

**TO:** CHAIR AND MEMBERS  
PLANNING AND DEVELOPMENT COMMITTEE

**DATE:** 2018 June 18

**FROM:** DIRECTOR PLANNING AND BUILDING

**FILE:** 42000 20

*Reference: Bylaw Text Amendment*

**SUBJECT: ZONING BYLAW AMENDMENT – EXPANDING OPPORTUNITIES FOR CHILD CARE FACILITIES IN COMMERCIAL AREAS**

**PURPOSE:** To propose text amendments to the Burnaby Zoning Bylaw regarding child care facilities as a permitted use in select Commercial Districts and aligning child care parking requirements with Commercial parking requirements.

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#### RECOMMENDATIONS:

1. **THAT** Council be requested to authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw, as outlined in Section 3.0 of this report for advancement to a Public Hearing at a future date.
2. **THAT** a copy of this report be sent to the Fraser Health Authority, Licencing Office, at 4946 Canada Way, Burnaby, BC V5G 4H7 and the Burnaby New Westminster YMCA Child Care Resource and Referral.
3. **THAT** a copy of this report be sent to the Sustainable City Advisory Committee for their information.

### REPORT

#### 1.0 INTRODUCTION

The availability of quality child care meets an important community need and contributes to the social and economic well-being of Burnaby. Quality child care is a major factor in the location decisions of families and businesses, and in recruiting and retaining employees. It is also an investment in the future and is associated with improved child outcomes including school readiness and success.

The City has long supported the availability and choice of child care options through the creation of supportive zoning and policies; establishment of five City-owned child care centres; establishment of the Child Care Resources Group, an advisory body on child care issues; direct advocacy on child care issues to senior levels of government; and most recently, its partnership with School District 41 to jointly develop and operate child care facilities on school sites.

The primary focus of this report is to propose a Zoning Bylaw amendment to include child care facilities as a permitted use in select Commercial (C) Districts. This proposed Bylaw amendment supports the City’s Corporate Strategic Plan and Sustainability Strategies, and would help facilitate the development of child care spaces by ensuring the City’s regulatory framework enables the development of new spaces should opportunities arise.

## **2.0 BACKGROUND**

### **2.1 Policy Context**

The vision statement of Burnaby’s Child Care Policy, adopted in 1994 and revised in 2000, states that the City is committed to working with service providers to assist in the enhancement of the child care system including child care options and objectives. The policy also states that the City will work to improve the 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 Social Sustainability Strategy, adopted by Council in 2011. The City’s 2016 Environmental Sustainability Strategy contains the Goals: “Prosper,” “Live,” and “Move,” which focus on creating a prosperous economy and compact, complete communities that are walkable, bikeable and transit-supported.

The City’s Corporate Strategic Plan, adopted in 2017, offers goals that focus on creating a connected, inclusive, healthy and dynamic community. Amending the Zoning Bylaw to expand opportunities for child care facilities to locate in commercial and employment districts throughout the City is aligned with the City of Burnaby’s Corporate Strategic Plan by supporting the following four goals and eight sub-goals of the plan.

#### ***A Connected Community***

- Social connection
- Partnership

#### ***An Inclusive Community***

- Serve a diverse community
- Create a sense of community

#### ***A Healthy Community***

- Healthy life
- Lifelong learning

#### ***A Dynamic Community***

- Economic opportunity
- Community development

To learn more about the City of Burnaby’s Corporate Strategic Plan, visit [burnaby.ca/CSP](http://burnaby.ca/CSP).

## 2.2 Child Care Inventory and Locations

As Burnaby’s population continues to increase, more families will require child care. As of 2017 February, Fraser Health licensing information indicated there were 219 full-time licensed child care centres operating in Burnaby. Of these, 120 are home-based child care facilities, while the remaining 99 are non-home-based child care facilities. In total, there are 4,440 full-time licensed child care spaces with 87 percent of these spaces located in non-home-based facilities.

