

## **Municipality Of Chatham-Kent**

### **Community Development**

#### **Planning Services**

**To:** Mayor and Members of Council

**From:** Ryan Jacques, MCIP, RPP  
Manager, Planning Services

**Date:** November 18, 2019

**Subject:** Application for Zoning By-law Amendment  
PL201900156 – Robert Cartier  
25877 & 25881 Winter Line Road, Community of Dover (North Kent)

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#### **Recommendation**

It is recommended that:

1. Zoning By-law Amendment application File D-14 DO/29/19/C to rezone the subject lands, known as 25877 & 25881 Winter Line Road, in Part of Lot 13, Concession 9, in the Community of Dover, to a site-specific Agricultural (A1-1492) Zone, to permit a Cannabis Production Facility in an existing building (25881 Winter Line Road) with a setback distance of 55 m (180 ft.) from an existing dwelling located on a separate lot, be approved, and the implementing by-law be adopted.

#### **Background**

The subject property is a 9.71 ha (24.0 ac.) agricultural parcel located on the east side of Winter Line Road, with additional frontage along Mallard Line, in the Community of Dover (Roll No. 3650 480 005 37800). The property is designated Agricultural Area in the Chatham-Kent Official Plan and zoned Agricultural (A1). A key map showing the location of the subject property is attached as Appendix A. Photographs of the subject property and surrounding area are attached as Appendix B.

The subject lands contain one (1) enclosed outbuilding (25881 Winter Line Road) originally constructed for the storage of onions and one (1) greenhouse (25877 Winter Line Road). Each structure is approximately 1,625 sq. m (17,500 sq. ft.) in area and currently contain uses associated with the production of medical cannabis under Part 14 of the federal Cannabis Regulations (SOR/2018-144). The remaining lands are vacant of any buildings or structures and used for the growing of crops.

Greenbelt Bio, a consulting firm serving the cannabis industry, has been retained by the applicant to pursue new licenses from Health Canada under Part 2 of the federal Cannabis Regulations (SOR/2018-144). The licenses will enable a new commercial cannabis operation to operate from the subject lands. It is proposed that this operation be contained within the enclosed outbuilding on the subject property (25881 Winter Line Road).

The classes of licenses being pursued at this time include:

- Standard Cultivation License – to grow cannabis (including dried, fresh, plants, seeds).
- Standard Processing License – to manufacture cannabis products.
- Medical Sales License – the sale of cannabis to registered clients.

The Cannabis Act and its Regulations provide, among other things, the framework for legal access to cannabis and to control and regulate its production, distribution and sale. One of Health Canada's responsibilities is to provide the licensing and oversight framework for legal production of cannabis. Under this framework, a person is required to obtain a license(s) issued by Health Canada in order to conduct various activities with cannabis. Applicants and license holders are responsible for compliance with the Cannabis Act and its Regulations as well as compliance with other applicable federal, provincial and territorial legislation and municipal by-laws.

With respect to the proposal to implement a new commercial cannabis operation on the subject lands, compliance with the Cannabis Act and its Regulations as well as compliance with the Chatham-Kent Zoning By-law is required.

### *Zoning By-law Amendment*

The zoning by-law amendment application is specifically to address a zoning deficiency related to the implementation of the proposed commercial cannabis operation on the subject lands. Approval of this application will ensure compliance will all related municipal by-laws associated with such use in Chatham-Kent and will allow Greenbelt Bio to continue in the application process for the above-mentioned licenses from Health Canada. The Zoning By-law Amendment application is discussed in more detail in the Comments section below.

### **Comments**

The Chatham-Kent Zoning By-law contains the following definition of Cannabis Production Facility that is applicable to the multiple licenses being sought for the subject property:

*“Cannabis Production Facility” means any building structure, or lands licensed by Health Canada to undertake cultivation, processing, sale,*

*analytical testing, and research of cannabis, pursuant to the Cannabis Regulations under the Cannabis Act, or successor legislation.*

A Cannabis Production Facility is permitted as-of-right in the Agricultural (A1) zone and is regulated under Section 4.41, Cannabis Production Facilities, of the Zoning By-law.

