



PORT COLBORNE

Subject: Recommendation Report for Official Plan and Zoning By-law Amendments at 335 Wellington Street, File D09-05-21 and D14-17-21

To: Council

From: Planning and Development Department

Report Number: 2022-36

Meeting Date: February 22, 2022

Recommendation:

That Planning and Development Report 2022-36 be received;

That the Official Plan Amendment attached as Appendix A to Planning and Development Report 2022-36 be approved;

That the Zoning By-law Amendment attached as Appendix B to Planning and Development Report 2022-36 be approved; and

That Planning staff be directed to circulate the Notice of Adoption and Passing in accordance with the Planning Act.

Purpose:

The purpose of this report is to provide Council with a recommendation for Official Plan and Zoning By-law Amendment applications initiated by Glenn Wellings of Wellings Planning Consultants Inc. on behalf of the owner 2466602 Ontario Ltd. for the lands known as Part of Lot 20, Lots 21 and 22 on Plan 835 and Lot 1 on Plan 836, on the southeast corner of Wellington Street and Main Street East, formerly in the Township of Humberstone, now in the City of Port Colborne, Regional Municipality of Niagara, municipally known as 335 Wellington Street and/or 125 Main Street East.

Background:

The application for Official Plan Amendment proposes to add a site-specific policy to the Highway Commercial designation to the property to permit a cannabis retail store as

well as add a definition to the Official Plan for “Cannabis Retail Store”. The amendment is required as the current Highway Commercial policies of the Official Plan do not support retail stores as a permitted use.

The application for Zoning By-law Amendment proposes to change the zoning from Highway Commercial (HC) to HC-66, a special provision of the Highway Commercial (HC) zone that will add a Cannabis Retail Store as a permitted use in addition to the uses already permitted in the HC zone. Additionally, the amendment proposes to add a definition to Section 38 of Zoning By-law 6575/30/18 for a “Cannabis Retail Store” as follows:

Cannabis Retail Store: means a store licensed by the Alcohol and Gaming Commission of Ontario for the retail sales of recreational cannabis and cannabis related products.

A Public Meeting was held for this proposal on January 18, 2022. Staff and the applicant presented the application to City Council and were available to answer questions from Council and the public.

Internal Consultations:

Notice of Public Meeting was provided to internal departments and commenting agencies on December 17, 2021. The following comments have been received:

Port Colborne Fire & Emergency Services

“No objection to the proposed zoning change”

Niagara Region

(full comment attached as Appendix C)

“Regional Planning and Development Services are satisfied that the proposed official plan amendment and zoning by-law amendment to permit a retail cannabis store is consistent with the Provincial Policy Statement and conforms to the Growth Plan and Regional Official Plan.

Regional staff notes that in accordance with the policies 14.E.7 and 14.E.8 of the ROP, the Memorandum of Understanding, and By-law No. 2019-73, the reviewed Official Plan Amendment is exempt from Regional Council Approval.

Please send a copy of the staff report and notice of Council’s decision on these applications.”

Public Engagement:

Notice of Public Meeting was circulated via regular mail to property owners within 120m of the subject property on December 17, 2021. Two public notice signs were also posted on the property by December 21, 2021. Finally, notices were posted on the City's website under "Current Applications". The following comment was received from a member of the public:

Louise Tosques-DiLalla

(Full comment attached as Appendix D)

- Does not feel that another cannabis store is necessary in Port Colborne
 - Main Street East does not have enough basic amenities near by
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Discussion:

City of Port Colborne Official Plan

According to Schedule A: City Wide Land Use, the City of Port Colborne's Official Plan designates the subject property as Highway Commercial Land uses in the Highway Commercial designation shall include, but not be limited to; hotels and motels; automobile sales and service establishments; places of amusement or recreation; restaurants with take-out and/or drive-through facilities; and accessory uses to the aforementioned uses, including a residence for a caretaker.

The proposed Official Plan Amendment proposes to maintain the Highway Commercial designation; however, a site-specific amendment has been requested to alter the specific policies under section 3.8.1 to permit a cannabis retail store as well as add a definition to the Official Plan for "Cannabis Retail Store". The Official Plan Amendment has been attached as Appendix A.

