

REQUEST FOR DECISION

February 1, 2022

SUBJECT:

Municipal Planning Strategy and Land Use By-law text amendments to add 'cultivation and processing within wholly enclosed buildings, excluding the cultivation of marijuana' as a permitted use in the C-1, C-2M and C-3 Zones to enable small-scale indoor cultivation of vegetables, excluding the cultivation of marijuana. The revision would facilitate the establishment of businesses seeking to utilize indoor agriculture to cultivate produce in the town.

RECOMMENDATION:

That the Planning Advisory Committee recommend that Council approve and give first reading to a text amendment to the Municipal Planning Strategy and Land Use By-law to add 'cultivation and processing within wholly enclosed buildings, excluding the cultivation of marijuana' as a permitted use in the C-1, C-2M and C-3 Zones to enable small-scale indoor cultivation of vegetables, excluding the cultivation of marijuana.

BACKGROUND

Planning Staff received an application in December 2021 to amend the Municipal Planning Strategy and Land Use Bylaw. The applicant is proposing a text amendment to the Municipal Planning Strategy and Land Use By-law to enable small-scale indoor vegetable cultivation. The revision would facilitate the establishment of a business utilizing indoor agriculture to cultivate produce for the local market in Yarmouth, excluding the cultivation of marijuana. If approved, the amendment would allow the use to operate, as-of-right on properties zoned C-1, C-2M and C-3.

RELEVANT POLICIES, BY-LAWS, AND LEGISLATION

- The Town of Yarmouth Municipal Planning Strategy (MPS)
- The Town of Yarmouth Land Use By-law (LUB)

FINANCIAL

No direct costs to the Town.

FOLLOW-UP ACTION

That the Planning Advisory Committee recommend that Council approve and give first reading to a text amendment to the Municipal Planning Strategy and Land Use By-law to revise C-1, C-2M and C-3 Zones to include 'cultivation and processing within wholly enclosed buildings, excluding the cultivation of marijuana'.

Policy Analysis

The Municipal Planning Strategy Policy 5.5 includes the permitted uses within the C-1 Zone which is currently as follows, with the proposed enabling addition shown in **green**:

Policy 5.5 It shall be the intention of Council to include in the Land Use By-law a Downtown Commercial (C-1) Zone, which shall include the following types of uses permitted as-of-right: art galleries; **cultivation and processing within wholly enclosed buildings, excluding the cultivation of marijuana**; retail shops; community markets; convenience and grocery stores; wholesale shops; light service shops; personal service shops; business offices; professional offices; internet web site development; municipal, provincial and federal government offices; public parks; call centers; banks and financial institutions; hotels, motels and hostels; institutional uses; medical clinic; parking lots and parking structures; places of entertainment, recreation, fitness and assembly within wholly enclosed buildings; taxi and bus stations; taverns, lounges and cabaret; broadcasting stations; restaurants; light service industries within wholly enclosed buildings; live-in art gallery studios; laundromats and residential uses pursuant to Policy 5.7(A) and Policy 5.7(B) and Policy 5.7(c).

The proposed text amendment to the Land Use By-law would involve updating the permitted use list in the C-1 Zone, C-2 Zone, C-2M Zone, and C-3 Zone as follows:

- **Cultivation and processing within wholly enclosed buildings, excluding the cultivation of marijuana**

The Summary use table under section 16.1 would also be updated as follows:

Commercial Zones	C-1	DTZ	C-2	C-2M	C-3	C-4	C-H
Cultivating and Processing	See Zone		See Zone	See Zone	See Zone	See Zone	

The current definition of cultivation and processing in the Land Use By-law is as follows:

94. Cultivation and Processing means a use enclosed within a building or greenhouse used to grow, and process a plant product, including but not limited to marijuana. This use shall operate in a manner appropriate for the

zone it is permitted, so as to minimize and prevent any negative impact on surrounding properties by sound, odor, dust, fumes or smoke

The above definition, in its current form, is broad and includes marijuana. Staff feel that the cultivation of marijuana would not be appropriate in the C-1 Zone, and are therefore recommending that the use be qualified to be 'within wholly enclosed buildings, excluding the cultivation of marijuana'.