**Table 1: Number of Licensed Child Care Spaces by Facility Type**

	Number of Child Care Spaces	Percentage of Child Care Spaces
<b>Child Care Facility</b>		
0 - 36 months	730	16%
30 months to school age	1,524	34%
School age (5 to 12 years)	1,619	37%
<b>Total child care facility spaces</b>	<b>3,873</b>	<b>87%</b>
<b>Home-Based Child Care Facility</b>		
Family child care (ages 0 to 12, maximum 7 children)	392	9%
In-home multi-age child care (ages 0 to 12, maximum 8 children)	175	4%
<b>Total home-based child care facility spaces</b>	<b>567</b>	<b>13%</b>
<b>TOTAL</b>	<b>4,440</b>	<b>100%</b>

Source: Fraser Health Licensing, 2017

The demand for child care persists, and many licensed child care facilities in Burnaby are full and have long waiting lists<sup>1</sup>. There are approximately 27,150 children aged 12 and under in Burnaby (Census 2016), resulting in 16.4 licensed child care spaces per 100 children ages 12 and under. This compares with a regional number of 18.5 spaces, and a provincial number of 18.0 spaces per 100 children (Metro Vancouver 2016 estimate).

To better understand the distribution of child care facilities throughout the City, Appendix 1 *attached* and Table 2 below show the location of full-time child care facilities (including home-based child care facilities) in Burnaby. Approximately half of the licensed child care spaces are located in higher density residential, commercial and mixed-use employment areas. These centrally located higher density residential, commercial and mixed-use employment areas are generally sited near frequent transit. Child care located in proximity to frequent transit supports sustainable commuting choices for both parents and child care facility employees.

<sup>1</sup> On 2018 February 20, the Provincial Government announced their 2018 Budget which includes the intention to create more than 22,000 new licensed child care spaces throughout the province, including a portion of the spaces in Burnaby.

**Table 2: Location of Child Care Centres**

	Number of Licensed Child Care Spaces	Percent of Total Licensed Child Care Spaces
<b>Areas within Burnaby</b>		
Higher density residential and commercial areas (Town Centres and Urban Villages)	1,729	38%
Mixed-use employment areas (SFU, Big Bend, Central Administrative Area, BCIT)	512	12%
Low density residential areas (Suburban Multi-Family Housing and outside Community Plan areas which consist mainly of Single and Two Family Dwellings)	2,199	50%

Source: Fraser Health Licensing, 2017

The proposed Zoning Bylaw amendment would further help to facilitate the development of child care spaces in higher density residential and employment areas. The proposed amendment would potentially expand the range of available child care facility sites, thereby contributing to the building of complete communities – communities that contain a range of services, amenities, employment and transit within their own boundaries.

### 2.3 Child Care Regulatory Framework

A number of regulations exist to help guide the design and location of child care facilities in the city.

#### 2.3.1 Provincial Regulation

All child care facilities in Burnaby are regulated under the Provincial *Community Care and Assisted Living Act* and accompanying *Child Care Licensing Regulation*, which are administered by Fraser Health and regulate the health and safety of child care facilities. Licensing requirements address items such as employee qualifications, group sizes, employee to child ratios and indoor and outdoor space specifications.

Fraser Health’s licensing process encompasses a full risk assessment of all proposed facility premises, including the outdoor play areas. Where a risk or hazard is identified within the premise, successful Fraser Health licensing is contingent upon the applicant providing a suitable plan that ensures the children’s health and safety. As part of the application review process, Fraser Health also refers the application to the City’s Planning Department to ensure Zoning Bylaw compliance and to the City’s Fire Department to ensure Fire Code compliance. Once a child care facility is operational, Fraser Health continues to monitor each facility by conducting random inspections to ensure health and safety regulations are being maintained.

### **2.3.2 BC Building Code Requirements**

On 2014 December 19, updates to the BC Building Code took effect, including changes to requirements for newly created child care facilities and facilities undergoing extensive renovations. For child care facilities with one or more child under the age of 30 months, the updated BC Building Code requires either in-building sprinklers or exits at grade, in addition to fire alarms in either multi-suite buildings or in buildings that share an interior common egress corridor with other suites. In 2016, the City also updated the Zoning Bylaw to align with the new Building Code regulations. While meeting BC Building Code regulations can be challenging for operators, the Code aims to protect public health, safety and general welfare as related to the construction and occupancy of a building.

