
COMMUNITY DEVELOPMENT COMMITTEE

*HIS WORSHIP, THE MAYOR
AND COUNCILLORS*

SUBJECT: ZONING BYLAW AMENDMENT – FAMILY CHILD CARE

RECOMMENDATIONS:

1. **THAT** Council authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw, as outlined in Section 5.1 of this report, and that the bylaw be advanced to First Reading on 2012 March 12 and to a Public Hearing on 2012 April 24 at 7:00 p.m.
2. **THAT** Council authorize that the City initiate rezoning of the 12 – R “b” District properties to remove the “b” subscript zoning, as outlined in Section 5.3 of this report, and that the bylaw be advanced to First Reading on 2012 March 12 and to a Public Hearing on 2012 April 24 at 7:00 p.m.
3. **THAT** a copy of this report be sent to the property owners of the residential lots identified in the *attached* Schedule A.
4. **THAT** a copy of this report be sent to the Fraser Health Authority at 4946 Canada Way, Burnaby, B.C. V5G 4H7.

REPORT

The Community Development Committee, at its ‘Open’ meeting held on 2012 February 21, received and adopted the *attached* report to propose a text amendment to the Zoning Bylaw regarding the operations of family child care centres in Burnaby’s residential zoning districts.

Respectfully submitted,

Copied to: City Manager Dir. Plng. & Bldg. City Solicitor Chief Building Inspector Chief Licence Inspector Chief Medical Officer, Fraser Health
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Councillor C. Jordan
Chair

Councillor D. Johnston
Vice Chair

Councillor P. Calendino
Member

TO: CHAIR AND MEMBERS
COMMUNITY DEVELOPMENT COMMITTEE

DATE: 2012 February 10

FROM: DIRECTOR PLANNING AND BUILDING

FILE: 42000.20
Reference: Bylaw Text Amendment

SUBJECT: ZONING BYLAW AMENDMENT – FAMILY CHILD CARE

PURPOSE: To seek Council authorization to pursue a text amendment to the Burnaby Zoning Bylaw with respect to the operations of family child care centres in Burnaby's residential zoning districts.

RECOMMENDATIONS:

1. **THAT** Council be requested to authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw, as outlined in Section 5.1 of this report, and that the bylaw be advanced to First Reading on 2012 March 12 and to a Public Hearing on 2012 April 24 at 7:00 p.m. .
2. **THAT** the City initiate rezoning of the 12 - R "b" District properties to remove the "b" subscript zoning, as outlined in Section 5.3 of this report, and that the bylaw be advanced to First Reading on 2012 March 12 and to a Public Hearing on 2012 April 24 at 7:00 p.m.
3. **THAT** a copy of this report be sent to the property owners of the residential lots identified in the attached Schedule A
4. **THAT** a copy of this report be sent to the Fraser Health Authority at 4946 Canada Way, Burnaby, B.C. V5G 4H7.

REPORT**1.0 INTRODUCTION**

In early 2011, Planning Department and Fraser Health staff met to discuss issues related to the licensing of child care centres in residential dwellings. Two issues were identified by Fraser Health:

- a) The employment of an additional staff person in family child care centres (or child care centres operating within a single-family dwelling) can provide a number of benefits, including improved quality of care and working conditions in the care centre. Current provisions under the Zoning Bylaw, however, prohibit the employment of a non-resident staff person in family child care centres (including all

other home occupations), limiting the opportunities for employing an additional staff person; and

- b) It is a challenge for some residents to complete the requirements of the current rezoning process to achieve the R “b” designation in order to permit the establishment of a child care centre within a single family dwelling with up to 10 children in care and one non-resident staff person, as a small home-based business.

Planning staff have reviewed the above noted issues and determined that there would be merit in changing the City’s approach to child care centres within residential dwellings. Proposed changes would be in keeping with Burnaby’s child care policy which aims to promote a range of child care options for Burnaby families and would be in keeping with the policy objectives of the Official Community Plan (OCP) and Social Sustainability Strategy (SSS) to provide appropriate and sufficient opportunities for the establishment of child care facilities within the City.

