

Friday, February 7, 2014

Medical Marijuana Facility Questions Prompt Proposed Land-Use Bylaw Change

Mountain View County, AB – The feedback from Division 2 residents in response to a proposed Medical Marijuana facility in the area has provided valuable information to Mountain View County Council in developing a proposed amendment to the Land-Use Bylaw (LUB) in order to deal with these types of facilities going forward.

The amendment to the LUB will be part of a public hearing – along with many other proposed changes – on Wednesday, February 26, 2014 at the Regular Council Meeting. The proposed amendment will require future applications for ‘Horticultural Use – Medicinal’ to be located in an area zoned Industrial District.

These changes were explained to a gathering of residents at the Cremona Community Hall on February 4th. The residents were also informed that the amendment to the LUB, if passed, will not have an impact on the current facility being proposed in Division 2. The facility would be considered a “lawful, non-conforming use” meaning it can continue to operate. However, it would fall under the new rules if it wants to expand, if the building is damaged by more than 75 per cent of its value and is to be rebuilt, or if its intended use was discontinued for more than 6 consecutive months.

“We understand the frustration of the residents, but we can’t unwind the process in which the developer and the County followed the rules of the day explicitly,” explained Division 7 Councillor Al Kemmere, who chaired the community information session. “This is a new issue that many municipalities, including Mountain View County, are having to react to on the fly. Council believes the proposed Land-Use Bylaw change addresses the concerns we’ve heard in regards to this application.

“We hope that the public hearing process will reveal whether this is the direction our residents want to go,” he added. “But it’s important to note that these proposed changes, or any other changes regarding this type of development, cannot be applied retroactively against the development already underway.”

During the meeting Mountain View County Planning and Development Services staff explained the process followed by the applicant, Releaf Inc. Under the current LUB the applicant did not have to apply for a development permit because the proposed facility for horticultural use is exempt under the Agriculture District Zoning (Section 14.1). Under the current LUB definitions, Horticultural Use (Section 2.5) includes provisions for intensively cultivated plants for medicinal purposes.

The applicant applied for a building permit for an Agriculture Production Facility and the permit was issued on October 7, 2013 by Mountain View County. The County issues permits based on regulations determined by the Province of Alberta. Safety Codes Permits focus on building safety and are not circulated (meaning sent to neighbouring landowners or published) or appealable.

It is important to note that any rules or regulations regarding security at the facility and any of the processes for production and distribution are under the purview of Health Canada. The County has no approval authority over any of these regulations.

County Officials also explained during the meeting that the County’s solicitors have provided a legal interpretation confirming the County’s approach.

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