### **2.3.3 Zoning and City Approval Process**

Currently, child care facilities are an outright permitted use in the P1 Neighbourhood Institutional District, the P5 Community Institutional District, the P11 SFU Neighbourhood District and the following Multiple Family Residential (RM) Districts: RM1, RM2, RM3/RM3s, RM4/RM4s, and RM5/RM5s. To establish a child care facility in a commercial district, however, the property must be rezoned, typically to a Comprehensive Development (CD) District.

All new child care facilities are subject to a Preliminary Plan Approval (PPA) which ensures that child care facilities are in compliance with the Zoning Bylaw. Applicants must also apply for a Building Permit, a Business License and other applicable permits (e.g. a Plumbing Permit or an Electrical Permit). As part of this process, the Fire Department reviews applications.

## **3.0 PROPOSED ZONING BYLAW TEXT AMENDMENTS**

Over the years, staff have received a number of inquiries from potential child care operators regarding the availability of suitable child care facility sites. There are a limited number of P1 and P5 District sites, and of these, most already include child care facilities on site or are not able to accommodate a child care facility. To date, about ten child care facilities are located in RM Districts.

As stated above, currently, any potential child care facility site in a commercial district requires a rezoning. Many child care operators opt not to pursue the rezoning of a property given the associated time and costs. Amending the Zoning Bylaw to permit child care facilities as an outright use would remove the rezoning requirement, thereby simplifying the process for operators to open a child care facility. This would, however, also remove consideration of the locational context and relationship of child care facilities to other commercial uses, which are currently a consideration in rezoning reviews, as discussed below in section 3.1.

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Given the demand for child care and the City’s existing supportive policy, it is proposed that the Zoning Bylaw be amended to include child care facilities as a permitted use in select Commercial (C) Districts<sup>2</sup>. Child care facilities would continue to require a PPA, to ensure Zoning Bylaw compliance, along with all existing regulatory approvals (e.g. Provincial licensing, Building and Fire Department compliance).

### **3.1 Expanding Child Care Facilities to select Commercial Districts**

#### **Issue**

Currently, child care facilities are a permitted use in select P and RM Districts; operators who wish to locate child care facilities in zones beyond the P and RM Districts must undergo a rezoning process. To expand the range of potential child care sites and to remove the rezoning approval requirement, it is proposed that child care facilities be permitted as an outright use in commercial districts including C1, C2, C3, C4, C8 and C9.

#### **Discussion**

To better understand the potential impacts of permitting child care facilities as an outright use in C1, C2, C3, C4, C8 and C9 Districts, staff analyzed the uses and locations of these C Districts (see Appendix 2 *attached*). Permitting child care facilities in select C Districts would increase the opportunities to locate child care facilities within centrally located, transit oriented, higher density residential, commercial and mixed-use employment areas throughout the city which would in turn support the City’s Corporate Strategic Plan, Social Sustainability Strategy and Environmental Sustainability Strategy goals to help build complete communities, increase economic viability and promote green initiatives. Since the intent of these select C Districts is to serve consumer needs, they contain uses such as banks, cafes, and offices which are generally compatible with child care facilities.

While C Districts offer the benefit of additional siting options for child care facilities, it is recognized that by permitting child care facilities as an outright use in select C Districts the rezoning requirement would be removed and opportunities may be created where a child care facility may choose to locate near a potentially sensitive and/or incompatible commercial use such as a liquor store, liquor primary establishment, or adult-oriented business. While this potential would exist with the proposed amendments, it is staff’s view that there are sufficient regulatory and market factors involved in siting a child care facility to mitigate siting concerns.

In accordance with the *Community Care and Assisted Living Act* and the *Child Care Licensing Regulation*, a child care licensee must ensure a healthy and safe environment is provided and that children do not have access to any object or substance (e.g. exhaust fumes) that may be

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<sup>2</sup> However, where a commercial use or Commercial District zone is located in a CD site that was rezoned prior to the date of this proposed Zoning Bylaw amendment, a child care facility proposed for the site or a portion of the site would continue to require a rezoning as the earlier CD Bylaw would not have considered a child care facility locating on the site.

