Town on cannabis cultivation and processing, and seek approval for a Statutory Public Meeting to take place in May of this year.

1. Study to Date

1.1 Initial Research and Background Report

In April of 2018 Town staff began researching cannabis production to better address medical marijuana growing facilities within Halton Hills. This research included a review of federal legislation on cannabis, past and present, as well as a policy scan of

municipalities that had regulated cannabis production under the pre-Cannabis Act medical regulations. With recreational cannabis legalization on the horizon, a Town study on cannabis cultivation and processing was formalized with the goal of establishing local regulations for these activities in Halton Hills.

Meridian Planning Consultants were retained by the Town in June of 2018 to assist with the Town's study and to develop a background report on cultivation and processing. This report, taken to the Planning and Public Works Committee on September 10th, 2018, provided the following:

- A summary of federal regulations for cannabis and licences available under the Cannabis Act;
- An overview of potential regulatory considerations for Town policy, including odour concerns associated with production, and social considerations; and,
- A discussion on where the use(s) could be permitted within the Town and regulatory tools that could be applied.
- Specific options for regulating cannabis cultivation and processing in the Agricultural/Rural Area, and Prestige Industrial and Employment Areas, including:
 - Evaluating all proposals in the Employment Areas and Agricultural/Rural Areas on a case by case basis through a Zoning By-law Amendment application;
 - Permitting in the Employment Areas as-of-right in the Zoning By-law subject to setbacks from sensitive land uses; and,
 - Permitting in the Employment Areas and Agricultural/Rural Areas as-of-right in the Zoning By-law subject to setbacks from sensitive land uses.

1.2 Interim Control By-law

On September 24th, 2018 the Town of Halton Hills passed an Interim Control By-law (2018-0062) prohibiting the use of land, buildings or structures for Cannabis Production Related Uses. The By-law is now in effect in all Agricultural, Protected Countryside, and Prestige Industrial and Gateway zones in Halton Hills for a one year period. This By-law was developed by Planning staff in consultation with the Town Solicitor and Meridian Planning Consultants. The By-law serves to provide Town staff adequate time to complete the ongoing study prior to any cannabis production-related uses establishing themselves within Halton Hills.

1.3 External Agency Circulation

In October of 2018, Town Planning staff circulated the background report to the following public agencies for comment:

- Region of Halton Community Planning
- Region of Halton Agricultural Liaison
- Halton Catholic District School Board
- Halton District School Board
- Conseil scolaire de district du Centre-Sud-Ouest
- Conseil scolaire de district Catholique Centre-Sud
- Conservation Halton
- Credit Valley Conservation
- Niagara Escarpment Commission

Additionally, the following stakeholder groups were circulated for comment:

- Ontario Federation of Agriculture
- Halton Hills Chamber of Commerce

Comments were received from Halton Region, Conservation Halton, Halton Catholic District School Board, and Halton District School Board. In February of 2019 a second request for comments was sent to agencies that did not provide a reply. To date the Town has received no responses to this request for comments. Comments received from the first circulation are summarized in the COMMENTS section. Planning staff will continue to review and consider comments from external agencies for the duration of the study.

1.4 Public Consultation

In December of 2018 the Town released a survey on cannabis retail and production for Halton Hills residents to complete. This survey included seven questions on cultivation and processing:

- Where do you think cannabis growing should locate?
- Where do you think cannabis processing should locate?
- Should cannabis growing and processing operations be clearly identifiable from the road or discreet and positioned further back to be less noticeable?
- Where do you think establishing setbacks (distance perimeters) from sensitive land uses is important?
- Do you have any concerns about the Town allowing growing and processing operations in Halton Hills?

- On a scale of 1 = most important to 4= least important, please rank the following (potential for economic benefit; impact on surrounding property values; odour from growing and processing; threat to public safety)
- Do you think that attracting commercial cannabis growing operations should be part of the Town's economic development efforts?

