

PLANNING AND DEVELOPMENT COMMITTEE

*HIS WORSHIP, THE MAYOR
AND COUNCILLORS*

**SUBJECT: PROPOSED ZONING BYLAW TEXT AMENDMENTS
-2019 SEPTEMBER**

RECOMMENDATIONS:

1. 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 on 2019 October 29.
2. THAT a copy of this report be sent to the Fraser Health Authority, Licencing Office, 4946 Canada Way, Burnaby, BC V5G 4H7, and the Burnaby New Westminster YMCA Child Care Resource and Referral, 4460 Beresford Street, Burnaby, BC V5H 2Y8.
3. THAT a copy of this report be sent to the Environment and Social Planning Committee for their information.

REPORT

The Planning and Development Committee, at its meeting held on 2019 September 17, received and adopted the attached report seeking authorization for Zoning Bylaw text amendments.

The report presents four Zoning Bylaw amendments regarding: 1) outdoor play areas in child care establishments; 2) child care facilities in P2 Administration and Assembly, P3 Park and Public Use, and P6 Regional Institutional Districts; 3) prohibition of certain uses on properties containing home-based child care facilities; and 4) lot area requirements for child care facilities in the P1 Neighbourhood Institutional, and P5 Community Institutional Districts.

Respectfully submitted,

Copied to: City Manager Director Planning & Building Director Corporate Services Director Parks, Recreation and Cultural Services Fire Chief Chief Licence Inspector Chief Building Inspector City Solicitor

Councillor P. Calendino
Chair

Councillor S. Dhaliwal
Vice Chair

TO: CHAIR AND MEMBERS
PLANNING AND DEVELOPMENT COMMITTEE

DATE: 2019
September 11

FROM: DIRECTOR PLANNING AND BUILDING

FILE: 42000 20
Reference: Text Amendment

SUBJECT: PROPOSED ZONING BYLAW TEXT AMENDMENTS – 2019 SEPTEMBER

PURPOSE: To propose a number of text amendments to the Burnaby Zoning Bylaw.

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 on 2019 October 29.
2. **THAT** a copy of this report be sent to the Fraser Health Authority, Licencing Office, 4946 Canada Way, Burnaby, BC V5G 4H7, and the Burnaby New Westminster YMCA Child Care Resource and Referral, 4460 Beresford Street, Burnaby, BC V5H 2Y8.
3. **THAT** a copy of this report be sent to the Environment and Social Planning Committee for their information.

REPORT**1.0 BACKGROUND INFORMATION**

As part of the ongoing review of the Burnaby Zoning Bylaw, which usually takes place in the context of development enquiries and discussions regarding the intent of the bylaw and the general need to update the bylaw, text amendments are brought forward from time to time. These text amendment reports are submitted in order to provide clarification and improvements to the wording of the bylaw, and to respond to changes in related legislation and changes in forms of development, land uses and social trends.

This report presents four Zoning Bylaw amendments regarding: 1) outdoor play areas in child care establishments; 2) child care facilities in the P2 Administration and Assembly, P3 Park and Public Use, and P6 Regional Institutional Districts; 3) prohibition of certain uses on properties containing home-based child care facilities; and 4) lot area requirement for child care facilities in the P1 Neighbourhood Institutional, and P5 Community Institutional Districts.

2.0 POLICY

The advancement of the proposed Zoning Bylaw amendment aligns with the following goals and sub-goals of the Corporate Strategic Plan:

- **A Connected Community**
 - Partnership – Work collaboratively with businesses, educational institutions, associations, other communities and governments.
- **An Inclusive Community**
 - Serve a diverse community – Ensure City services fully meet the needs of our dynamic community.
- **A Healthy Community**
 - Healthy Life – Encourage opportunities for healthy living and well being
 - Healthy Environment – Enhance our environmental health, resilience and sustainability.
- **A Dynamic Community**
 - Economic opportunity – Foster an environment that attracts new and supports existing jobs, businesses and industries.
 - City facilities and infrastructure – Build and maintain infrastructure that meets the needs of our growing community.
- **A Thriving Organization**
 - Organizational culture – Ensure that our core values are reflected in our policies, programs and service delivery.