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hazardous to their health or safety. As such, Fraser Health inspects proposed child care facilities, including outdoor play areas, to ensure the child care facility meets all licensing requirements. Licensing is contingent upon the applicant satisfactorily addressing any hazards or risks from the surrounding environment that are observed to directly impact the premise. If the above are not satisfactorily addressed, Fraser Health may deny a child care facility application.

In relation to City processes, Planning staff use Locational Guidelines during the rezoning process for sensitive land uses (e.g. adult oriented uses) to evaluate land use compatibility. These Guidelines give consideration to the observance of an appropriate relationship in terms of direct proximity or orientation of uses with respect to child care facilities. For example, if a liquor primary establishment were to propose to locate next to an existing child care facility, the rezoning application for the liquor primary establishment would be evaluated in terms of the Locational Guidelines that give consideration of distance from child care facilities. Should the liquor primary establishment be deemed to be an insufficient distance from a child care facility, the rezoning application may not be supported. This opportunity for review and consideration by the City, however, would not arise for a child care facility selecting its location, following adoption of the subject proposed zoning bylaw amendment.

To further understand locational and land use compatibility issues, Planning staff also surveyed other municipalities where child care facilities are a permitted use in commercial districts<sup>3</sup>. Staff in these municipalities indicated that market factors play a strong role in an operator's locational choices - operators tend to seek sites that are compatible with their child care operations and that meet the expectations of their families. Further, staff from these municipalities note, that as more families live in or near mixed-use urban areas, they have become more accepting of the varied nature of commercial uses in their neighbourhoods.

In summary, Social Planning staff acknowledge that if the proposed Zoning Bylaw amendment, were approved, the rezoning requirement for child care facilities in select C Districts would be removed and a child care facility would be able to locate next to a potentially sensitive and/or incompatible commercial use. However, it is felt that the benefits of increasing the number of options to locate a child care facility have merit and that the risks can be suitably mitigated through Fraser Health's licensing process, and through the City's ability to consider existing locational context for new liquor primary establishments and adult-oriented businesses through the rezoning process. However, primary commercial uses should not be precluded from locating in commercial areas solely based on the location of a nearby child care facility, as the intent of the C Districts is to support and provide locations for primary commercial uses. To further assist potential child care operators in assessing potential child care sites, staff propose to create a Child Care Facility Information Package to better inform child care operators about the application process, to provide them with suggestions and land use considerations for suitably locating a child care facility and to ensure they are aware at the onset about regulatory requirements such as Building Code compliance and outdoor play space requirements.

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<sup>3</sup>In 2017, staff surveyed the Zoning Bylaws of 16 Metro Vancouver municipalities and found that in 13 municipalities child care facilities are a permitted use in commercial districts.

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It is recommended that child care facilities be permitted in C1, C2, C3, C4, C8 and C9 Districts in order to increase opportunities to centrally locate child care facilities near transit and in higher density residential, commercial and mixed use employment areas.

### **Recommended Bylaw Amendment**

**THAT** child care facilities be added as a permitted use in Sections 301.1 (C1 District), 302.1 (C2 District), 303.1 (C3 District), 304.1 (C4 District), 308.2 (C8 District) and 309.2 (C9 District) of the Zoning Bylaw.

### **3.2 C8 District Intent With Respect to Child Care Facilities**

#### **Issue**

The C8 (Urban Village Commercial, Hastings) District is intended to provide a wide range of commercial and retail uses at grade, to engage pedestrians. Child care facilities located at grade would not actively engage pedestrians as other typical uses (e.g. shops and restaurants) do on Hastings Street and therefore require specific conditions of use.

#### **Discussion**

Similar to banks and businesses and professional offices, child care facilities would not engage pedestrians as actively as other typical uses on Hastings Street but would help support the viability of commercial area. In the C8 District, banks and businesses and professional offices are limited to a maximum storefront width of 10.0 m (33 ft.) along Hastings Street. Similarly, child care facilities should also be limited to a 10.0 m (33 ft.) storefront along Hastings Street. This requirement would enable the siting of a child care facility on Hastings Street while maintaining the intent of the Hastings Street Area Land Use Plan.