The survey results and key themes from responses will be summarized in the COMMENTS section.

COMMENTS:

1. Results of Agency Circulation

1.1 Halton Region Comments

Comments were received from Halton Region in November of 2018 and again in January with input from the Planning and Public Health departments. Key concerns highlighted in these comments include:

- Consideration for the size of operations which can vary from small micro operations to large industrial buildings having far great impacts on the landscape (e.g. traffic generated, resources required, security lighting and fencing);
- Concern over large-scale indoor operations being located on prime agricultural land not using high quality soils contained within;
- Concern that required lighting and odour produced from cultivation will create a nuisance for surrounding landowners. Consideration should be given to setbacks to help mitigate this;
- That medical operations (licenced producers and designated persons) should be included in the Town's regulatory framework for cannabis production;
- As-of-right permission through zoning for cannabis production could hinder the ability to evaluate the potential impacts of an operation. Consideration should be given to an approvals process that evaluates proposals on a case by case basis (i.e. site-specific re-zoning);
- Consideration that water and waste requirements will vary depending on the size of proposed operations; and,
- Consideration for Town-regulated air filtration that attempts to mitigate potential air quality and health issues from production.

1.2 Halton Catholic District School Board Comments

Comments were received from Halton Catholic District School Board in December of 2018. Key concerns highlighted in these comments include:

- Outdoor cultivation should not be adjacent to a school, day-care facility or other public place;
- Consideration for setbacks for larger licenced uses and facilities from sensitive land uses as defined in the Provincial Policy Statement;
- Support for Option 2 under Section 5.3.2 of the background report to not permit cultivation and processing in EMP1 zones; and,
- Support for provisions where odour mitigation from operations is enforced by the Town's By-law Officers.

1.3 Halton District School Board Comments

Comments were received from Halton District School Board in December of 2018. Key concerns highlighted in these comments include:

- Preference for all applications to go through a rezoning process so they can be evaluated on a case-by-case basis;
- Outdoor cultivation should not be adjacent to a school, day-care facility or other public place;
- Support for Option 2 under Section 5.3.2 of the background report to not permit cultivation and processing in EMP1 zones; and,
- That 'Sensitive Land Use' should be defined in the Zoning By-law for the purpose of imposing setbacks on cultivation and processing operations.

1.4 Ontario Federation of Agriculture

For this study, formal comments from the Ontario Federation of Agriculture (OFA) have not been provided to date. However, in February of 2019 the Town was provided a copy of the OFA's 'Position on Cannabis Production'. This position, formally adopted in February of 2018, considers cannabis cultivation, for medical and recreational purposes, to be a farming activity. The position further requests that all levels of government treat income, workers and facilities dedicated to the growing of cannabis consistent to the treatment applied to those associated with other farming activities.

2. Results of Public Consultation

The Let's Talk Halton Hills Cannabis Survey was open from December 19th to January 16th and yielded 493 respondents. Seven of the survey's eleven questions were directly related to cannabis cultivation and processing. The following are key summary points taken from the results of this survey:

- The majority (65 percent) of respondents felt cultivation is acceptable in both agricultural and industrial areas, with 24 percent supporting agricultural areas only, and the remaining 11 percent favouring industrial areas only;

- The majority (66 percent) of respondents felt processing is acceptable in both agricultural and industrial areas, with 18 percent supporting industrial areas only, and the remaining 16 percent favouring agricultural areas only;
- Respondents were more favourable (41 percent) to cultivation and processing operations being discreet and positioned further back from the road, with 19 percent being more in favour of clearly identifiable operations from the road. The remaining 40 percent of respondents had no opinion for this question;
- Where respondents were asked to select uses from which cultivation and processing should be set back the most common response was schools (382), with youth-oriented facilities (334) and daycare centres (330) close behind. Residences (231) and health facilities (158) were also common responses;
- The majority of respondents (70 percent) indicated they have no general concerns about the Town allowing operations in Halton Hills;
- Responses for the next question of the survey ranked (on average) 'Potential for economic benefit' as most important when considering cultivation and processing in Halton Hills. This was followed by 'Impact on surrounding property values', 'Odour from growing and processing', and 'Threat to public safety' as least important (on average); and,
- For the final question, the majority of respondents (64 percent) felt attracting commercial cannabis cultivation and processing should be part of the Town's economic development efforts.