The subject property is zoned appropriately for the proposed cannabis production facility and meets all zoning regulations except for the provision that requires no facility to be located closer than 100 m (328 ft.) to an existing residential dwelling on a separate lot. The zoning by-law amendment application is seeking to grant relief from this provision for the proposal to be in full compliance with the Zoning By-law.

### **Provincial Policy Statement (PPS)**

The application does not raise any issues of Provincial interest.

### **Official Plan**

The Chatham-Kent Official Plan contains policy direction that is specific to cannabis production. Specifically, Section 2.7, Cannabis Production, states that it shall be the objective of Chatham-Kent to:

*Support and promote new industry as a cornerstone of economic development through diversification.*

Further, that it shall be the policy of Chatham-Kent to permit Cannabis Production Facilities within the Agricultural Area designation, and that the following land-use policies apply (Policy 2.7.2.1):

- a) Facilities shall not be located within close proximity to sensitive land uses such as residential, institutional, open space, or as more specifically outlined in the Zoning By-law;*
- b) Construction of new facilities shall be subject to site plan approval, as outlined in the Site Plan Control By-law;*
- c) Facilities shall be located and designed in accordance with Federal regulations to mitigate potential impacts including light emissions, air emissions, odour, and so forth;*
- d) Only facilities registered or licensed by Health Canada are permitted.*

The subject lands are designated Agricultural Area and are therefore appropriate for the proposed commercial cannabis facility. Also, the facility is to operate within an existing building where no further development is planned; therefore, no Site Plan Control application is required.

As stated previously, Greenbelt Bio is currently in the process of applying for licences from Health Canada to implement a new Cannabis Production Facility on the subject lands. One of the requirements for obtaining such licences is compliance with all federal legislation and municipal by-laws. The following outlines specific federal and municipal legislation that addresses those Official Plan policy requirements noted above.

### Government of Canada

The Federal Government is currently responsible for administering Canada's cannabis production licensing process. As part of this process, an applicant is required to provide a Good Production Practices (GPP) Report that clearly demonstrates how the GPP requirements will be met as part of the Cannabis Regulations. This includes requirements with respect to:

- Standard operating procedures.
- Storage and distribution of cannabis plants and product.
- Sanitation program that applies to: the facility, the equipment, and the handling of product.
- Filtration of air.

The filtration of air (odour control) is outlined under Part 5 (Section 85) of the Cannabis Regulations. This section requires that *“the building or part of the building where cannabis is produced, packaged, labelled and stored must be equipped with a system that filters air to prevent the escape of odours.”* It is important to note that if this odour compliance is not met, a license will not be granted; or in the event that a licensed operation ceases to meet this odour compliance, a license may be suspended and revoked. Health Canada conducts compliance and enforcement activities of licensed producers to ensure compliance with all regulations of the Cannabis Regulations.

To satisfy the GPP requirement for odour control, Greenbelt Bio has retained ORTECH Consulting to complete an Odour Management Plan to ensure all regulatory guidelines for odour will be met for the commercial cannabis facility. This plan will identify and address all aspects of the facility and site operations that have the potential to cause odour effects at off-site receptors. The measures required to effectively manage, minimize or mitigate the odours from each source will include a filtration system that will include HEPA, carbon and charcoal filters, and ozone units. An overview of the Odour Management Plan being prepared for the commercial cannabis operation on the subject lands has been included in part of the Zoning By-law Amendment Report that was submitted with the Zoning By-law Amendment application. Attached as Appendix C is Section 5.0, Odour Control, from this Report further describing the details of the Odour Management Plan.

Lastly, it is important to note that the proposed zoning amendment applies to the implementation of a new commercial cannabis operation in the enclosed outbuilding on the subject lands. This will alleviate any concerns regarding light emissions on surrounding land uses.