A similar use, Light Service Industrial uses that are within "wholly enclosed buildings" are currently permitted within several zones of the Land Use By-law including the following:

- C-1 (Downtown Commercial) Zone
- C-2 (General Commercial) Zone
- C-2M (General Commercial Main Street) Zone
- C-3 (Secondary Commercial) Zone

Accordingly, the Municipal Planning Strategy Policy 5.45 includes the permitted uses within the C-3 Zone which is currently as follows, with the proposed enabling addition shown in **green**:

Policy 5.45 It shall be the intention of Council to include in the Land Use By-law a Secondary Commercial (C-3) Zone. This zone shall include the following and similar types of uses permitted as-of-right: retail shops; community markets; **cultivation and processing within wholly enclosed buildings, excluding the cultivation of marijuana**; wholesale shops; convenience and grocery stores; restaurants (eat-in, drive-in or drive-thru); institutional uses; medical clinics; light service shops; light service industries within wholly enclosed buildings, personal service shops; internet web site development; places of recreation, fitness and assembly within wholly enclosed buildings; public parks; hotels, motels and hostels; automobile service stations; taxi and bus stations; parking lots and parking structures; laundromats and accessory uses excluding taverns, lounges and cabarets. Residential dwelling units up to a maximum of four (4) units per lot are also permitted, subject to the following. (1) That the developer provides and maintains one (1) parking space for each newly constructed dwelling unit or otherwise pays the cash-in-lieu equivalent. The alteration of, renovation to or change in use within any existing building shall be exempt from this requirement.

The proposed amendment would result in small-scale indoor vegetable cultivation operations, with the exception of the cultivation of marijuana, to be permitted within each of these zones.

A preliminary table of the evaluative criteria regarding the enabling policies and corresponding comments from staff are shown in Appendix A. Based on a review of the enabling policies contained in the MPS, Staff are recommending approval of the proposed amendment and the associated development proposal. Staff interpret that the proposed change is consistent with the spirit and intent of the Municipal Planning Strategy. Staff feel that the proposal aligns with "*Statement of Community Interest 2*" of the MPS which relates to downtown development, where special attention to compatibility of uses must be paid. See excerpt below:

2. Downtown Commercial Area

The Downtown Commercial area is the heart of the Town of Yarmouth and it is essential that it remain as vibrant as possible. This is the area that supports small business, financial institutions and start-up developments rather than the larger big-box commercial operations. Thus, it is essential that as many activities as possible, that attract people to a walkable Downtown, be encouraged to locate within the boundaries of the Downtown Commercial area.

It is in the interest of the community to maintain the policy that office uses be restricted to the Downtown. Careful attention must be paid to good design within the Downtown including building facades and signage. The preservation of historic residential buildings to the east of the Downtown area is important to adding activity and vitality in the Downtown. A strong infilling policy in the surrounding area will cause more people to reside close to Downtown and add to the level of activity. The Downtown must be walkable and appeal to people on bicycles and those who use transit. Downtown is a tourist destination with an opportunity to display and sell local products and handcrafts. Development in the Yarmouth waterfront is an important aspect of growth in the Downtown and Council will continue its efforts to work with the business community in strengthening this part of the Town.

Planning Staff are of the opinion that the proposed amendment would result in a use being permitted within zones that are consistent with the existing, permitted uses, and which is minor in impact and scale. In addition, the specific development

proposal related to this application would be a supportive use to other downtown businesses.