Three of the seven questions on cultivation and processing allowed respondents to provide written comments in support of their response. Further analysis of responses, including written comments will be provided in future Public Meeting and Final Recommendation Reports (subject to Committee and Council approval).

3. Regulatory Options for Consideration

This section outlines regulatory options for cannabis production based on information gathered through research by staff and Meridian Planning and the public and external agency consultation. In the absence of comments from the Niagara Escarpment Commission, the options laid out in this section would not apply to Niagara Escarpment Plan Area at this time. Further efforts will be made to obtain formal comments from the NEC, to be added to the Public Meeting Report.

3.1 Defining Terms

Defining terms related to cannabis production is a necessary step towards introducing and regulating the use under Town policy. Section 5.1 of the Meridian background

report proposes defining, at minimum, terms related to the licences available under the Cannabis Act. These include:

- Cannabis cultivation – indoor;
- Cannabis cultivation – outdoor;
- Cannabis processing;
- Cannabis analytical testing;
- Cannabis research facility;
- Cannabis medical sales establishment; and,
- Cannabis drug licence establishment.

Defining these terms would be the first step in regulating all forms of cannabis production (both medical and recreational) with the exception of personal cultivation in private residences (maximum four plants) permitted under the Cannabis Act.

Additional definitions considered for this report were: Air Treatment Control and Sensitive Land Use. The policy approach laid out in the attached Official Plan Amendments addresses this by requiring the treatment of odour to be assessed as part of the policy tests or criteria for indoor cultivation, as seen in Item 5 in Schedule 1 attached.

A definition for Sensitive Land Use currently exists in the Town's Official Plan. This definition only includes "residences, day care centres, education and health facilities" as examples. After careful consideration it was determined that the application of a 150 metre setback from a more comprehensive list of uses would be appropriate. These uses are identified in Items 2 and 4 of Schedule 1 (draft Official Plan Amendment) and Sections 4 and 5 of Schedule 2 (draft Zoning By-law Amendment- Special Provisions).

3.2 Option A – Require Site Specific Zoning for All Proposals

This option would permit cannabis cultivation and processing in the Agricultural/Rural Area and Employment Areas, subject to criteria and a site specific rezoning for each application. Factors to consider in evaluating applications would include setbacks from sensitive land uses and requirements for adequate servicing, air quality and odour control measures. Site Plan Approval would also be required.

In order to implement this option, the Town's Official Plan would need to be amended to include appropriate policy tests or criteria to evaluate rezoning applications. Revisions to the Comprehensive Zoning By-law would be limited to incorporating and defining the various types of cannabis uses.

This option would ensure all proposed operations are reviewed by the Town prior to approval, with mandatory public consultation. The regulatory framework introduced here is similar to what has been done in the municipalities of Chatham-Kent and Lakeshore. These examples were included in the policy scan attached the background report (Schedule Two to PLS-2018-0068).

3.3 Option B – Require Site Specific Zoning in the Agricultural/Rural Area

The proposed approach for cannabis cultivation and processing is the same for the Agricultural/Rural Area as the previous option. Such facilities would, however, be permitted in Employment Areas without requiring a rezoning provided that setbacks from sensitive land uses are met. Site Plan Approval would be required for proposals in both the Agricultural/Rural Areas and Employment Areas.

As it relates to the Agricultural/Rural Area, the implementation of this option is the same as Option A. Additional policy direction would be required for the Employment Areas to support the required setbacks from sensitive land uses contained in the Comprehensive Zoning By-law.