### **Recommended Bylaw Amendment**

**THAT** in Section 308.2 child care facilities be subject to the restriction that the first storey frontage of a child care facility on Hastings Street shall not exceed 10.0m (33 feet) in width.

### **3.3 Parking**

#### **Issue**

The 'Off Street Parking Schedule' of the Burnaby Zoning Bylaw requires that child care facilities provide one parking stall for each two employees and one parking stall for each ten licenced child care spaces. This requirement is generally higher than typical commercial uses such as retail stores, banks, and offices where one parking stall for every 46 m<sup>2</sup> (495 sq. ft.) of

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gross floor area is required<sup>4</sup>. The proposed Zoning Bylaw amendment to permit child care facilities as an outright use in select C Districts would likely result in child care facilities being challenged to provide the additional off-street parking currently required under the Zoning Bylaw.

## **Discussion**

To help facilitate the location of child care facilities, it is proposed that child care parking requirements be aligned with commercial parking requirements: that is, one stall for every 46 m<sup>2</sup> (495 sq. ft.) of gross floor area. A typical child care facility with 37 licensed spaces would have a minimum floor area of approximately 238 m<sup>2</sup> (2,562 sq. ft.). Using existing child care facility parking requirements, seven parking stalls would be required. Based on Burnaby's commercial office parking requirement (one stall for every 46 m<sup>2</sup>), this same space would require six parking stalls. This minor reduction in the number of parking stalls required would expand the potential siting options for child care facilities in the C Districts.

Further, as previously discussed, the select C Districts are generally centrally located and near transit, high density residential and employment areas, making it easier for families and child care employees to access child care facilities by alternate modes of transportation. It should also be noted that a portion of the child care facility parking stalls are only used briefly to pick up and drop off children during approximately a one hour period in the early morning (when most businesses are typically closed) and late afternoon. Further, general on-street public parking should not be designated solely for a child care pick-up / drop-off function, but should remain available for public parking to serve the broader commercial area. Therefore, it is recommended that the Zoning Bylaw off-street parking requirements for child care facilities be amended to align with existing commercial use parking requirements for all districts.

## **Recommended Bylaw Amendment**

**THAT** Section 800.4(5.1) of the Zoning Bylaw be amended with wording the same or similar to the following:

*Child care facility – 1 for each 46 m<sup>2</sup> (495.16 sq. ft.) of gross floor area.*

## **4.0 CONCLUSION**

This report considers the use of Zoning Bylaw changes to support more options for the establishment of licensed child care facilities throughout the City. The report proposes that the Zoning Bylaw be amended so that child care facilities be permitted as an outright use in select C Districts and that child care parking requirements be based on floor area in order to align with Commercial parking requirements, as outlined in Section 3.0. To assist child care operators with

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<sup>4</sup>Retail stores and personal service establishments may also use a calculation of 1 stall for every 28 m<sup>2</sup> (301.39 sq. ft.) when there is no storage or other accessory space. This calculation would not apply to child care facilities as they require supportive space.

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land use compatibility and other regulatory requirements when opening a child care facility, staff propose to create and distribute a voluntary Child Care Facility Information Package.

The Zoning Bylaw amendments would complement existing City programs to develop child care facilities in partnership with the School District. The proposed amendments would also simplify the approval process for prospective operators and facilitate the creation of child care facilities in zoning districts near transit and higher density residential, employment and mixed use areas, thus supporting the City’s sustainability goals and assisting in the creation of complete communities. The proposed approach also recognizes that child care facilities can successfully operate in an urban context together with other commercial uses, and as such do not require specific locational controls in this regard.