Public Participation

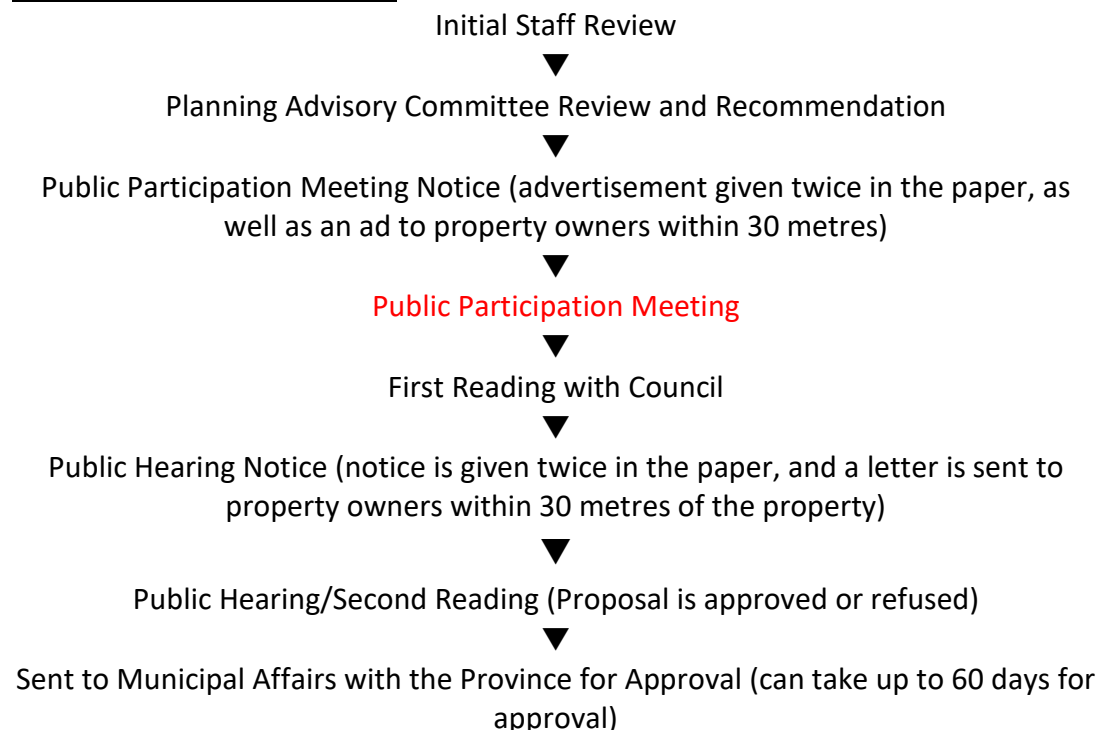
On February 1st, this application was recommended for approval and to go to a Public Participation Meeting by the Planning Advisory Committee (PAC). Leading up to the Public Participation Meeting, information was posted in the Yarmouth Vanguard, the Town's Facebook page, the Town's website and on the Town's Get Involved website. A summary of the feedback and site visits to the Get Involved site are included as Appendix B to this report.

Conclusion

Staff feel that the proposed amendment is appropriate and in keeping with the intent of the MPS. Staff are also of the opinion that any future developments that would be permitted as a result of this approval would cause minimal impact on the surrounding neighbourhoods. Staff are recommending approval of the application.

The proposed application process is shown below for PAC and Council's reference:

Proposed Application Process



Notice of Approval Ad placed in the paper notifying of approval from Municipal Affairs



First day the Notice of Approval ad is published in the paper, the amendments to the MPS and LUB become effective.

Recommendation

That the Planning Advisory Committee recommend that Council approve and give first reading to a text amendment to the Municipal Planning Strategy and Land Use By-law to revise C-1, C-2M and C-3 Zones to include 'cultivation and processing within wholly enclosed buildings, excluding the cultivation of marijuana'.

Appendix A: Municipal Planning Strategy Policy Analysis

MPS Policy	Comments
Policy 10.7 It shall be the intention of Council when considering amendments to the Land Use By-law, in addition to all other criteria in the various policies of this Municipal Planning Strategy, to have regard for the following matters: (1) That the proposal conforms to the intent of this Strategy;	Staff feel the proposal conforms to the spirit and intent of the MPS.
(2) That the proposal is compatible with adjacent or nearby land uses and the existing development form (built environment) in the neighborhood in terms of its use, height, bulk, scale and lot coverage;	Proposals that could be permitted through the approval of this amendment would not diverge from the intent of the existing definition and would not have increased negative impacts on nearby uses.
(3) That the proposal is compatible with adjacent or nearby land uses in terms of traffic generation, access to and egress from the site, parking, open storage and outdoor displays;	The amendment would not create additional traffic or storage requirements from the intent of the existing definition.
(4) That the proposal incorporates adequate buffering, landscaping, storm water management, screening and access controls where incompatibilities with adjacent and nearby uses are anticipated;	The amendment would not create additional buffering or access control requirements when compared to the existing intent of the definition.
(5) That the proposal is located so as not to obstruct, alter or fill any natural drainage channels or watercourses or cause any contamination, erosion or sedimentation of any watercourses;	N/A
(6) That the proposed location is suitable in terms of steepness of grades, soil and geological conditions, marshes, swamps, or bogs and proximity of highway intersections and other nuisance factors;	N/A