3.4 Option C – Permit in the Agricultural/Rural Area and Employment Areas

This option would permit cannabis cultivation and processing as-of-right in the Zoning By-law in the Agricultural/Rural Area and Employment Areas. Setbacks from sensitive land uses would still be incorporated and Site Plan Approval would be required for all proposals.

From an implementation perspective, an enabling policy for permitting cannabis cultivation and processing, and direction on setbacks from sensitive land uses would be incorporated into the Official Plan. The Comprehensive Zoning By-law would explicitly permit the uses in appropriate zones subject to the recommended setbacks.

This option represents the most expedited process for operations looking to establish themselves in areas where agricultural and industrial uses are already permitted. Public consultation, as a result, would only be required where an application has been made in a designation/zone that does not permit agricultural or industrial uses.

3.5 Amending the Site Plan Control By-law 2013-0070

For all three proposed options an amendment to the Town's Site Plan Control By-law (2013-0070) would be required to ensure Site Plan Approval is required for any

cannabis production buildings proposed in agricultural areas. This amendment would seek to change Part III, section 4c) of the Site Plan Control which exempts:

“buildings and structures used for agricultural purposes except for those buildings and structures associated with a home industry, commercial use or farm related tourism use that are accessory to an agricultural operations, as outlined in Sections E1.3, E1.4.5, E1.4.6 and E1.4.7 of the Town of Halton Hills Official Plan”.

The proposed Amendment would include ‘buildings and structures associated with cannabis production uses’ to the list of agricultural buildings that are explicitly not exempt from obtaining Site Plan Approval.

It is preferable that all cannabis production proposals go through Site Plan Approval for the following reasons:

- Site Plan Approval ensures cannabis operations will develop on a site in accordance with Town-approved Site Plan drawings and accompanied by studies identified through the Pre-Consultation process;
- Site Plan Applications must go through Pre-Consultation, therefore, in the absence of a site-specific zoning requirement, there is assurance that a proposed operation will be assessed by the Town early in its planning stages;
- All facilities licenced under the Cannabis Act are subject to security requirements, including perimeter fencing and loading restrictions. Site Plan Approval provides Town and external agency staff the opportunity to properly evaluate how these requirements will influence site design and relate to abutting agricultural properties; and,
- In the absence of Site Plan Approval there is no formal requirement for developers of a cannabis production site to follow through on submitted concept drawings.

3.6 Outdoor Cultivation

Notwithstanding the regulatory frameworks proposed in the options identified, the site-specific zoning and Site Plan Control requirements for outdoor cannabis cultivation operations that do not propose to use any buildings or structures would pose a challenge from an implementation perspective. It should be noted that outdoor cultivation operations would still be subject to security requirements under the Cannabis Act, including physical barriers around the site and visual monitoring at all entry points. These requirements are not typical of a standard agricultural crop operation and consideration for a setback from sensitive land uses is warranted. It is therefore recommended that outdoor cultivation be defined and identified as an agricultural use,

and subject to a provision that it be subject to a setback from those uses identified in Section 4 of Schedule 2 (attached).

4. Preferred Option

Town staff and Meridian Planning are recommending Option B (section 3.3) as the preferred regulatory approach to introducing cannabis production into local policy. In the Agricultural/Rural Area this approach identifies agricultural and rural areas as suitable for production with cultivation being the primary activity. Requiring site-specific zoning is a measure that will ensure public consultation and a thorough municipal review of every proposed operation.

In the Employment Areas, this approach allows for an expedited process where available lots, located 150 metres from sensitive land uses, can be developed through a Site Plan Approval process. The Site Plan Approval process would ensure the Town is consulted in the early stages of the planning process for a cannabis production operation, being able to guide applicants towards a site design that respects surrounding uses to the fullest extent possible. Setbacks from sensitive land uses would still be required under this approach given many lots in the Employment Areas of Acton and Georgetown fall within close proximity to, among others, residential and institutional uses.