Arising from the review of the noted issues, this report proposes revisions to the approach to the regulation of child care centres in single-family dwellings, which includes a proposed amendment to the Zoning Bylaw.

2.0 POLICY CONTEXT

2.1 The vision statement of Burnaby’s Child Care Policy, adopted in 1994 and revised in 2000, states that the City of Burnaby is committed to:

- assisting with the creation of a comprehensive and inclusive child care system in Burnaby which offers a range of child care options and responds to the diverse groups within the community, including parents staying home to care for their children;
- supporting families and children in their search for child care options which best suit their personal circumstances; and
- working with the School Board, government ministries, child care providers, community service providers, and others in pursuing the City’s child care objectives.

Further, the policy states that the City will work to improve availability, accessibility, and affordability of child care by “providing appropriate and sufficient opportunities for the establishment of child care facilities within the context of the Official Community Plan, community plans, Burnaby Zoning Bylaw, and other City regulations”. These policy statements are also identified as key objectives in the City’s Social Sustainability Strategy which was adopted by Council in 2011.

Child care centres operating within a residential dwelling contribute to the limited supply of licensed child care spaces available in Burnaby, and provide child care options for working parents who often struggle to find child care that meets their needs. As of 2011 October, there were approximately 14 licensed child care spaces per 100 children aged 12 and under in Burnaby. Of the 4,028 licensed child care spaces in the City, 957 spaces (24%) were in residential dwellings or dwelling units (see *attached* Sketch #1). These child care spaces in residential dwellings are an important contribution to the range of child care available in Burnaby.

3.0 REGULATION OF CHILD CARE CENTRES IN RESIDENTIAL DWELLINGS

3.1 Child care centres in residential dwellings are regulated under the Community Care Facility Act and the Zoning Bylaw. The Act, which is administered by Fraser Health through the *Child Care Licensing Regulation*, regulates the licensing of such facilities, including employee qualifications, group sizes and employee to children ratios, indoor and outdoor physical space requirements, and other general care requirements.

3.2 Under the Zoning Bylaw, child care centres in residential dwellings are currently defined under two classifications:

- a) **“CHILD CARE FACILITY”** means any community care facility for children licensed under the Community Care Facility Act other than a facility for residential care for children.
- b) **“FAMILY CHILD CARE CENTRE”** means an in-home operation licensed under the Community Care Facility Act to provide family child care.

(Section 3 Definitions)

Additional provisions are also contained within the Zoning Bylaw which regulates the establishment of child care centres on residential sites, which is discussed below.

Child care facilities

Child care facilities, as defined under the Zoning Bylaw, are permitted in single-family dwellings in Burnaby’s R1, R2, R3, R4, R5, R6, R10, R11, and R12 Residential Districts, subject to rezoning to the R “b” designation. Child care facilities are permitted to operate with up to 10 children maximum and one non-resident employee, in addition to the residential employee. Development proposals for child care facilities under the R “b” District zoning designation are reviewed on a case-by-case basis, based on the merits of the proposal, to ensure that the proposed facility would meet the technical requirements of the Bylaw, including provision of off-street parking, screening and landscaping; provision of a net benefit to the community and contribution to the supply of child care in Burnaby. Rezoning to the R “b” District is also required to ensure impact on adjacent residential land uses is minimized.

It is noted that development proposals approved through the rezoning process for a child care facility under the R “b” designation are generally required to provide a 1.8 m (5.91 ft.) fence around the rear yard/outdoor play area, meet the off-street parking requirements of the Zoning Bylaw and have no prior history of noise complaints.

To date, there are 12 single-family lots which have been rezoned to include the R “b” District designation in order to permit a child care facility with up to 10 children and one non-resident staff person within the dwelling.