City of Port Colborne Zoning By-law 6575/30/18

The subject parcel is zoned Highway Commercial (HC). The HC zone permits an animal care establishment; brew pub; car wash; convenience store; day care; drive-thru facility; accessory dwelling; food vehicle; hotel; motor vehicle repair garage; motor vehicle sales/rental service centre; motor vehicle gas station; office; personal service business; place of assembly/banquet hall; place of worship; public use; recreation facility; restaurant, fast food, full service, take-out; retail building construction and supply; service commercial; and uses, structures and buildings accessory thereto.

The Zoning By-law Amendment proposes to change the zoning from Highway Commercial (HC) to HC-66, being a special provision of the HC zone. The HC-66 zone is proposed to maintain the current permitted uses under the HC zone, while also

including a “Cannabis Retail Store”. Additionally, the amendment has proposed to include a definition of a “Cannabis Retail Store” as follows:

Cannabis Retail Store: means a store licensed by the Alcohol and Gaming Commission of Ontario for the retail sales of recreational cannabis and cannabis related products.

The Zoning By-law Amendment has been attached as Appendix B.

Adjacent Zoning and Land Use

Northwest High-density residential Zoned: R4	North Gas station Zoned: HC	Northeast Main Street East/Low- density residential Zoned: MU
West Low-density residential Zoned: MU	Subject Property	East Low-density residential Zoned: MU
Southwest Low-density residential Zoned: R2	South Low-density residential Zoned: R2	Southeast Low-density residential Zoned: MU

The building plans can be found within the Planning Justification Report attached as Appendix E.

Analysis

Planning staff have reviewed the Planning Justification Report prepared by Glenn Wellings and offer the following comments and analysis.

Cannabis retail store legislation takes over from the municipality once the Official Plan and Zoning By-law deficiencies have been addressed. Should Council choose to approve this application, the owner will have further work to complete prior to being permitted to operate as a licensed cannabis retailer. Through the Provincial legislation, a review is conducted to ensure a minimum distance buffer from both public and private schools. The onus is on the applicant to demonstrate to the Alcohol and Gaming Commission of Ontario (AGCO) how they meet their legislation. Councillor Wells brought up a question at the public meeting respecting whether the distance from a school is measured from property line to property line or from use to use. Staff’s review of the legislation has found that the distance is measured with “a straight line from the closest point of the school property to the closest point of the proposed retail store”.

While the above does apply to this specific application, it is important to note that a cannabis retail store use, is simply a “retail use” at the root of the Official Plan policies and Zoning provisions.

Further, staff have reviewed the implications of locating a cannabis retail store in this area against the existing and proposed policies of the Official Plan. Staff recognize that this proposed cannabis retail store would be the fourth of its type in the municipality, however it will be the first on the east side of the canal. A canvass of the existing zoning on the east side of the canal suggests that there are under 10 properties that would have the ability to operate a retail store of any kind, not just cannabis. Of these roughly 10 properties, each of them are located in or directly adjacent to the East Waterfront Secondary Plan area. Staff finds that a store in this location will not negatively impact the existing Downtown Commercial area on the east or west side of the canal. A blanket "retail use" would be more of a concern as a larger impact could result to the downtown core, however staff find that the addition of a single, specific "cannabis retail store" use will not contribute to any negative impact.

Planning staff concur with the Mr. Wellings and the Niagara Region that the proposed Official Plan and Zoning By-law amendments are consistent with the Provincial Policy Statement and conform to the Growth Plan and Regional Official Plan.

Financial Implications:

There are no financial implications.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Service and Simplicity - Quality and Innovative Delivery of Customer Services
- People: Supporting and Investing in Human Capital
- Governance: Communications, Engagement, and Decision-Making

Conclusion:

Based on the review of application and applicable Provincial, Regional and City planning policies, Planning staff confirm that the proposal is consistent with the Provincial Policy Statement and conforms to the Growth Plan and Regional Official Plan and represents good planning. Staff recommend that the Official Plan and Zoning By-law Amendments attached as Appendices A and B, respectively, be approved.

Appendices:

- a. Official Plan Amendment
- b. Zoning By-law Amendment
- c. Niagara Region Comment
- d. Public Comment(s)
- e. Planning Justification Report

Respectfully submitted,

David Schulz, BURPI
Senior Planner
(905) 835-2900 x202
david.schulz@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.