In selecting Option B as the preferred approach, Planning staff have taken into consideration the following:

- Requiring site-specific zoning in the Agricultural/Rural Area will help address Halton Region concerns over the size of facilities, their potential impacts on prime agricultural land, key features of the Natural Heritage System, and varying servicing requirements;
- Requiring, at minimum, Site Plan Approval for cannabis production operations (excluding outdoor cultivation) supports the view of Meridian Planning Consultants and Halton Region that each proposal be evaluated on a case by case basis;
- That the majority of those surveyed viewed cannabis cultivation and processing as acceptable in agricultural and industrial areas;
- That the majority of those surveyed had no concerns over cannabis production in Halton Hills, with many also seeing the potential economic benefit as very important;
- That consideration for joint cultivation and processing proposals supports the Provincial Policy Statement principle of providing for a diversified economic base

(section 1.3.1) in Employment Areas; while recognizing that processing activities can be considered agriculture-related (section 2.3.3).

5. Next Steps

The proposed next steps for this study at this time are as follows:

- Finalization of draft amendments required for the preferred Option, to be attached to the Public Meeting Report for this study;
- A Statutory Public Meeting before Council where members of the public can make submissions; and,
- A Final Recommendation Report to Planning, Public Works and Transportation Committee on the proposed Amendments to the Official Plan and Zoning By-law.

RELATIONSHIP TO STRATEGIC PLAN:

This report relates directly to the implementation of the Town Strategic Plan. Under Section C – Foster a Prosperous Economy, this report supports Objective C.8 – To facilitate the establishment of a competitive business environment that is easily able to adapt to changing circumstances and priorities. By establishing a regulatory framework that will define and regulate cannabis production, the Town is adapting to an emerging market that will continue to expand in wake of the legalization of cannabis for recreational purposes.

FINANCIAL IMPACT:

There is no direct financial impact associated with this report.

CONSULTATION:

As part of an ongoing Town study on cannabis production, staff across multiple departments were consulted along with external agencies listed in section 1.3 under COMMENTS.

Meridian Planning Consultants have continued to be consulted throughout the study and contributed in the preparation of this report.

PUBLIC ENGAGEMENT:

Where Zoning By-law and/or Official Plan Amendments are required to define and regulate cannabis production in the Town of Halton Hills, a Statutory Public Meeting will be required.

In preparing this report, an online public survey was conducted consisting of questions directly related to cannabis production in Halton Hills. The survey was available publicly through 'Let's Talk Halton Hills' from December 19, 2018 to January 16, 2019. Through this engagement, staff were able to inform and consult with the public, consistent with the Town's Public Engagement Matrix.

SUSTAINABILITY IMPLICATIONS:

The Sustainability Implications of defining and regulating cannabis production in Halton Hills will be addressed in the final report.

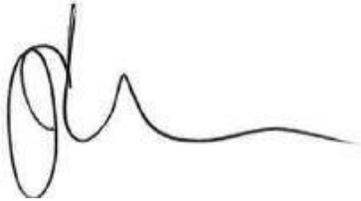
COMMUNICATIONS:

Once ratified by Council, this report will be made available on the Town website as part of the cannabis information page created in response to legalization of recreational cannabis last fall.

CONCLUSION:

Staff has completed a preliminary review of agency comments, public feedback and relevant legislation. Approaches to regulating cannabis production in Halton Hills have been identified with a preferred option selected. At this time Planning staff is recommending that Committee receive this report, endorse the Preferred Option for cannabis cultivation and processing in Employment Areas and the broader Agricultural/Rural Area as identified in the Comments Section, and authorize a Public Meeting before Council on the matter.

Reviewed and Approved by,



John Linhardt, Commissioner of Planning and Sustainability



Brent Marshall, Chief Administrative Officer