

DATE OF MEETING January 13, 2020

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SUBJECT SUPERVISED CONSUMPTION SITE ZONING AMENDMENTS

OVERVIEW

Purpose of Report

To provide Council with proposed siting guidelines for Federally-approved Supervised Consumption Sites, and to present Council with options for amendments to “City of Nanaimo Zoning Bylaw 2011 No. 4500” in order to allow supervised consumption sites within the city of Nanaimo.

Recommendation

That Council provide direction with respect to supervised consumption site zoning amendments.

BACKGROUND

On 2019-JUL-08, Council received a report for decision that provided background information regarding the role of local government in the siting of Federally-approved and Provincially-funded supervised consumption sites (SCS) in our community. The 2019-JUL-08 report outlined options for how the “City of Nanaimo Zoning Bylaw 2011 No. 4500” (the “Zoning Bylaw”) could be amended to better define the SCS use (the report is included as Attachment A). Staff recommended removing the current definition of ‘Drug Addiction Treatment Facility’ and adding a definition for SCS that would be permitted on a site-specific basis through rezoning. In response to this report, Council directed Staff to:

- a) bring forward proposed changes to “City of Nanaimo Zoning Bylaw 2011 No. 4500” to repeal the definition of ‘Drug Addiction Treatment Facility’; and*
- b) bring forward proposed changes to “City of Nanaimo Zoning Bylaw 2011 No. 4500” to revise the definition of ‘Office Medical/Dental’ with siting requirements developed in consultation with Island Health.*

Since receiving that direction, City Staff have worked in collaboration with Island Health representatives to develop the proposed siting guidelines, which are included as Attachment B. Additionally, Staff worked with Island Health, as well as internally, to develop proposed amendments to the Zoning Bylaw. Staff are providing two zoning amendment options for Council’s consideration as presented in Attachment C (“Zoning Amendment Bylaw 2018 No. 4500.165”) and Attachment D (“Zoning Amendment Bylaw 2019 No. 4500.166”). The differences between these two bylaw amendment options are outlined in the discussion below.

DISCUSSION

Council has already received several information reports on the topic of SCS zoning and the challenges of determining appropriate locations. Under the current zoning, SCS is under the category of ‘Drug Addiction Treatment Facility,’ defined as “*the use of a building to treat persons with substance abuse problems, and includes needle exchange facilities, safe injection sites, Methadone clinics, and the like.*” As discussed in previous Council reports, this definition no longer reflects current health terminology. Furthermore, ‘Drug Addiction Treatment Facility’ is not currently permitted in any zone, meaning that any proposed SCS operation requires a site-specific rezoning.

Both of the proposed bylaw amendment options would repeal the definition of ‘Drug Addiction Treatment Facility’ and revise the definition of ‘Office/Medical Dental’ to include SCS. Should Council approve these zoning changes, then Island Health or any other eligible applicant would be able to apply for a Federal exemption for an SCS in zones where the Office/Medical Dental use is permitted, without having to go through a rezoning process. This would allow an SCS to be located in most commercial zones throughout the city, as well as any zone where Office is a permitted use (the definition of Office use includes Office Medical/Dental). In this case, Council would not have an approval role; however, under current Federal legislation (*the Respect for Communities Act*), Council would have an opportunity to have its input considered.

The proposed Supervised Consumption Site Siting Guidelines (Attachment B) reflect a dialogue between Island Health and City Staff on reasonable considerations when selecting a location for an SCS, including location criteria, site design, and public engagement. These are not a ‘siting requirement’ that the City can enforce, they are a tool to assist the applicant for making siting and design decisions and for clarifying the City’s expectations.

In terms of proposed zoning changes, Option 1 - “Zoning Amendment Bylaw 2018 No. 4500.165” (Attachment C), is the more permissive of the two options as it includes no minimum separation between an SCS and other uses. In addition, the revised definition for “Office Medical/Dental” does not specifically refer to supervised consumption site use as the definition is intended to be broadly interpreted as including SCS as a permitted activity. This option of zoning amendments has the support of the Medical Health Officer (see Attachment E – Letter of Support.) However, this zoning amendment bylaw does not include any siting requirements, as previously directed by Council.

Option 2 - “Zoning Amendment Bylaw 2019 No. 4500.166” (Attachment D), expands the definition of Office Medical/Dental to clarify that SCS use is permitted wherever medical/dental offices are permitted. The amendment bylaw also introduces a Condition of Use that would prohibit an SCS from being located within 200m of an Academic School (defined in the Zoning Bylaw as “*an institution with no residential component or temporary accommodation, providing a curriculum, for academic instruction up to completion of Grade 12, and which consists of a body of students, organized as a unit for educational purposes; where students attending the school have an opportunity to earn a diploma provided by the British Columbia Ministry of Education.*”)

The proposed separation under “Zoning Amendment Bylaw 2019 No. 4500.166” is consistent with the separation criteria for new Cannabis Retail Stores (which must be 200m from schools) and liquor Licensee Retail Stores (150m from schools) and was developed in response to Council’s direction to include ‘siting requirements’ as part of the proposed Zoning Bylaw changes.

