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Date: June 21, 2018

To: Mayor and Council

Author: Robert Brown, H. Ba, MCIP, RPP
Manager, Planning Services

RE: Application for Zoning Amendment ZBA/18/18 for
617885 o/a Jem Farms, Rico Root Farms Inc., Hillside Hothouse
Limited, 1659437 Ontario Limited & Giovanni & Franca Vespa
1581-1585,

Report No.: PDS 2018-035

AIM

To provide Council with information regarding the addition of odour control provisions to be added to the existing zoning approvals to permit medical marihuana production facilities (MMPF) on the subject properties.

BACKGROUND

Since March of 2018 Council has had several zoning by-law amendment requests to permit medical marihuana as a permitted use on several agricultural properties. As of June 21, 2018 five applications have been approved, two have been deferred and three remain pending presentation to Council.

DISCUSSION

At the May 28, 2018 Council meeting two of the three applications presented for zoning amendments to permit an MMPF were deferred primarily because of the concern of odour both how it would be controlled and how this requirement would be enforced. The initial intention with the applications that had already received approval was to implement odour control as part of the site plan amendment process which would be the next step for each of the approved properties if they received approval for licensing from Health Canada. This method of odour control would be in support of the Health Canada requirements for Part 1 medical marihuana production facilities to emit no odour.

Much of the uncertainty surrounding the establishment of MMPFs, particularly as it relates to odour, is based on a wide variety of misinformation, varying regulations, especially between the Part 1 and Part 2 operations and lack of regulating experience at the local level. Unfortunately, for the industry the much newer and much more regulated Part 1 licensed operations are being characterized the same as the unregulated Part 2 operations. This does however have an advantage as it has clearly pointed out that odour must be clearly addressed for these operations to be sustainable and not negatively impact on the community. Addition of an odour provision to the existing approvals on the subject properties will both echo the Health Canada requirement and provide local oversight.

1) Provincial Policy Statement (PPS), 2014:

There are no additional issues of provincial significance raised by the proposed change to the existing approvals.

2) County of Essex Official Plan

There are no issues of County significance raised by the application.

3) Town of Kingsville Official Plan

The subject property is designated 'Agriculture'. The proposed amendment to will help to bolster the regulation of the proposed MMPFs and would be considered consistent with the policies of OPA #3

4) Comprehensive Zoning By-law – Town of Kingsville

The proposed amendment for the subject properties is to add the following provision to each of the existing site-specific approvals already in place.

“Notwithstanding any other provision of By-law 1-2014, as amended, to the contrary, for lands zoned to permit a medical marihuana production facility shall require the installation and maintenance of an Air Treatment Control (ATC) system designed by a qualified person. Prior to the beginning of any growing operations of the licensed MMPF the owner/operator must demonstrate to the satisfaction of the Town, including the submission of a maintenance schedule that the ATC is installed and operational as per the design specifications to maintain no perceptible marihuana odour or transmission of odour control agents beyond the property line.

Odour control agents used as part of an Air Treatment Control system must be approved for use by Health Canada or demonstrate no negative impact to the satisfaction of the Town.”

As the result of an earlier amendment “Air Treatment Control” and “Qualified Person” have been added and defined in the Kingsville Comprehensive By-law. The implementation of this requirement will be through the site plan approval or site plan amendment process. The odour control system design will be added as an appendix to any agreements so that it remains clear what the expectation for MMPFs will be moving forward.

LINK TO STRATEGIC PLAN

Support growth of the business community.

FINANCIAL CONSIDERATIONS

There are no financial implications as a result of the proposed amendment

CONSULTATIONS

In accordance to O. Reg 545/06 of the *Planning Act*, property owners within 120m of the subject site boundaries received the Notice of Public Meeting by mail. Information of the proposed amendment was also posted to the Town website.

Addition of the new provision to the existing approval was based on public input, Council comment, consultation with each of the property owners (applicants) and Administration.

Agency & Administrative Consultations

The Notice of Public meeting was circulated to the required agencies however no new comment was anticipated or received.

RECOMMENDATION

It is recommended that Council approve zoning amendment application ZBA/18/18 to:

Amend Agriculture Zone 1 Exception 62 for lands located at 1581, 1583 and 1585 County Road 34 E to add odour control provisions as outlined in the amending by-law;

Amend Agriculture Zone 1 Exception 63 for lands located at 1156 Road 3 E to add odour control provisions as outlined in the amending by-law;

Amend Agriculture Zone 1 Exception 64 for lands located at 1555 and 1557 County Road 34 E to add odour control provisions as outlined in the amending by-law;

Amend Agriculture Zone 1 Exception 65 for lands located at 1541 County Road 34 E to add odour control provisions as outlined in the amending by-law;

Amend Agriculture Zone 1 Exception 67 for lands located at 1000 County Road 34 to add odour control provisions as outlined in the amending by-law, and

adopt the implementing by-law.

Robert Brown

Robert Brown, H. Ba, MCIP, RPP
Manager, Planning Services

Peggy Van Mierlo-West

Peggy Van Mierlo-West, C.E.T.
Chief Administrative Officer