

Medicinal marijuana is industrial, not farming

By Bill Rea

The production of medicinal marijuana is going to be considered an industrial land use, as opposed to agricultural.

Caledon council came to that conclusion last week after a lengthy discussion, complete with a couple of delegations and urgings that it be treated as an agricultural product.

The staff recommendation to council included provisions for establishing such operations in other areas with a site-specific rezoning. Brandon Ward, senior development planner with the Town, told councillors the position of staff has been that facilities for growing this substance should be in areas zoned for prestige and serviced industrial, where services are in place. That would include provisions for 150-metre separations from sensitive land uses, prohibitions of on advertising and outdoor storage, and making sure loading and delivery areas are out of public view.

Health Canada has issued 13 licences for medicinal marijuana production facilities, and four of those are in Ontario, and two other applications are in an advanced stage of review, including a proposal for a 300,000 square-foot industrial facility in Brampton. One of the licences that has been issued is for a facility in Clearview Township. Ward stated it's a 10,000 square-foot facility that's in the process of expanding to 60,000 square feet. It's protected by a three-metre razor-wire fence and about 70 surveillance cameras. It also employs 30 people, and that figure is expected to increase to 100 through expansion.

Ward observed there have been a variety of ways other municipalities have been dealing with this issue. Clearview permits these uses in agricultural or rural zones, while places like Brampton and Windsor allow them in industrial areas.

It's important to consider the growing of marijuana as part of a whole operation, including drying, processing, packaging and distribution. Ward stated that's the way all pharmaceutical products are handled. He also pointed out it's a controlled substance, unlike other medicinal plants, so the production facility must be under tight security.

Ward also pointed out these facilities are not considered agricultural-related uses under the Provincial Policy Statement (PPS), which was updated this year.

Allowing operations in rural areas could result in visual impacts on the landscape, more demands on rural infrastructure (roads, hydro, etc.) and water and wastewater requirements. There would also be concerns over impacts from noise or smells. Ward said these could be addressed through rezonings and site plan controls.

Ward also concluded these facilities don't need rural locations, since they don't need native soils or large parcels of land.

Councillor Richard Paterak observed the federal regulations seem to allow production facilities in strip malls in industrial areas. He thought the feds would come to regret that, wondering if a facility could be in a free-standing unit.

Ward told Councillor Doug Beffort there are no provisions to produce anything but a tobacco-like product, meaning manufacturing marijuana in a pill form would not be allowed. The product has to be dried and packaged in a certain way.

Councillor Nick deBoer pointed out the actual growing area will take up most of the room in the facility, adding that is the case in most agricultural operations.

Paterak was concerned about allowing industrial zonings in rural areas, pointing out that could open the door to another type of industrial use moving in later.

"I have a concern there," he said.

Lawyer Ron Webb, representing Cannabis Care Canada Inc., put forth a case for an operation being proposed on 15 acres on Highway 10, north of Caledon village.

He told councillors the site contains a 16,000 square-foot building that would be used for production. Only a small portion of the building would be used for anything other than growing. There will be an office, which he said has nothing to do with the processing of what he called an agricultural product.

Webb stressed this would be similar to growing tobacco or mushrooms, since it is an agricultural function. He also pointed out the site is isolated, on a highway, surrounded by forest, adding there's no chance of there being adverse impacts on neighbours.

The big issue, Webb argued, is with zoning. He said it's in a rural zone, meaning a farm is permitted. And he cited the Town's bylaws as defining a farm as a land use for growing food, tobacco or other crops.

Webb agreed staff has a different opinion on what should be permitted.

"You alone have the power to decide what the interpretation is," he told councillors, adding his interpretation is this would be a good site for such an operation and that it's a permitted use.

"Growing a crop, whether it's a seed or a bulb, is still growing a crop," declared Leah Emms, representing the Ontario Federation of Agriculture.

She added grain is grown, dried, stored and shipped off farms, arguing it's no different than growing marijuana.

As well, Emms pointed out brewing is a regulated activity, but it's still allowed on agricultural lands.

Security issues are addressed in the Health Canada regulations, she observed, adding lots of farms have their own security systems these days.

Water uses shouldn't be an issue on agricultural lands, since any crop or livestock production uses water.

Emms was also concerned about limiting farmers' ability to diversify on their own lands.

Ward told Councillor Rob Mezzapelli the Town has more controls with requiring rezonings. Treating growing operations like an as-of-right use in agricultural areas would mean the Town would have site plan control. Ward pointed out there is no public process for dealing with site plans, adding the controls might not even apply to agricultural operations.

He also said the people behind the proposals would need a licence, but that's issued by the feds, with the Town only being notified.

Mezzapelli said he was inclined to support allowing them in agricultural areas, but he was concerned about possible expansion and possible fire issues, especially if a couple of hundred people are working in a rural area.

Councillor Richard Whitehead thought these operations should be in industrial areas, with limited opportunities for them to go in rural areas. But how to deal with such applications, he said, requires more discussion. He also said that reference to rural areas should exclude villages, hamlets and rural estate areas. He said there are lots of rural lands that aren't farms.

Whitehead also stressed the need to beware of putting large operations like this, with many employees, on low-usage rural roads.

Councillor Allan Thompson thought the rezoning process for agricultural lands was not the way to go. He said that would mean a long process involving more than the Town.

Director of Development Approval and Planning Policy Mary Hall said the advantage with rezonings is they involve a public process and can be appealed. Neither is the case when it comes to site plans. She added there is no requirement to notify neighbours about site plans.

Paterak said he was not in favour of site-specific zonings. He wondered what would happen if the operation went out of business, and if the land would revert back to agricultural. He said there have to be provisions for subsequent uses.

He suggested site plan control in these cases be taken away from staff and given to council. But a proposed amendment to the motion calling for that was defeated on a tie vote.

He added there are a lot of business people who think marijuana will be legalized soon, so they want to get their feet wet and get into the business through medicinal marijuana.

Beffort observed when the Town approves cellular towers, there's an agreement that if it's no longer needed, it's removed. Hall told him that's Industry Canada rules. She added she's never heard of a case of a building being constructed legally not being allowed to change its use. Renovating the building, she said, is more of a legal issue than planning.

'We're creating red tape here, and I don't think we're helping an industry,' Thompson commented.

Whitehead replied it's through zoning that there's public process.

Mayor Marolyn Morrison agreed with the need for a public process. She added few councils in her experience go against what the majority of residents want.