3.0 PROPOSED BYLAW TEXT AMENDMENTS

3.1 Outdoor Play Areas in Child Care Establishments

Background

On 2019 June 25, the Planning and Development Committee (PDC) received a text amendment report proposing to restrict the location of the outdoor play areas in front and side yards. This proposal was to maintain consistent streetscapes, protect neighbouring properties' privacy, and create suitable and safe outdoor play areas, in line with the general Zoning Bylaw's requirement, which limits location of any building, structure or use in front or flanking side yards.

Following the initial review, the PDC requested staff to conduct a further review to ensure that the proposed requirement will not negatively impact the feasibility of establishing child care facilities in Burnaby.

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Issue

There is a desire to regulate the location of outdoor play areas to ensure children's safety, maintain a uniform streetscape along major streets, and to protect neighbouring properties' privacy.

Discussion

All child care and home-based child care facilities are regulated by the *Community Care and Assisted Living Act* and the accompanying *Child Care Licensing Regulation* (CCLR), which are administered by the Fraser Health Authority. The Fraser Health Community Care Facilities Licensing Program uses a provincial tool to conduct the risk assessments of facilities, including the physical facility, equipment, furnishings and outdoor play areas. The Fraser Health assessment and continuous monitoring of the facilities are to ensure children's health and safety.

While the *CCLR* regulates the outdoor play area specifications, the Zoning Bylaw may control its location on the lot in relation to the neighbouring properties and abutting streets. The Zoning Bylaw generally does not allow location of any building/structure or uses, including parking and storage areas, in the required front yards or flanking side yards. The intent of the Bylaw is to maintain a consistent buffer along the street, and to improve streetscape. However, in defining the location of outdoor play areas, health and safety of children (e.g. limiting their exposure to fumes and noise) and the quality of the outdoor play areas should be considered in addition to maintaining an improved streetscape.

According to the Zoning Bylaw, child care is permitted as home-based child care facilities in the R Residential, RM Multiple Family Residential, A Agricultural, and P11 S.F.U Neighbourhood Districts, and as child care facilities in a number of RM (RM1 - RM5), and C (C1 - C4, C8, and C9) Districts as well as in the P1 Neighbourhood Institutional, P5 Community Institutional, and P11 Districts. The *CCLR* requires a minimum of 6.0 m² (64.58 sq. ft.) per child for outdoor play areas, with the exception of Family Child Care¹, Occasional Child Care or Child-minding programs. According to the Regulation, the entire outdoor play area must be enclosed in a manner that is safe and suitable for the age and development of children.

Considering the suitability of the required setbacks for outdoor play areas in the Districts where child care is permitted, and the enclosure requirements, the following provides recommendations regarding the location of outdoor play areas in home-based child care and child care facilities. It should be noted that the focus of this review is on straight-zoned properties containing child care facilities, as the Zoning Bylaw provides flexibility for relaxation of these requirements under the CD Comprehensive Development District in circumstances where these requirements cannot be met.

¹ According to the *Child Care Licensing Regulation*, a Family Child Care is a program in which the licensee personally provides care within the licensee's personal residence, to no more than seven children.

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Child Care Facilities in Commercial Districts

According to the Zoning Bylaw, child care facilities are permitted in the C1 Neighbourhood Commercial, C2 Community Commercial, C3 General Commercial, C4 Service Commercial, C8 Urban Village Commercial (Hastings), and C9 Urban Village Commercial Districts. The required setbacks in the subject Districts are a minimum of 2.0 m (6.5 ft.) for the front yard, ranging between 0.0 to 3.0 m (9.84 ft.) for the side yard in the case of a corner lot, and zero for the side yard in the case of an interior lot.

