To: Mayor and Members of Tillsonburg Council

From: Eric Gilbert, Senior Planner, Community Planning

Application for Zone Change
ZN 7-20-18 – S.S.A. Canada Inc (Blunt and Cherry Limited)

REPORT HIGHLIGHTS

- The application for rezoning has been submitted to permit a retail store for the sale of cannabis on the subject lands.

- Planning staff are recommending that the application not be supported, as it does not maintain the intent and purposes of the Official Plan to encourage commercial uses, including small retail uses, to be located in the Central Area of the Town.

DISCUSSION

Background

OWNER: S.S.A. Canada Inc.
40 Neville Crescent, Brampton ON L6S 5K9

APPLICANT: Blunt and Cherry Limited
64 Spadina Avenue, Toronto ON M5V 2H8

LOCATION:
The subject lands are legally described as Part Lot 31, Plan 1653, and Part 2 of 41R-9189 in the Town of Tillsonburg. The lands are located on the southeast corner of the intersection of Simcoe Street and Goshen Street, and are municipally known as 145 Simcoe Street in Tillsonburg.

COUNTY OF OXFORD OFFICIAL PLAN:

Schedule “T-1” Town of Tillsonburg Land Use Plan Service Commercial

TOWN OF TILLSONBURG ZONING BY-LAW NO. 3295:

Existing Zoning: Service Commercial Zone (SC)

Proposed Zoning: Special Service Commercial Zone (SC-sp) to permit a retail store
PROPOSAL:

The purpose of the application is to rezone the subject lands to include a retail store as an additional permitted use on the subject property.

The subject lands are approximately 0.3 ha (0.75 ac) in size, and contain an existing service commercial plaza with residential units in the upper level. The proposed retail store will occupy a vacant commercial space with an approximate area of 167.3 m² (1800 ft²).

Surrounding land uses fronting on Simcoe Street are predominately commercial, with residential uses to the south and southwest.

Plate 1, Location Map with Existing Zoning, shows the location of the subject property and the existing zoning in the immediate vicinity.

Plate 2, 2015 Aerial Map provides an aerial view of the subject property.

Plate 3, Applicant's Sketch depicts the location of the existing plaza and parking areas.

Application Review

2020 PROVINCIAL POLICY STATEMENT:

Section 1.1.1 of the PPS indicates that healthy, liveable and safe communities are sustained by promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long-term, accommodating an appropriate range and mix of residential, employment (including industrial and commercial), institutional, recreation, park and open space uses to meet the long-term needs.

The policies of Section 1.1.3.1 state that settlement areas shall be the focus of growth and development.

Further, Section 1.3.1 of the PPS directs that planning authorities shall promote economic development and competitiveness by:

a) providing for an appropriate mix and range of employment, institutional uses and broader mixed uses to meet long-term needs;

b) providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses;

c) facilitating the conditions for economic investment by identifying strategic sites for investment, monitoring the availability and suitability of employment sites, including market-ready sites, and seeking to address potential barriers to investment;

d) encouraging compact, mixed-use development that incorporates compatible employment uses to support liveable and resilient communities; and,

e) ensuring the necessary infrastructure is provided to support current and projected needs.

Further, according to Section 1.7, long-term prosperity should be supported by maintaining and, where possible, enhancing the vitality and viability of downtowns and mainstreets.
OFFICIAL PLAN:

The subject lands are designated ‘Service Commercial’ according to the Land Use Plan for the Town of Tillsonburg, as contained in the Official Plan. Areas designated for Service Commercial use are intended to provide for a broad range of commercial uses that, for the most part, are not suited to locations within the Central Area because of their site area, access or exposure requirements or due to incompatibility or land use conflicts with residential development.

Generally, Service Commercial uses cater to vehicular traffic and single-purpose shopping trips where customers are typically generated from passing traffic or a wide ranging market area. Service Commercial uses will have access to an arterial or collector road.