## Municipality of Chatham-Kent

As stated above, Health Canada is responsible for ensuring compliance with the Cannabis Regulations; however, municipal authorities remain responsible for enforcing municipal by-laws. In particular, municipalities have authority over land use regulation and have the power to prohibit and regulate certain uses through zoning by-laws. Licensed producers are required to obey municipal zoning by-laws.

In 2018, Council approved Zoning By-law Amendment application (File D-09 C/02/18/C) to implement Official Plan Amendment No. 55, regarding Cannabis Production Facilities. The purpose of the amendment was to establish a new definition for this use, to permit it as-of-right in certain Zones, and to establish new General Provisions for all Zones. This included establishing new regulations concerning proximity of cannabis production facilities to existing residential dwellings on separate lots, or to any residential, institutional, or open space zone boundary.

The Zoning By-law Amendment application is required to bring the proposed facility into full compliance with those General Provisions related to proximity to an existing residential dwelling on a separate lot. The application is described in more detail in the Zoning By-law section below.

### **Zoning By-law**

There are two (2) existing residential dwellings (25911 & 25917 Winter Line Road) that will be located within 100 m from the proposed cannabis production facility on the subject lands. These dwellings are located on lands zoned Agricultural (A1).

As stated previously, Section 4.41 of the Zoning By-law requires that no cannabis production facility be located closer than 100 m to an existing residential dwelling on a separate lot. Therefore, it is recommended that the subject lands be rezoned to a site-specific Agricultural (A1-1492) zone to permit a cannabis production facility in the existing enclosed outbuilding (25881 Winter Line) at a distance of 55 m (180 ft.) from the nearest existing dwelling on a separate lot (25911 Winter Line Road). This will bring the subject property and proposal into full compliance with the Zoning By-law. Further, all other regulations of Section 4.41, Cannabis Production Facilities, continue to apply.

It should be noted that the Municipality has received a letter from the owners of 25911 Winter Line Road supporting the Zoning By-law Amendment application as described above. This letter is attached as Appendix D for review.

### **Conclusion**

The proposed zoning by-law amendment has been reviewed in the context of the Provincial Policy Statement and the Chatham-Kent Official Plan, and generally complies with these documents. Therefore, the application is being recommended for approval as noted in the Recommendation section of this report.

### **Areas of Strategic Focus and Critical Success Factors**

The recommendation in this report supports the following areas of strategic focus:

Economic Prosperity:

Chatham-Kent is an innovative and thriving community with a diversified economy

A Healthy and Safe Community:

Chatham-Kent is a healthy and safe community with sustainable population growth

People and Culture:

Chatham-Kent is recognized as a culturally vibrant, dynamic, and creative community

Environmental Sustainability:

Chatham-Kent is a community that is environmentally sustainable and promotes stewardship of our natural resources

The recommendation in this report supports the following critical success factors:

Financial Sustainability:

The Corporation of the Municipality of Chatham-Kent is financially sustainable

Open, Transparent and Effective Governance:

The Corporation of the Municipality of Chatham-Kent is open, transparent and effectively governed with efficient and bold, visionary leadership

Has the potential to support all areas of strategic focus & critical success factors

Neutral issues (does not support negatively or positively)

### **Consultation**

#### **Internal**

##### **Technical Advisory Committee**

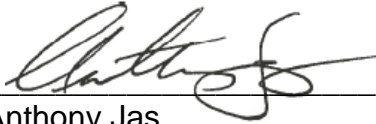
The Technical Advisory Committee supports the application.

**Financial Implications**

There are no financial implications resulting from the recommendation.