A detailed review of the existing straight-zoned commercial properties indicates that most of these properties are located along Hastings Street, Kingsway and Lougheed Highway which are primary arterial roads, Edmonds Street and Sixth Street which are primary major collectors, and Canada Way which is a secondary arterial. These properties are either stand-alone commercial buildings, or multi-unit commercial complexes. Within these properties, the areas that are not occupied by buildings/structures are mostly utilized for parking, with the front setbacks being used for landscaping or driveway, or combination thereof.

This review indicates that 61% of the straight-zoned commercial properties have front setbacks of less than 3.0 m (9.8 ft.), and 54% have front setbacks of less than 1.0 m (3.2 ft.). These properties have limited potential to utilize the front yard as outdoor play area as they would not be able to provide adequate outdoor space, given the 6.0 m² (64.58 sq. ft.) minimum outdoor play area requirement.

The review also shows that 26% of these properties have front setbacks of more than 5.0 m (16.4 ft.). However, only 10% (approximately 54 properties) have the potential to accommodate outdoor play areas in the front yard, as the front yards are not used for parking, driveway access or maneuvering. It should be noted that the possibility of establishing child care facilities on these properties has not been determined as that would be subject to meeting other requirements of the Zoning Bylaw and the Fraser Health Authority, including but not limited to, a suitable and safe outdoor play area and parking.

The review of the straight-zoned commercial properties is indicative of the significant challenges in establishing child care facilities on these properties. For most stand-alone commercial properties, due to lot area, the existing outdoor areas are not adequate to satisfy both the outdoor play area and the parking requirements. Similarly, in the multi-unit commercial properties, despite the larger size of the lots, the existing outdoor areas are mostly utilized for parking, loading, maneuvering aisles, and garbage and recycling, which leaves limited, and in most cases no space to accommodate a safe and suitable outdoor play area.

To facilitate the establishment of commercial uses on Hastings Street (if it is located within 1 km of a City-owned and operated parking facility), and in the Metrotown, Edmonds, Lougheed, and Brentwood Town Centres, the Zoning Bylaw alternatively allows the business owner to pay cash-in-lieu for required parking spaces that are not provided on site. This option makes it feasible to establish child care facilities on the straight-zoned commercial properties on Hastings Street, and part of Edmonds Street, Kingsway and Lougheed Highway, by allowing conversion

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of a portion or all of the parking areas to outdoor play areas. Notwithstanding, given the demand for patron vehicle access to child care facilities, it is considered unlikely that child care facilities would be proposed with no on-site parking.

Considering the above mentioned challenges, and the need to create safe and suitable outdoor play areas, it is recommended that outdoor play areas not be permitted in required front or flanking side yards. This recommendation is based on the following reasons:

- Given the 6.0 m² (64.58 sq. ft.) minimum outdoor play area requirement per child, utilizing the 2.0 m (6.5 ft.) front yard, or a 3.0 m (9.84 ft.)(2.0 m [6.56 ft.] in the C8 and C9 Districts) flanking side yard does not noticeably increase the total area suitable for outdoor play area. Therefore, restricting the outdoor play areas in required front or side yards does not reduce the potential for establishing child care facilities on straight-zoned commercial properties.
- Proximity of the straight-zoned commercial properties to the primary arterial and major collectors negatively impacts quality of the outdoor play areas by exposing children to fumes and noise.
- Given the enclosure requirement of the outdoor play areas, construction of fences/walls around these areas could create an inconsistent and unpleasant streetscape along commercial main streets including Hastings Street, Kingsway, Lougheed Highway, Edmonds Street, Sixth Street, and Canada Way, if the outdoor play area is located within the front yard. Alternatively, if the outdoor play areas and the required enclosures are located beyond the front or the flanking side yards, the facilities' operators will be encouraged to landscape the yards in a manner that improves the aesthetic of the fence/wall from the street, or even from the outdoor play area, and also reduce the noise impact.

According to the Zoning Bylaw, in the Commercial Districts (C1 through C4), no side yard shall be provided with the exception of the properties abutting a lot in an A, R or RM Districts, where the side yard shall not exceed 3.0 m (9.84 ft.). The intent of the Bylaw is to reduce the noise impact, and to protect privacy of the neighbouring residential properties. Accordingly, given the inadequacy of the area of the side yard to accommodate outdoor play areas, and to limit privacy and noise impacts on neighbouring properties, it is recommended that outdoor play areas be located outside of the required side yard.