Family child care centres

Family child care centres, which are also defined as a home occupation in the Zoning Bylaw, are a permitted use in the R Residential and RM Multiple Family Residential Zoning Districts. Family child care centres are permitted to have up to 7 or 8 children in care, depending on the qualifications of the child care provider, and are subject to the following conditions of the Zoning Bylaw (Sections 6.8 and 6.8A):

- operators/employees of a family child care centre must also be a resident of the dwelling from which the centre is being operated;
- in two-family dwellings, a family child care centre may be established in one dwelling unit only, provided that the property owner of the abutting dwelling unit supports the proposal; and
- in multiple-family developments (RM and P11 Districts), a family child care centre may be permitted on the ground floor dwelling unit only, provided that the property owner or strata council support the proposal.

The above noted provisions for family child care centres are intended to ensure that such home occupations would not impact adjacent residential land uses, and that the principal residential use of the property is maintained.

Family child care centres are reviewed by the Planning Department through a referral process from the Fraser Health Authority. The Planning Department also circulates the family child care application to the Fire Department to ensure compliance with life-safety issues.

4.0 ISSUES RELATED TO CHILD CARE FACILITIES IN RESIDENTIAL DWELLINGS

4.1 In early 2011, Planning staff met with Fraser Health Authority to discuss issues related to the establishment and licensing of child care centres in residential dwellings. Two issues were identified by Fraser Health:

- a) The employment of an additional staff person in family child care centres (or child care centres operating within a single-family dwelling) can provide a number of benefits, including improved quality of care and working conditions in the care centre. Current provisions under the Zoning Bylaw, however, prohibit the employment of a non-resident staff person in family child care centres (including all other home occupations), limiting the opportunities for employing an additional staff person; and
- b) It is a challenge for some residents to complete the requirements of the current rezoning process to achieve the R “b” designation in order to permit the establishment

of a child care centre within a single family dwelling with up to 10 children in care and one non-resident staff person, as a small home-based business.

The above issues impact the supply and access to alternative types of child care in Burnaby's communities.

- 4.2 Over the last six years, the City has received an average of 32 applications for a family child care facility each year. In the same period, there have been a total of six applications for rezoning to the R "b" designation (i.e., an average of one application per year). Licence Office staff indicate they rarely receive complaints regarding child care centres in residential districts.

Based on staff review of the above issues and operations of approved R "b" designated child care facilities, there would be merit in permitting child care facilities in single-family dwelling which employ up to one non-resident staff person and up to 10 children through a simplified City approvals process, subject to meeting the technical requirements of the Zoning Bylaw, including off-street parking and appropriate landscaping and screening.

5.0 PROPOSED APPROACH TO CHILD CARE FACILITIES IN SINGLE-FAMILY RESIDENTIAL DWELLINGS

- 5.1 This report proposes a revised approach to the review and approval of child care facilities within a single-family dwelling or dwelling unit.

The revised approach would involve an amendment to the Zoning Bylaw which would permit child care facilities with up to 10 children and/or one non-resident staff (in addition to the resident staff person) in a single-family dwelling as a home occupation, subject to the following requirements:

- all off-street parking requirements be provided on-site (one parking space for each 2 employees, plus 1 parking space for each 10 spaces licensed for the facility);
- the outdoor play area related to the child care facility be located within the rear yard; and
- the single-family lot be appropriately screened with a (1.8 m) 5.91 ft. solid fence to the rear of the front yard setback.

The intent of these requirements is to mitigate potential traffic and noise impacts the child care facility may have on adjacent dwellings and the broader residential neighborhood.

To ensure that proposed child care facilities within single-family dwellings can meet the requirements of the Zoning Bylaw, it is proposed that each proposal require Preliminary Plan Approval (PPA)¹. Under this approach, Planning staff would review applications to ensure compliance with the technical requirements of the Zoning Bylaw, including off-

¹ In practice, home occupations have not been required to apply for Preliminary Plan Approval as the principal use of the dwelling is for residential purposes.

street parking, and screening/landscaping. As part of the PPA review process, the proposed child care facility would be circulated to the Fraser Health Authority and the Fire Department for compliance with their respective regulations.

There are no proposed changes to the City approach and approvals for family child care centers in residential dwellings/dwelling units. Family child care centers with up to 8 children would continue to be permitted as a home occupation provided that only residents of the dwelling operate the centre. In two-family dwellings, a family child care centre may be established in one dwelling unit only, provided that the property owner of the abutting dwelling unit supports the proposal; and in multiple-family developments (RM and P11 Districts), a family child care centre may be permitted on the ground floor dwelling unit only, provided that the property owner or strata council support the proposal.