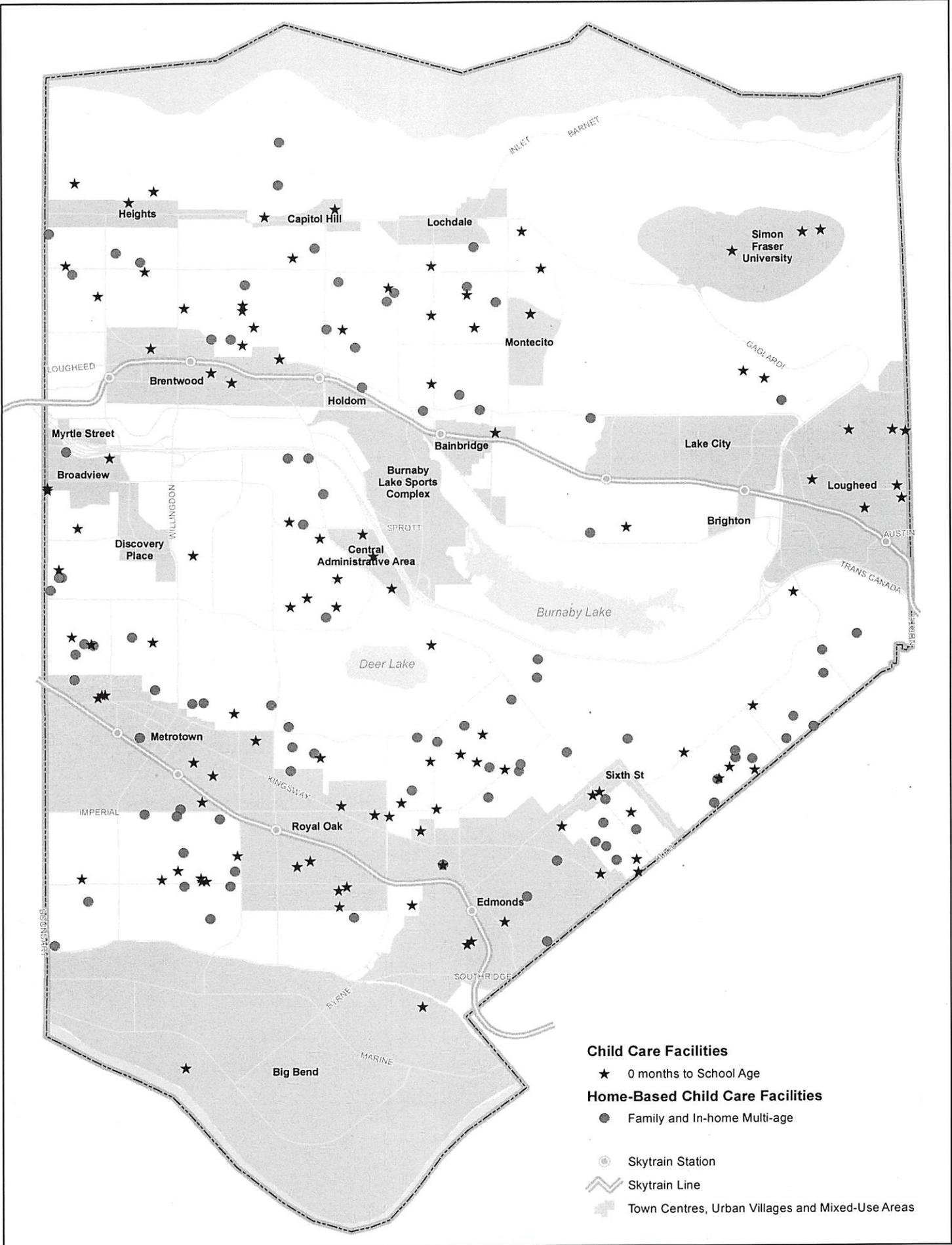
It is recommended that Council authorize the preparation of a bylaw amending the Burnaby Zoning Bylaw, as outlined in Section 3.0 of this report for advancement to a Public Hearing at a future date. As well, it is recommended that a copy of this report be sent to the Fraser Health Authority, Licencing Office and the YMCA Child Care Resource and Referral Services and to the Sustainable City Advisory Committee for information.

  
Lou Pelletier, Director  
PLANNING AND BUILDING

KL/MM/sla  
**Attachments**

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|-----------------------------|--|
| cc: City Manager            | Director Parks, Recreation and Cultural Services |
| Director Corporate Services | Director Engineering                             |
| Fire Chief                  | Chief Building Inspector                         |
| Chief Licence Inspector     | City Solicitor                                   |
| City Clerk                  |  |

# Appendix 1: Existing Child Care Sites in the City of Burnaby



Appendix 2: Proposed Commercial Districts Where Child Care Facilities To Be Permitted As An Outright Use

