



CITY OF ST. ALBERT ADMINISTRATIVE BACKGROUNDER

TITLE: BIRTHING CENTRES

PURPOSE OF REPORT

On December 11, 2019 Mayor Heron provided notice in accordance with Section 23 of Procedure Bylaw 3/2018 of her intention to make the proposed motion below.

In order for Council to debate the motion, it must be formally moved.

PROPOSED MOTION(S):

To amend Bylaws to allow Birthing Centres in the City of St. Albert.

ALIGNMENT TO PRIORITIES IN COUNCIL'S STRATEGIC PLAN

N/A

ALIGNMENT TO LEVELS OF SERVICE DELIVERY

N/A

ALIGNMENT TO COUNCIL DIRECTION OR MANDATORY STATUTORY PROVISION

The proposed motion relates to the Land Use Bylaw (9/2005).

BACKGROUND:

In considering the supposed intent of the proposed motion, Administration advises that the Land Use Bylaw (9/2005), and the Business License Bylaw (31/2019), are the only municipal bylaws which regulate the location, and operation, of a 'Birthing Centre'.

The Land Use Bylaw does not provide a definition for a '*Birthing Centre*'. However, the 'use' is currently comfortably accommodated under the broader definition of '**health service**'.

"**health service**' means a development used for the provision of physical and mental out-patient health care and social or counseling services. Services may be of a preventative, diagnostic, treatment, therapeutic, rehabilitative, or counseling

nature. Typical uses include medical and dental offices, health and physiotherapy clinics, and counseling services. In the Integrated Care Community (ICC) Land Use District only, pharmacies may be considered as a health service;"
(BL29/2006)

A health service 'use' is either permitted or discretionary in the following land use districts:

- Neighbourhood Commercial (C1);
- General Commercial (C2);
- Corridor Commercial (CC);
- Mixed Commercial (MC);
- Boardwalk (BW);
- Commercial and Industrial (CIS);
- Integrated Care Community (ICC) - Area B;
- Regional Commercial (RC);
- Business Park (BP2);
- Institutional Facilities (IF);
- Direct Control Mixed Use (DCMU); and
- Downtown (DT).

Currently, through the Land Use Bylaw, anyone who wishes to operate a birthing centre in any of the land use districts mentioned here above, may apply for a **'health service'** Development Permit. Upon receiving approval, the Development Permit enables the use to locate in any of the mentioned Land Use Districts. That said, the Land Use Bylaw does not allow for a **'health service'** use to be located in a residential district, unless supported and approved as a **'home occupation'**. A **'home occupation'** requires that the business (a 'birthing centre') is accessory to the principal residential use, is operated by a permanent resident of the dwelling, and that only a resident of the dwelling may be employed. Once a Development Permit (DP) has been issued, the holder of the DP will have to apply for a business license. Consideration of the Business License Bylaw requirements would occur at the time of business license application and review.

It follows that locating a birthing centre in any land use district other than the twelve listed here above, illustrates the point that it is all about land use planning, and the intended outcomes of sound planning. The Municipal Government Act (MGA) directs, and the Land Use Bylaw (9/2005) strives, to regulate the use of land through employing planning processes. The purpose is to promote a more efficient use of resources, thereby achieving more desirable social and environmental outcomes, and recognizing potential cumulative impacts of amendments. Thus, at the municipal level, through the Land Use Bylaw, the development control function attempts to regulate land development in such a manner that any development conforms to pre-determined policies or standards.

Having policies and standards in place does not imply that change is no longer an option. Change is possible, preferably though, within the context of generally

accepted societal norms and standards regarding the use of land, read together with the MGA, the Municipal Development Plan (MDP), and the Land Use Bylaw.

In early 2017, Council deliberated on the matter of an application to redistrict a residential land parcel, from Low Density Residential (R1) to Direct Control (DC), to permit the operation of a professional office use. Under Section 10.5 of the Land Use Bylaw, Council determines the land uses that may be allowed in a DC district; and may impose such standards and conditions it considers appropriate to regulate that use. The application was denied.

In the City of Edmonton land use bylaw, similar to St. Albert's, a birth centre is accommodated under **'health services'**. In Edmonton, similar to St. Albert, a **'health service'** is neither a permitted nor a discretionary use in the low density residential land use district. An Edmonton example of a birth centre is located at 9505 163 St NW, Edmonton. The parcel upon which the centre is located is districted Urban Services Zone (US); the birth centre is a health service, and the abutting properties are districted low density residential. Thus, the City of Edmonton allowed the redistricting of a land parcel from low density residential to Urban Services, to accommodate the operation of a birth centre.

In St. Albert, the purpose of the DC District is to provide for a specialized approach to development on a particular site that does not fit with approved land use districts, but still meets the requirements of the statutory planning in place, good planning principles, and the intent for the development of the affected residential community.

That said, Administration refers Council to the attachment, where, on p. 5 under **Option 2.**, the following is stated:

"Given the generally accepted axiom that 'anyone can apply for anything', an applicant may submit an application for the redistricting of a low density single family residential parcel, from R1, to a Direct Control (DC) District. The purpose of the Direct Control (DC) District is:
'to enable Council to exercise particular control over the use and development of land or buildings within the area so designated.'

Thus, Council takes the decision; neighbourhood consultation will enable any interested or affected resident/party to voice their opinion/concern; the Public Hearing will provide additional opportunity for Council to listen, and for the general public to participate, prior to a final decision being taken.

A difficulty to a DC District approach is that, should the business (a **'birthing centre'** treated as a **'health service'**) cease to operate on the parcel, it will result in a DC districted parcel being located in a residential district. This could open the door for another applicant to submit a change of use application to City Council so as to operate any other business (for example, an **'automotive specialty'**) on the parcel. The 'intrusion' of a commercial undertaking into a residential neighbourhood will impact on the use and enjoyment of neighbouring properties.

Should Council wish to pursue the matter, concurrently, a review of the permissiveness of all uses in the residential land use districts, should be undertaken.”

In closing, whereas the Land Use Bylaw does accommodate the location of ‘*Birthing Centres*’ as a ‘**health service**’ in twelve existing Land Use Districts, and considering that the holder of a DP may apply for a business license so as to operate a birthing centre business, Administration advises that further amendments to City bylaws are not required. Administration further advises against amending the LUB to the extent that birthing centres will be allowed to locate in residential neighbourhoods.

A copy of Information Request 23-2019, dated October 30, 2019, is attached.

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