

MEMORANDUM

To: Stephanie McVittie
From: Nick McDonald
Date: May 3, 2021
Re: Setbacks for Cannabis Cultivation

I am writing to supplement my email dated April 27, 2021 (attached) to provide some additional information on the rationale for requiring setbacks for cannabis facilities from sensitive land uses.

As you know our firm was retained in 2018 to provide advice a variety of zoning issues, with one of those issues dealing with cannabis cultivation and processing.

The Town's zoning by-law was initially amended in 2014 to permit medical marijuana facilities in the MP and MS Zones provided the facility was located at least 150 metres away from certain sensitive uses. The establishment of a medical marijuana facility was not permitted in any other zone, meaning that a re-zoning would have been required. In 2017, an OPA and ZBA was passed permitting a medical marijuana facility by way of exception on a property in the rural area (OPA 248).

In 2019, Council passed By-law 2019-27 to permit cannabis production facilities in the same manner as medical marijuana facilities, meaning that they would only be permitted in the MP and MS Zones. This by-law was appealed. On the same date By-law 2019-27 was passed, Council directed that the growing of cannabis be considered as part of the 2019 review of the zoning by-law.

In October 2019 we prepared a report that recommended that indoor cannabis cultivation and processing facilities not be permitted as of right in the agricultural and rural areas, because issues relating to odour impacts should be reviewed on a case-by-case basis. With respect to outdoor cultivation, we recommended that outdoor cultivation be set back a minimum of 50 metres of lot lines. We did not make a recommendation in our report on whether the 150 metre setback that was already established previously in the MP and MS Zones.

In the by-laws passed by Council on April 27, 2021, the 50 metre setback for outdoor cultivation was increased to 300 metres and the setback requirement in the MP and MS Zones was increased from 150 metres to 300 metres on the basis of my recommendations.

With respect to indoor cultivation and processing in the agricultural and rural areas in the Town, it was and continues to be my opinion that they should not be permitted as of right because of the many variables that have to be considered. These include:

- i) Whether the facility is a greenhouse or an industrial-type building and if a greenhouse is proposed, whether the proposed greenhouse is purpose built for cannabis or industrial hemp or already exists;
- ii) The size and scale of the proposed use;
- ii) The proximity and number of sensitive uses in the area including the potential for additional sensitive uses on vacant lots that are zoned to permit a sensitive use;
- iii) The location of the proposed use in relation to prevailing winds;
- iv) The nature of the adverse effects that exist at the time in relation to existing indoor cannabis and industrial hemp cultivation facilities; and,
- v) The impact of topography on the dispersion of odour.

It is my opinion that some of the above variables also apply with respect to the outdoor cultivation of cannabis. However, it is my opinion that odour impacts on sensitive land uses from the outdoor growing of cannabis can be significantly lessened if the edge of the cultivated area was set back a sufficient distance from sensitive uses. In this regard, it is recommended that the setback be 300 metres, based on a review of the decisions made by municipalities including the County of Norfolk, the City of Ottawa and the Township of Brock to include such a 300 metre setback for outdoor cultivation in their by-laws. It is recognized that other municipalities have lesser setbacks that range between 100 and 150 metres, however, it is my opinion that a precautionary approach should be adopted in the Town of Caledon to minimize adverse effects.

With respect to the MP and MS Zones, increasing the setback from 150 metres to 300 metres also lessens the potential for adverse effects as well.