Although the Chief Medical Health Officer has stated Island Health does not favour wording that names specific health services in the Zoning Bylaw (see Attachment E), in order to regulate the separation of SCS use from schools in the Zoning Bylaw, it is necessary to revise the definition of Office Medical/Dental to include SCS and add a new definition for SCS. This is the primary difference between the two amendment bylaw options: Option 2 (“Zoning Amendment Bylaw 2019 No. 4500.166”) prevents an SCS from operating within 200m of a school, which is consistent with the City’s existing siting criteria for uses that involve controlled substances.

Island Health’s Chief Medical Officer recommends that Council move forward with Option 1 (Attachment C), the less restrictive zoning amendments with no separation requirements, as well as endorse the proposed SCS Siting Guidelines.

Should Council choose not to proceed with the options presented below, then the status quo would remain, meaning that site-specific rezoning would be required to allow an SCS.

OPTIONS

1. That:

- a) Council endorse the proposed Siting Guidelines for Supervised Consumption Sites; and
- b) Council direct Staff to bring forward “Zoning Amendment Bylaw 2018 No. 4500.165” (A bylaw to remove the definition for ‘Drug Addiction Treatment Facility’ and amend the definition of ‘Office Medical/Dental’ to be interpreted broadly to include supervised consumption services) for first and second reading.

- Advantages: Considering supervised consumption sites a health service (without specifically defining it) is consistent with policy precedents set by other BC cities with established SCSs (Vancouver, Victoria, Kamloops, Kelowna, and Surrey). Adopting this approach could strengthen our relationship with the Health Authority by demonstrating trust in their siting process and ability to manage community impacts. This approach would ensure existing harm reduction services can remain in place permanently, and new ones established where medical/dental offices are allowed, without the need to rezone.
- Disadvantages: The City would have no legislative role in where SCSs would be permitted, and would have to trust that their input into Federal application processes would be considered. This approach would limit the City’s role in considering community input on applications. This could result in limited influence on potential site-management issues that end up being addressed by RCMP and Bylaws.
- Financial Implications: Potentially increased policing and bylaws costs depending on the management of impacts of the SCS site on the surrounding community.

2. That:

- a) Council endorse the proposed Siting Guidelines for Supervised Consumption Sites; and
- b) Council direct Staff to bring forward “Zoning Amendment Bylaw 2019 No. 4500.166” (A bylaw to remove the definition for ‘Drug Addiction Treatment Facility’, amend the

definition of 'Office Medical/Dental' to include supervised consumption sites, and add a definition for 'Supervised Consumption Site' and a restriction on their operation within 200m of an Academic School) for first and second reading.

- Advantages: Still has many of the advantages of Option No. 1, but with added consistency with other City policies on the siting of controlled substances.
- Disadvantages: The City would have no legislative role in where supervised consumption sites would be permitted, and would have to trust that their input into Federal application processes would be considered. This approach would limit the City's role in considering community input on applications. This could result in limited influence on potential site-management issues that end up being addressed by the RCMP and Bylaws Services. May be perceived as a lack of confidence in Island Health to follow the Siting Guidelines since they already state that SCS should not be located near places where children congregate.
- Financial Implications: Potentially increased policing and bylaws costs depending on the management of the impacts of an SCS on the surrounding community.

3. That Council provide alternative direction.

SUMMARY POINTS

- On 2019-JUL-08, Council directed Staff to bring forward zoning changes to repeal the definition of 'Drug Addiction Treatment Facility', amend the definition of 'Office Medical/Dental' to accommodate SCSs, and work with Island Health to develop siting guidelines for SCSs.
- Under the current Zoning Bylaw, an SCS is allowed only on a site-specific basis through rezoning under the land use defined as "Drug Addiction Treatment Facility."
- City Staff and Island Health worked together on proposed SCS Siting Guidelines.
- Staff are presenting two potential options for changing the Zoning Bylaw to address SCS. The main difference between the two options is whether Council wants to allow SCS anywhere medical/dental offices are permitted ("Zoning Amendment Bylaw 2018 No. 4500.165") or allow SCS where medical/dental offices are permitted, but restrict them from operating within 200m of Academic Schools ("Zoning Amendment Bylaw 2019 No. 4500.166"). The latter option involves specifically defining what an SCS is and identifying them as an allowed use under the definition of Office Medical/Dental.
- Should Council wish to proceed with one of these options and the SCS Siting Guidelines, the next step is to endorse the Siting Guidelines and direct Staff to bring forward the preferred amendment bylaw for first and second reading.
- Should Council choose not to proceed with the options presented, then the status quo would remain, meaning that an SCS would require a site-specific rezoning.

ATTACHMENTS:

ATTACHMENT A: 2019-JUL-08 Staff Report “Supervised Consumption Service Zoning Options”

ATTACHMENT B: Draft Siting Guidelines for Supervised Consumption Sites

ATTACHMENT C: Zoning Amendment Bylaw 2018 No. 4500.165
(SCS Zoning Amendments - Option 1)

ATTACHMENT D: Zoning Amendment Bylaw 2019 No. 4500.166
(SCS Zoning Amendments - Option 2)

ATTACHMENT E: Letter of Support from Medical Health Office (2019-NOV-25)

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