Prepared by:

Reviewed by:



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Anthony Jas  
Planner I, Planning Services



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Manager, Planning Services

Reviewed by:

Reviewed by:



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Director, Planning Services

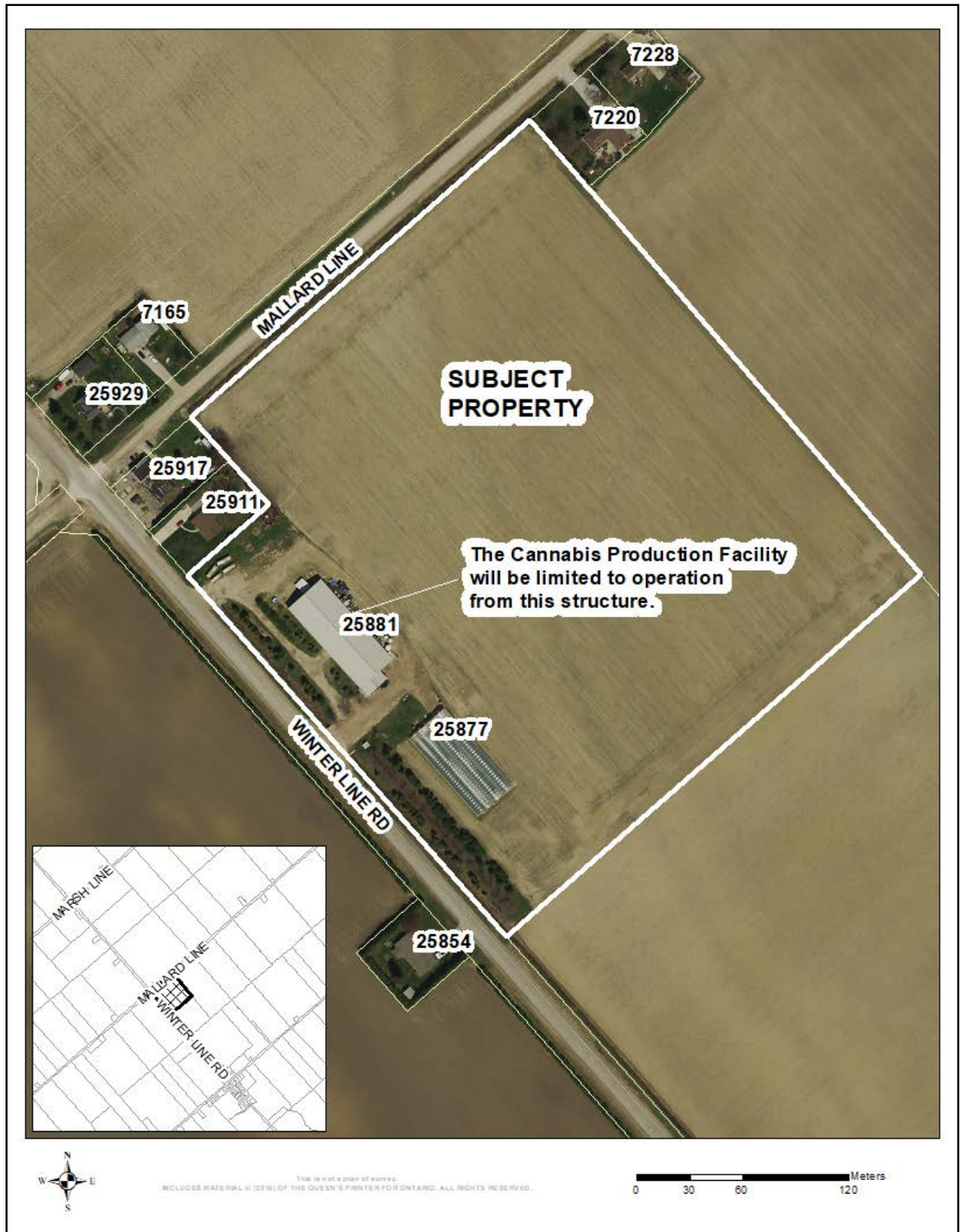
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John Norton  
General Manager  
Community Development

Attachments: Appendix A – Key Map  
Appendix B – Site Photos  
Appendix C – Odour Control  
Appendix D – Letter of Support  
By-law to Amend By-law No. 216-2009

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Appendix A – Key Map





Appendix B – Site Photos



Looking south across the subject property from Mallard Line. The existing enclosed accessory building to contain the commercial cannabis operation and the existing greenhouses to the left.



