



Planning and Building Services

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April 17, 2014

DEVELOPMENT AND INFRASTRUCTURE SERVICES PLANNING AND BUILDING SERVICES - PLANNING REPORT 2014-19

TO: Committee of the Whole

SUBJECT: Medical Marijuana Legal Production in Newmarket

ORIGIN: New legislation and inquiries from the general public

RECOMMENDATIONS

THAT Development and Infrastructure Services/Planning & Building Services Report 2014-19 dated April 17, 2014 regarding medical marijuana be received and the following recommendation(s) be adopted:

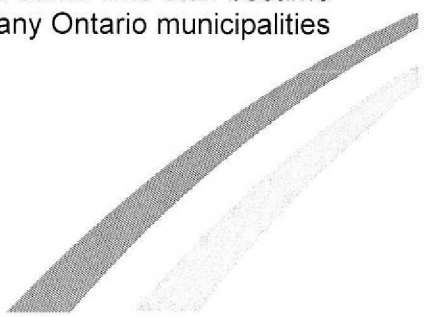
- a) **THAT staff be directed to start the public consultation process for a Zoning By-law Amendment which will consider appropriate locations and restrictions for commercial producers of medical marijuana;**
- b) **AND THAT following the public consultation and formal Public Meeting, issues identified in this report, together with comments from the public, Committee, and those received through agency and departmental circulations, be addressed by staff in a comprehensive report to the Committee of the Whole, if required;**
- c) **AND THAT the public consultation process takes the form of an Open House with various stakeholders, online feedback, and a formal Public Meeting.**

INTRODUCTION

Council may be aware that there is an emerging land use issue in Ontario; the Federal government has changed the legislation around who can produce medical marijuana. This report provides Council with a recommended approach for commercial producers of medical marijuana in Newmarket.

BACKGROUND

As outlined in Planning Report 2013-44, Planning Services received an inquiry regarding a business wanting to locate within the Town which would produce medical marijuana. At the same time staff became aware of changes to legislation regarding the production of medical marijuana. Many Ontario municipalities have been sharing information in light of the legislative changes.



In 2001, the federal government introduced legislation (called the Marijuana Medical Access Program) that allowed persons to produce medical marijuana in their homes. The program had grown exponentially from under 500 authorized persons to over 30,000. As a result of this growth the federal government revised the regulations for the production of medical marijuana and created new legislation called Marijuana for Medical Purposes Regulations (MMPR).

Under the old legislation, the Marijuana Medical Access Program (MMAP), qualified individuals were issued licenses to grow marijuana in their own home, or buy marijuana from Health Canada for medical purposes. Various stakeholders, including police, fire officials, and municipalities expressed concerns regarding public health, safety and security as a result of individuals producing marijuana in their homes.

In June 2013, the federal government released new legislation, Marijuana for Medical Purposes Regulations (MMPR), which limits the growing of medical marijuana to commercial producers only. Individuals would no longer be allowed to grow it in their homes, nor can it be purchased from Health Canada. Health care practitioners will sign a medical document enabling patients to purchase their marijuana directly from Licensed Producers. Health Canada licenses the commercial producers and they are required to comply with regulations regarding product quality, personnel, recording-keeping, safety and security, disposal and reporting.

Individual production was to have ceased April 1, 2014. However, in March, the courts granted an injunction which allows individuals to continue to produce medical marijuana until a hearing is held this summer. Individual producers are concerned that they won't be able to afford commercial producers' prices. The Federal government has appealed the injunction. At the time of writing this report, it is unknown what will happen to the legislation, however, it is probable that it will shift to commercial producers in some form and it is advisable that Newmarket be ready. It is understood that commercial producers are continuing to set up shop and are interested in locating in Newmarket.

COMMENTS

In response to enquiries from businesses wishing to establish in Newmarket, Planning staff have reviewed the lists of permitted uses, definitions, and provisions from our current zoning by-laws. It is our interpretation that the commercial production of medical marijuana is not permitted in any of the zones.

Staff have contacted other municipalities in York Region and the wider GTA, some municipalities consider the commercial production of medical marijuana an agricultural use. Some municipalities have determined that the use is a type of manufacturing use and it is permitted in their employment/industrial zones.

As Newmarket does not have any agricultural zones, staff are proposing a process to consider an amendment to our industrial zones which would allow for the commercial production of medical marijuana under certain circumstances or within certain limitations.

It should be noted that while the Ministry of Health requires the commercial operators to contact and obtain permission from the municipality, a municipality cannot prohibit or outright forbid the establishment of a facility. The local level of government cannot frustrate a federally regulated industry.

Staff are proposing that Council initiate a Zoning By-law amendment process to review regulations for the commercial production of medical marijuana. The process would involve an Open House with various stakeholders (residents, producers, and community groups). The stakeholders could also be provided the opportunity to comment through the Town's website and perhaps an online survey. Staff propose to report back to Council with the preferred approach garnered from comments through the public consultation

process. Then staff would request Council schedule the formal Public Meeting on the amendment. The public would be contacted through information on the website, tweets, information on the Town Page in the Era Banner. It is suggested that the formal Open House and Public Meeting would not be scheduled until the new term of Council, in the meantime, staff will initiate a less formal public consultation process with the various stakeholder groups.

During the consultation phase staff will provide some preliminary information for discussion such as a proposed definition and some potential restrictions and limitations. On a preliminary basis, such restrictions could include:

- Placing a cap on the number of commercial producers.
- Restricting the location of commercial producers to certain zones.
- Limiting the size of the facility used by the commercial producer.
- Requiring a minimum distance between commercial producers.
- Requiring that any facility used for commercial production be a stand-alone building.
- Requiring odour control measures to prevent nuisance to surrounding properties.
- Planning restrictions on signage (i.e. no mention of the word marijuana).
- Requiring that the site be secured to prevent unauthorized entry.
- Requiring a minimum separation distance from residential areas, schools, playgrounds, community centres, etc.
- Requiring a building permit for any new construction or conversion of an existing building to ensure safety measures are in place for such a use.

Staff will collect the responses from the stakeholders and report back to Council with a preferred method for proceeding.

COMMUNITY CONSULTATION POLICY

If approved by Council, staff will undertake a public consultation process as outlined above.

BUDGET IMPACT (CURRENT AND FUTURE)

There will be costs associated with holding the community consultation process.

BUSINESS PLAN AND STRATEGIC PLAN LINKAGES

The Community Strategic Plan is supported by being *Well-Balanced* for the potential to encourage a strong sense of community through an appropriate mix of lands uses.

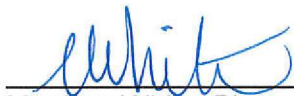
CONCLUSION

Individual production of medical marijuana will probably be phased out by the Federal Government. Commercial producers are being licenced for the production of medical marijuana. The Minister of Health has stated that "municipal zoning by-laws will need to be respected." Staff propose to undertake a community consultation process and report back on a preferred type of Zoning By-law amendment with

recommendations on limitations and restrictions to address commercial production of medical marijuana in Newmarket.

CONTACT

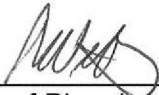
For more information on this report, contact: Meghan White, Planner at 905-953-5321, Extension 2458 or via email at mwhite@newmarket.ca.



Meghan White, Planner



Commissioner of Development and Infrastructure Services



Director of Planning and Building Services