New uses permitted within the Service Commercial designation include commercial recreational establishments, automotive service stations, gas bars, car wash facilities, retail sales of automotive supplies, automated teller machines or kiosks, tourist information outlets or kiosks, hotel, motels, automotive services, automotive dealerships, building supply outlets and hardware stores, nurseries and garden centres, animal hospitals and boarding kennels, assembly halls and private clubs, personal services, convenience commercial uses, retail food stores, recreation and entertainment uses, restaurants, uses which require large areas for on-site storage of goods or vehicles and other types of commercial uses that offer service to the travelling public, business and industry.

The scale of uses within the Service Commercial designation will generally range from 3,500 ft² (325 m²) to 50,000 ft² (4,645 m²). Uses of less than 3,500 ft² (325 m²) will be encouraged to locate in the Central Area, where appropriate.

The vision of the Central Area as articulated in the Official Plan is for a multi-functional core, serving as the business, cultural and administrative centre of the Town with sub areas to increase the diversity of activities to increase the number of people living and working in the Central Area of the Downtown.

It is intended that the retail function of the Central Area is to be promoted by continuing to permit a full range of uses in the commercial core, while limiting the type, size, and scale of retail uses which are permitted outside the commercial core through the Zoning By-Law.

The Central Area will be the first priority location for shopping area facilities and other uses that serve the primary trade area. New commercial development should, where feasible, be located in the Central Area to complement the existing commercial structure of the Central Area. New or expanding retail developments outside of the Central Area requiring a planning approval will be subject to planning and market impact studies in accordance with Section 8.3.3.1 which show to the satisfaction of the County and the Town of Tillsonburg, that the type and size of proposed facilities are warranted, that no suitable Central Area locations are available for such facilities, and that the planned function of Tillsonburg’s Central Area will not be significantly prejudiced or impacted.

TOWN OF TILLSONBURG ZONING BY-LAW:

The subject property is currently zoned “Service Commercial Zone (SC)’, according to the Town of Tillsonburg Zoning By-law.

Permitted uses within the ‘Service Commercial Zone (SC)’ include a wide variety of automobile-oriented service-commercial uses outlined in Section 14.1.
A Retail Store is defined as “a building or part of a building, in which goods, wares, merchandise, or articles are offered for sale, but do not include any establishment otherwise defined or classified herein”.

A retail store is not a permitted use in the Service Commercial Zone.

AGENCY COMMENTS:

The application was circulated to various public agencies considered to have an interest in the proposal.

The Tillsonburg Building Services Department provided the following comments:

- applicant should confirm/demonstrate that the proposed location will meet Alcohol and Gaming Commission of Ontario requirements;
- applicant should be required to demonstrate that this is not a viable option within the permitted Central Commercial zone;
- this Department has concerns that a precedent will be established that could potentially lead to similar uses such as the LCBO to leave the Central Area;
- if approved, should be through a temporary use by-law to permit the proposed use until it ceases to exist.

The Town Development Commissioner provided the following comment:

This application represents the third potential cannabis retail operation in the Town after 52 Simcoe St and 200 Broadway. It would appear that the two Simcoe Street operations (both proposed) would be approximately 700 metres apart. No concern with this as the distance between them as presumably the government is allowing the market to decide in terms of success/failure of potential operations.

Both locations are in fairly close proximity to industrial areas, which could potentially increase the availability of the product for workers that may work in dangerous occupations, but I’m not aware of any restrictions or minimum separation distances between cannabis retail and industry.

In terms of the 145 Simcoe St property, the property has suffered from above average vacancy over the past few years so the potential for a new tenant could result in reinvestment in the property and enhanced streetscape.

The Town of Tillsonburg Engineering Services Department, and Oxford County Public Works Department have indicated they have no comment with respect to this application.
PUBLIC CONSULTATION:

Notice of complete application and notice of public meeting regarding this application were circulated to surrounding property owners on November 26, 2020 and January 5, 2021, in accordance with the requirements of the Planning Act. As of the writing of this report, no comments have been received from the public.