The existing enclosed accessory building to contain the commercial cannabis operation.



Looking east from Winter Line Road. The nearest residential dwelling on a separate lot (left) and enclosed accessory building to contain the commercial cannabis operation (right). The separation distance between these two structures is the subject of this application.

## Appendix C – Odour Control



### 5.0 Odour Control

It is of significant importance to provide outlining information to address concerns Town Council and the local community have raised.

While there are many cannabis facilities located across Windsor and Essex County that release substantial amounts of cannabis odour, it must be noted that these operations are **NOT** commercially licensed cannabis operations.

The license that Greenbelt Bio is currently applying for, comes with regulation, enforcement and penalties if such compliance is not met.

Odour control is outlined in Part 5 of the Cannabis Regulations. If Greenbelt Bio does not meet odour compliance a license will not be granted. If Greenbelt Bio is licensed and cease to meet odour compliance a license may be suspended and revoked.

As per Part 5 of the Cannabis Regulations; The building or part of the building where cannabis is produced, packaged, labelled and stored must be equipped with a system that filters air to prevent the escape of odours.

### 5.1 ORTECH

The services of ORTECH Consulting has been retained to complete an odour management plan to ensure all regulatory guidelines for odour have been met.

ORTECH has been providing odour assessment and analysis services for over forty (40) years to our industrial, commercial, municipal, agricultural and more recently cannabis Licensed Producer (LP) and other clients in Ontario, other Provinces, the United States and occasionally in other countries.

ORTECH engineers, scientists, technicians and technologists have well developed procedures for the collection of odour samples or specific compounds that cause odour, evaluation of odour samples using an odour panel (olfactometer), as well as conducting community odour surveys and odour dispersion modelling to predict the effect of odour emissions on a community. Many of these developments have been presented in scientific papers and incorporated into official testing protocols recognized by municipal, provincial and international agencies. ORTECH has a long history of helping clients resolve odour issues and would be pleased to apply this expertise in assisting with an overall strategy for the Facility.

The initial Odour Management Plan has been prepared based on the requirements of O. Reg. 1/17 and the Ontario Ministry of the Environment, Conservation and Parks





("MECP") publication Best Management Practices for Industrial Sources of Odour. The initial Odour Management Plan identifies and addresses all aspects of the Facility and site operations that have the potential to cause odour effects at off-site receptors. The measures required to effectively manage, minimize or mitigate the odours from each source are summarized in this document. The Odour Management Plan will be updated as the HVAC system and odour control solution design for the Facility have been finalized upon the commencement of operations.

## 5.2 HVAC

As per section 85 Cannabis Regulation, The building or part of the building where cannabis is produced, packaged, labelled and stored must be equipped with a system that filters air to prevent the escape of odours.

Greenbelt Bio is currently developing compliant HVAC designs against their current floor plans to enable for a full assessment during the application process. The floor plan includes mechanical representation of ducts, pipes, ventilation openings (exhaust and intake), and location and specification of filter(s) proposed to be used in the facility.

A description of the air filtration system, including type, specifications, number and location of air filters installed (ex. HEPA, carbon, charcoal, combination, portable filters) and a diagram/floor plan detailing the air filtration/ventilation system (ex. air intake and air exhaust locations) are also being completed as part of the application process.

## 5.3 HEPA Filters

All airflow when exhausted will be filtered using HEPA filters to ensure no odours are detectable from the site.

HEPA filters are one of the most effective particulate filtering materials on the market. Unlike electrostatic precipitators or air filters that use negative ions, a HEPA filter can actually intercept and trap microscopic particulates which allow the air to remain clean without the creation of harmful by-products.

