

City Staff Report

Original signed by: City Manager Johnson

Report Date: November 7, 2023

Meeting Date: November 21, 2023

To: City Manager

From: Director of Development Services

Subject: Zoning Amendment applications for two vape stores

Purpose

The purpose of this report is to obtain direction from Council on zoning for Vape Stores.

Summary

- The Ministry of Health is restricting the sale of flavoured vape products to age-restricted retail spaces. Enforcement of the new changes begins January 1st, 2024.
- Businesses that previously sold vape products in their stores among other products are now required to develop completely separated retail space for this product.
- Two gas stations have since created new retail spaces to sell their products without permits in the C-4 zone.
- The Building Inspector has placed Do-Not Occupy notices on both these spaces.
- Each business will require a zoning amendment, a development permit, and building permit to legalize the new spaces to continue sales.
- Staff are recommending creating the use of Vape Retail to permit this use on a spot zone basis.

Recommendation

THAT Council directs staff to draft amendment bylaws to amend the City of Quesnel Zoning Bylaw No.1880, 2019 to create a new principal use for vapour retail sales and permit on a spot zone basis.

Statutory Requirements

- Community Charter
- Local Government Act – Part 14 – Planning and Land Use Management

Council Policy

- Official Community Plan Bylaw No. 1879, 2019
- Zoning Bylaw No. 1880, 2019
- Development Application Procedures Bylaw No. 1531, 2002

Strategic Objective

N/A

Background

Beginning January 1st, 2024, the Ministry of Health requires all flavoured vapour/e-substances products to be sold in age-restricted (19+) sales premises. Businesses that have created “stores within stores” or age-restricted sections are no longer authorized. Commercial retailers intending to sell such products must have a separate unit with no interconnecting doors or a separate building with a different address and business license. Any businesses in non-compliance must discontinue sales after the deadline.



Across the province, the Ministry has observed gas stations and convenience stores creating age-restricted sections or converting storage spaces to meet the new legislative requirements.

Over the last few months City Staff have been made aware of two gas stations that have created spaces to meet the upcoming regulations. When they were advised they needed permits to complete these renovations and occupation of spaces they stated they had Northern Health approval and thought that was all that would be required.

Staff has met with Northern Health's Team Lead of the Tobacco and Vapour Enforcement Program to discuss the new legislation and to understand their approval process. They advised they do not approve or disapprove vape retail sale businesses but rather inspect for compliance with their regulations. They were unaware that the appropriate permits were not obtained for the new stores and a line of communication was established for future discussions.

They provided that the regulation of these facilities has been extremely challenging for them as the supply of the product is not regulated so they consistently find products being sold that do not meet their provincial standards. In addition, they have found the sites not compliant with their policies regarding site design, signage, business licencing ect.

Canco Gas, located along HWY 97 N, converted part of a storage building into a retail store without the necessary building permits. The Chief Building Official has informed staff that the building is non-compliant with the BC Building Code and has issued a "Do Not Occupy" order. Staff has requested a parking and floor plan to complete a full review. A zoning amendment and development permit application will be required prior to building permit issuance.

The previous owner of Shell Gas, located along HWY 97 S, created an addition along the east side of the building without a building and development permit. The new owners are using this addition as a vape room. Staff has been working with the owner and architect to bring the building into compliance over several months with minimal progress. The Building Inspector has placed a do not occupy permit on this addition.

Zoning Analysis

Proposed Use

Both properties are zoned C-4, highway commercial, which preserves land for the accommodation of large format retail and a mix of vehicular oriented highway commercial uses, not provided for in the Downtown and West Quesnel Commercial areas. A specialty store such as a vape store would fall under the definition of *retail store* use (small-scale retail), found in Downtown and West Village or allowed in the Regional Shopping Centre Zone.

In 2022 EZ Vape at 960 Chew Road applied for and received approval to allow Retail Store at this location as a spot zone in the C-4 zone. The decision to allow retail sales on this site was due to the original plans to move this property to a Regional Shopping Centre Zone. The existing building on this site would benefit from the ability to have broader retail sales capacity.

There are three options for allowing vape sales in the community:

- 1) create a new use 'vapour retail sales' and allow in similar zones as *liquor retail store*: C-2, C-2A, C-3, C-3R, C-4, C-8.
- 2) spot zone to allow retail sales on the property:
The use of Retail Sales is permitted on the land legally described as LOT B DISTRICT LOT 3948 CARIBOO DISTRICT PLAN 18315 EXCEPT PLAN 30571.
- 3) spot zone property to allow for vapour retail sales such as:

The use of vapour retail sales is permitted on the land legally described as LOT B DISTRICT LOT 3948 CARIBOO DISTRICT PLAN 18315 EXCEPT PLAN 30571.



Option 1 would allow any commercial zone to have a vape shop without requiring zoning consideration. This means any current buildings in these zones could become a future vape shop or any property could develop a new building to house a vape shop. Building permits and development permits would only be required dependent on the scale of renovation/improvements to an existing building or a if a new building was being proposed.

Option 2 would allow the sites being considered to have any use that falls under retail sales. Council's current vision in the Official Community Plan is to continue to concentrate small-format commercial shops in the Downtown and West Quesnel. This zoning amendment will need to include a justification for allowing full retail in this location.

Option 3 would create the requirement to have zoning consideration each time a business wanted to develop a vape shop. This option should be chosen if Council wants greater input on where vape shops are developed in the community. Additionally, this will assist in ensuring there is a referral process to advise health of new vape stores.

Staff recommends proceeding with option 3,

Attachments

- Notice for Vapour Product Retailers in British Columbia

Concurrence

N/A

Options

1. Draft amendment bylaws.
2. Request further information.
3. Deny application.