Planning Analysis

The application for zone change proposes to permit a retail store for the sale of cannabis on the subject lands. The use is proposed to be established within a vacant storefront, approximately 167.3 m² (1800 ft²) in size. The current legislation governing the establishment of cannabis retail outlets is such that the Town’s Zoning By-Law cannot limit a retail use to specifically the sale of cannabis as a separate distinct use. As such, a cannabis retail outlet can only be operated from a site that permits a retail store that allows for a broad range of retail activities.

The policy framework for employment areas in Tillsonburg as contained in the Official Plan is designed to ensure that the Central Area of the Town, encompassing the Central Business District and the Entrepreneurial District, remains as the most functionally diverse area of the Town and will serve as the primary business, cultural, and administrative centre within the Town. Supporting elements of the policy framework include Official Plan policies directing business, professional, retail and other uses to the Central Area first, and limiting the proliferation of these uses elsewhere in the Town.

It is clear that the Official Plan’s strategic goal is to provide a range of locations for new or expanded retail facilities within the Central Area, wherever possible and practical. New commercial development should, wherever feasible, be located in the Central Area to complement the existing commercial structure of the Central Area.

In this particular instance, Planning staff are of the opinion that the establishment of a retail store, as proposed on the subject lands, does not maintain the general intent and purpose of the Official Plan. Service Commercial areas are not intended to accommodate a broad range of commercial uses that are typically characteristic of the Central Area location and will not directly compete with the Central Area.

The size of the proposed retail use is less than the threshold of 3,500 ft² (325 m²) established in the policies of the Service Commercial designation, which is considered to be the size where uses may not be able to be readily accommodated in the Central Area. Uses smaller than this threshold are expected to locate in the Central Area.

While there have been limited instances of retail development in service commercial areas in Tillsonburg in the recent past, such as donated goods retail stores, in these instances, such uses have been typically identified as requiring larger areas for donated goods drop off, sorting, and disposal needs. Many of these uses also typically include an employment or training use in part of their business model. Due to these unique characteristics, these uses may not be well suited to a Central Area location. These types of retail uses can be differentiated from other retail uses that can be more readily accommodated in the Central Area on the basis of scale and area requirements that may not be suitably accommodated within the Central Area for the use to properly function.
Further to this, the scale and nature of the proposed cannabis retail store does not suggest that the site area, access or exposure requirements are such that a Service Commercial location is warranted. The proposed use also does not appear to have obvious conflicts with residential development. Staff are also of the opinion that the proposed use does not cater to vehicular traffic and does not appear to be a single-purpose use, reliant on passing traffic or on a wide-ranging market area any more than many other uses typically directed to the Central Area.

In light of the policy direction in the Official Plan to direct all professional, retail, and business offices to the Central Area first, and only permit business uses in Service Commercial areas that have demonstrated they are not suited to the Central Area because of their land area, building area, access or exposure requirements, or compatibility requirements, Planning staff are of the opinion that locating the proposed retail store on lands designated for service commercial use does not satisfy these policy tests and does not comply with the general intent and purpose of the Official Plan.

In the event that Council chooses to give favourable consideration to this proposal, and to protect the Central Area of the Town as contemplated by the Official Plan policies, Planning staff recommend that Council enact a temporary use by-law under Section 39 of the Planning Act to permit the proposed retail store for a temporary period of not more than three years, with the possibility of future 3 year renewals. This would permit the cannabis retail store use as proposed and if the use ceased, the permissions for a retail store use would lapse.

**RECOMMENDATION**

1. It is recommended that the Council of the Town of Tillsonburg not approve the zone change application submitted by S.S.A. Canada Inc., whereby the lands described as Part Lot 31, Plan 1653, and Part 2 of 41R-9189, Town of Tillsonburg, known municipally as 145 Simcoe Street are to be rezoned from ‘Service Commercial Zone (SC)’ to ‘Special Service Commercial Zone (SC-xx)’ to permit a retail store as an additional permitted use on the subject lands as the proposal does not maintain the intent and purpose of the Official Plan regarding development in Service Commercial areas.

**SIGNATURES**

Authored by:  “original signed by”  Eric Gilbert, MCIP, RPP
Senior Planner

Approved for submission by:  “original signed by”  Gordon K. Hough, RPP
Director