(7) That the proposal is located so as not to cause any damage to or destruction of historic buildings and sites;	N/A
(8) That the proposal is not premature or inappropriate due to the creation of a “leap frog”, scattered or ribbon development pattern as opposed to orderly compact development; and,	The proposal would allow for additional permitted uses in several commercial zones and facilitate potential new infill development proposals.
(9) That a written analysis of the proposal is provided by staff to determine if the proposal is premature or inappropriate by reason of: a) The financial capability of the Town to absorb any costs relating to the development while at the same time recognizing the potential increase in tax revenue as a direct result of the proposed development;	No costs are proposed to be incurred by the Town aside from routine application review costs.
b) The adequacy of sewer and water services to support the proposed development;	No major increase is anticipated to sewer and water services to support the change.
c) The adequacy of fire protection services to support the proposed development;	The proposed change would not impact the adequacy of fire protection services.
d) The adequacy and proximity of school, recreation and other community facilities;	No major increase to school and recreation services is required to support the change.
e) The adequacy of road networks in, adjacent to, or leading to the development; and,	Traffic and road network requirements would not be substantially different as a result of the proposed amendment.
f) The adequacy of on-site traffic circulation, parking areas, loading areas, access controls, drive-thru services and the site to accommodate expected traffic volumes.	Traffic volumes and loading requirements as a result of the amendment are expected to be minimal. Specific development proposals may have varying requirements.

Appendix B: Public Consultation Results

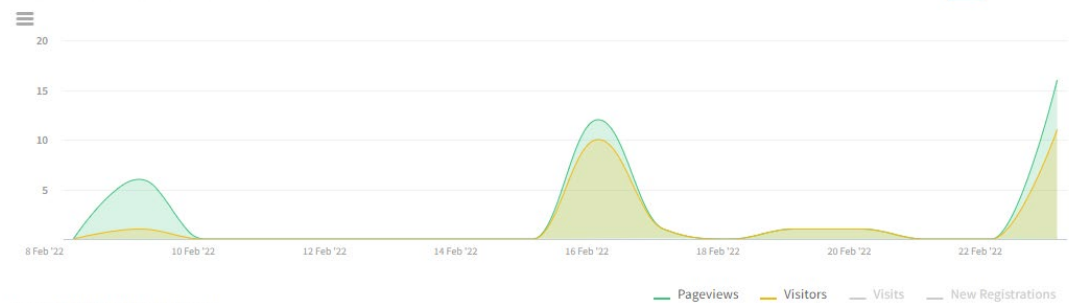
The information below represents a summary of the information related to this application which has been posted to the Town of Yarmouth's Get Involved site, as of February 24, 2022. As of this date, the webpage has seen some traffic, but no specific comments have been received from members of the public.

TRAFFIC

Visitors Summary

Get Involved Yarmouth from 25 Jan '22 to 23 Feb '22

DAILY MONTHLY



* Select a section of the graph to zoom

Figure 1: Page visits

PARTICIPANT SUMMARY

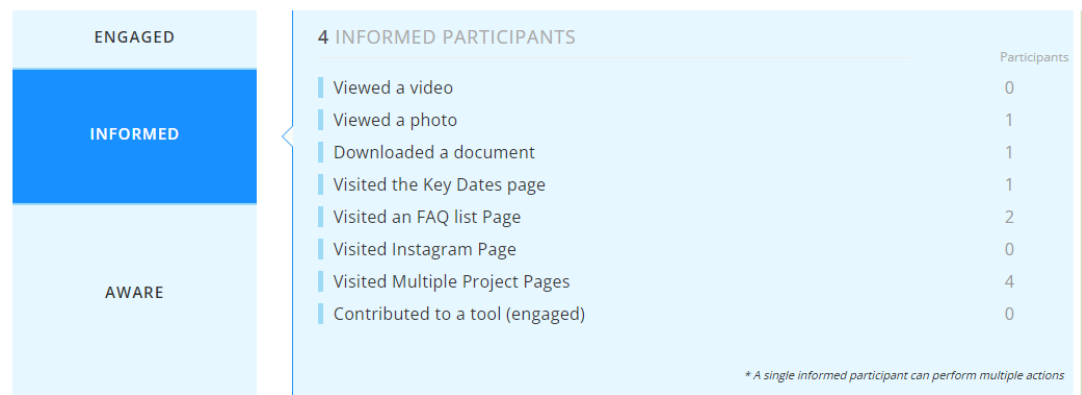


Figure 2: Interaction with page features.

FAQs

What does 'cultivation and processing within wholly enclosed buildings' mean?

What other uses are permitted within these zones?

What is a general amendment?

What will Yarmouth Alimentaire do?

Are supply delays common?

Why here?

Who is Yarmouth Alimentaire for?

Why downtown Yarmouth?

Will Yarmouth Alimentaire work with other clients?

Will Yarmouth Alimentaire harm local farms?

I live downtown. Will Yarmouth Alimentaire be unsightly, or smell?

Are there other operations like this?

How large will Yarmouth Alimentaire be?

Figure 3: Page FAQ list.