Recommended Bylaw Amendment

1. **THAT** subsection (d) be added to Section 3 which defines a “Home Occupation” to include:

“the operation of a child care facility for not more than 10 children in a single-family dwelling where care is provided by persons resident in the dwelling and not more than one non-resident staff. The maximum of 10 children includes any preschool children of the resident.”

2. **THAT** Section 6.8 (7), which relates to persons employed in a home occupation, be amended to include the following phrase “except in a child care facility,” following the word “occupation”.

3. **THAT** the following be added to Section 6.15 (1 e) with wording the same or similar to the following:

In R Districts, wherein a child care facility or family child care centre is established as a home occupation, a fence 1.8 m (5.91 ft.) in height to the rear of a required front yard shall be provided.”

4. **THAT** subsection (g) be added to Section 7.3(1) which relates to uses which are not required to apply for and receive preliminary plan approval:

“Home occupations, except for the operation of a child care facility in a single-family dwelling.”

5. **THAT** in the R1, R2, R3, R4 and R5, R10, R11 and R12 Districts, the R “b” designation be deleted as a permitted use.

- 5.2 In summary, under the revised approach, proposals involving the operation of a child care facility within a single-family residential dwelling with up to 10 children and one non-resident staff would be processed and reviewed through the PPA process rather than

through rezoning. The intent of this approach is to simplify the approvals process, including reducing the time and costs to process such applications.

- 5.3 With regard to the 12 single-family residential lots which currently have an R “b” zoning designation, it is proposed that the City initiate a rezoning of these sites to remove the “b” subscript zoning. The existing child care facilities, which were previously approved through rezoning, would continue to be a permitted use within the dwelling and would not require Preliminary Plan Approval (see attached Schedule A).

6.0 CONCLUSION

This report proposes a revised approach to permitting child facilities in single-family dwellings. Under the proposed approach, applications for child care facilities within a single-family residential dwelling with up to 10 children and one non-resident staff (in addition to the resident staff person) would be reviewed through the Preliminary Plan Approval process. The intent of the proposed approach is to simplify the approval process for child care facilities within a single-family dwelling, while ensuring compliance with the provisions of Burnaby Zoning Bylaw and other relevant bylaws and regulations. It is recommended that Council be requested to authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw, as outlined in Section 5.1 of this report, and that the bylaw be advanced to First Reading on 2012 March 12 and to a Public Hearing on 2012 April 24 at 7:00 p.m. It is also recommended that the City initiate rezoning of the 12 R “b” District properties to remove the “b” subscript zoning, as outlined in Section 5.3 of this report, and that the bylaw be advanced to First Reading on 2012 March 12 and to a Public Hearing on 2012 April 24 at 7:00 p.m.

It is also recommended that a copy of this report be sent to the property owners of the residential lots identified in the attached Schedule A, and to the Fraser Health Authority at 4946 Canada Way, Burnaby, B.C. V5G 4H7.



B. Luksun, Director
PLANNING AND BUILDING

ZM/MM:sa

Attachment

cc: City Manager
City Clerk
City Solicitor
Chief Building Inspector
Chief Licence Inspector
Chief Medical Officer, Fraser Health

SCHEDULE A

**SINGLE FAMILY RESIDENTIAL LOTS WHICH CURRENTLY HAVE
R "b" DISTRICT ZONING**

<u>Address</u>	<u>Zoning District</u>
7580 Curtis Street	R2b
6409 Aubrey Street	R4b
5375 Gilpin Street	R2b
7842 Welsley Drive	R2b
7868 Elwell Street	R5b
4956 Rumble Street	R5b
6141 Ewart Street	R4b
8546 Sixteenth Avenue	R3b
4415 Fitzgerald Avenue	R2b
6238 Ashworth Avenue	R5b
5960 Walker Avenue	R1b
2781 North Road	R2b

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