Child Care Facilities in Multiple-Family Residential Districts

Child care facilities are permitted in the RM1 through RM5 Districts, with the required front and side yard setbacks of 4.57 m (15 ft.). Most of the existing straight-zoned multiple-family residential properties contain older rental buildings with various building configurations and siting within the property, and relatively larger open areas.

A review of potential sites indicates that on most properties, the outdoor play areas can be accommodated outside of the required front and side yards. However, it is not clear if prohibition of the outdoor play area in the front or side yards would negatively impact the feasibility of

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establishing child care facilities on any straight-zoned multiple-family residential property. That said, many multi-family zoned sites are zoned CD Comprehensive Development District and would not permit child care facilities without a further rezoning.

It should be noted that due to a preference to locate outdoor play areas in the rear yards for privacy and safety purposes, location of the outdoor play areas in the front or side yards flanking a street is expected to be limited to those properties without a suitable open area beyond the required setbacks.

Considering the relatively larger front and side yards in the RM Districts, low demand to locate the outdoor play areas in the front and flanking side yards, and adjacency of the majority of these properties to local streets (less exposure to noise and fumes), it is recommended that the child care facilities' outdoor play areas be permitted anywhere on the property. This recommendation is to ensure all straight-zoned multiple-family residential properties can accommodate outdoor play areas as a requirement of establishing child care facilities.

Child Care Facilities in Institutional Districts

Child care facilities are permitted in the P1, P5, and P11 Districts. These properties, some of which contain child care facilities, observe a relatively large setback of 7.5 m (24.61) at the front (9.0 m [29.53 ft.] where it is abutting a lot in an R1 District), and 4.5 m (14.76 ft.) on the side, with the exception of the P11 District which has a larger side setback requirements of 7.5 m (24.61 ft.).

The review of the existing child care facilities in the P1 and P5 Districts indicates that these facilities are currently operating as a principal use, or accessory to places of public worship (e.g. churches) or schools. The outdoor play areas for a number of these facilities, particularly those that operate at the neighbourhood level (due to the smaller lot area), or those that are accessory to a church or school, are currently located within the front or side yards. Therefore, prohibition of outdoor play areas in the front or side yards would create a non-conforming situation regarding the siting of the outdoor play areas.

Considering the relatively larger front and side yards in the P1 and P5 Districts, adjacency of the majority of these properties to local streets, and location of a number of existing outdoor play areas within the front and side yards, it is recommended that the child care facilities' outdoor play areas be permitted anywhere on such properties. This recommendation is to ensure that all straight-zoned properties in the P1, P5 and P11 Districts can accommodate outdoor play areas as a requirement of establishing child care facilities.

Home-based Child Care Facilities

According to the Zoning Bylaw, a home-based child care facility is a community care facility for child care, located in the personal residence of the facility operator, and is permitted in the R, RM, A and P11 Districts. Subject to the CCLR, child care that is personally provided by a licensee within their personal residence can be in the form of a Family Child Care (up to a

maximum of seven children), or an In-Home Multi-Age Child Care (up to a maximum of eight children of various ages).

Similar to child care facilities, outdoor play areas for home-based child care facilities are required to be sized 6.0 m² (64.58 sq. ft.) per child, with the exception of Family Child Cares which are only required to provide suitable and safely-constructed indoor and outdoor play areas.

In general, most single- and two-family residential properties are known for their relatively larger front yards which provide adequate separation between buildings and the street and create streetscapes that complement residential neighbourhoods. In addition, larger side yards to protect residents' privacy and limited lot coverage to provide outdoor areas are part of the residential neighbourhoods' character. The review of single- and two-family residential properties indicates that on average, 26% of the lot area beyond the front and side yards is not occupied by any buildings/structures². This area, which is mostly located at the rear of the lot, provides a safe and suitable outdoor play area, and has been utilized for this purpose in the existing facilities.