## 5.4 Activated Charcoal – Carbon Filter

Greenbelt Bio will also be utilizing carbon filters to remove odours permeating from the facility. Activated carbon works by having the contaminated air stream pass through the activated carbon. Carbon is porous and has a large surface area, which allows the carbon to absorb the odorous molecules in the air stream.



### 5.5 Ozone

Another common form of odour control that Greenbelt Bio will be utilizing is ozone. Ozone units will be placed strategically throughout the facility in high odour potential areas such as flowering areas and trimming. Air handling units and exhaust outlets will be outfitted with ozone units as a secondary form of odour control.

Ozone removes odour by destroying the molecules, bacteria, and spores that cause unpleasant smells. Ozone (O<sub>3</sub>) is a highly reactive molecule and is very quick to chemically react with particles that it comes into contact with in the air and on surfaces. The extra oxygen atom in the ozone attaches itself to other molecules, chemically changing their structure to create non-offensive molecules – eliminating the smell.

Appendix D – Letter of Support

September 10<sup>th</sup>, 2019

Bill and Jeanne Meyerink  
25911 Winterline  
Grande Pointe, Ontario  
N0P 1S0

To Whom It May Concern:

We would like to provide a letter of support to the Municipality of Chatham Kent for our neighbour Mr. Robert Cartier and his operation Greenbelt Bio located at 25881 Winterline Road in Grande Pointe.

We understand that Mr. Cartier is applying for a commercial cannabis cultivation license through Health Canada and that he is requesting a zoning by-law amendment to allow for a shorter setback distance to our residence to comply with the current zoning.

We fully support the approval of this zoning amendment as well as his application to operate a cannabis operation at the address of 25881 Winterline Road in Grande Pointe.

Yours truly,

  
Mr. & Mrs. Bill Meyerink  


By-law Number \_\_\_\_\_

of The Corporation of the Municipality of Chatham-Kent

A By-law to Amend Zoning By-law 216-2009 of the Municipality of Chatham-Kent

(Robert Cartier)

CityView # PL201900156

Whereas an application has been received for an amendment to the zoning by-law for certain parcel of land in the Community of Dover in order to rezone the lands to facilitate the implementation of a new Cannabis Production Facility;

And Whereas the proposed use would conform to the Official Plan;

And Whereas Council, after due investigation and consideration, concurs in the proposed amendments;

Now therefore be it and it is hereby enacted as By-law Number \_\_\_\_\_ of the Corporation of the Municipality of Chatham-Kent:

1. That Schedule "A" of the By-law 216-2009, as amended, of the Municipality of Chatham-Kent, be amended by changing the zoning classification from Agricultural (A1) to Agricultural-1492 (A1-1492) on the lands so depicted on Schedule "A" hereto annexed and also forming part of this by-law.
2. That Schedule "B" Zone Exceptions of the said By-law 216-2009, be amended by adding to the list of Exception No., the following:  
  
1492
3. That Schedule "B" Zone Exceptions of the said By-law 216-2009, be amended by adding to the list of Special Zone Symbols, the following:  
  
A1-1492
4. That Schedule "B", Zone Exceptions, of the said By-law 216-2009, be amended

by adding the following Exception Areas:

Exception No.	Special Zone Symbol	Special Zone Provisions
1492	A1-1492	Notwithstanding any other provisions of the by-law to the contrary, the following shall also apply:  a) Permitted uses include a Cannabis Production Facility in an existing Building (25881 Winter Line Road) with a setback distance of 55 m from an existing dwelling on a separate lot.  b) Clause a) above does not apply to an existing Small Scale Greenhouse.

This By-law shall come into force and effect upon the final passing thereof, subject to the provisions of the Planning Act, R.S.O. 1990 Chapter. P.13, as amended.

Read a First, Second and Third Time the 9th day of December, 2019.

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Mayor – Darrin Canniff

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Clerk - Judy Smith



This is Schedule "A" to By-law Number \_\_\_\_\_ of the Corporation of the Municipality of Chatham-Kent passed on the 9th day of December, 2019.