Accordingly, the availability of open spaces in the rear yard and the suitability of these spaces for outdoor play areas (from safety and privacy perspectives), and the limited number of children in care in home-based child care facilities which have smaller outdoor play areas, eliminates the need to utilize the front or side yards as outdoor play area.

Given the relatively larger front yards, low demand to locate outdoor play areas in the front or side yards, adjacency of most residential properties to local streets (less exposure to noise and fumes), it is recommended that the home-based child care facilities' outdoor play areas be permitted anywhere on the property. This recommendation is to ensure that all residential properties, including irregular lots and lots with siting restrictions can accommodate outdoor play areas as a requirement of establishing child care facilities.

Other Related Amendments

Section 6.14(5)(a) of the Zoning Bylaw requires that fences or walls located within the front yard shall not be greater than 1.07 m (3.51 ft.) in height. Should Council adopt the proposed bylaw to allow location of outdoor play areas within the front yards in the R, RM, A, and P Districts, fences or walls enclosing outdoor play areas will need to be exempted from this section of the Bylaw. Staff will bring forward for Council's consideration guidelines which will define the required fence height enclosing the outdoor play areas in future. In the interim, the required fence height will continue to be subject to the CCLR requirement that the entire outdoor play area be enclosed in a manner that is suitable for the age and development of the children using it.

The Zoning Bylaw requires that in Commercial Districts, all businesses and undertakings shall be conducted within an enclosed building, with the exception of uses that should be located in the open, such as parking and loading areas. Therefore, it is recommended that outdoor play

² It should be noted that this review does not include irregular-shaped lots and lots with siting restrictions.

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areas be exempted from the enclosure requirement of the Bylaw in the Districts where child care facilities are permitted.

In addition, Section 6.15(1)(c) of the Zoning Bylaw requires that in all zoning districts where the side line of a lot abuts a lot in an A, R, or RM Districts, or is separated by a street or lane therefrom, all those portions of a required side yard not used for permitted parking shall be fully landscaped. Should Council adopt the proposed bylaw, outdoor play areas will be permitted within side yards in the R, RM, and P Districts, where child care establishments are permitted. Considering that design of outdoor play areas is under the authority of Fraser Health, and may not necessarily include landscape features, it is recommended that the outdoor play areas be exempted from this section of the Bylaw.

Recommended Bylaw Amendments

1. **THAT** the definition of “Outdoor Play Area” be added to Section 3 (Definition) of the Zoning Bylaw with wording the same or similar to the following:

“OUTDOOR PLAY AREA” means an outdoor open area designated for physical activity of children in a child care facility or a home-based child care facility, in accordance with the Community Care and Assisted Living Act and the Child Care Licensing Regulation, as amended or replaced from time to time.

2. **THAT** Section 6.2 of the Zoning Bylaw be amended by adding the bolded text in the heading as follows:

6.2 Location and Siting of Buildings and Uses:

3. **THAT** Section 6.2(4) be added to the Zoning Bylaw with wording the same or similar to the following:

(4) No outdoor play area shall be located in any required front or side yard in the C1, C2, C3, C4, C8, and C9 Districts.

4. **THAT** Section 6.14(5)(a) be repealed and replaced with wording the same or similar to the following:

(a) In all zoning districts, except for screening required under this Bylaw, and fences enclosing an outdoor play area, fences not greater than 1.07 m (3.51 ft.) in height may be located anywhere on a lot.

5. **THAT** Section 6.15(1)(c) of the Zoning Bylaw be amended by adding the bolded text as follows:

(c) In all zoning districts where the side line of a lot abuts a lot in an A, R or RM District, or is separated by a street or lane therefrom, all those portions of a required side yard

not used for permitted parking or outdoor play area, shall be fully and suitably landscaped and properly maintained.

6. **THAT** Sections 301.2(1)(f), 302.2(1)(g), 303.2(1)(g), 304.2(1)(g) be added to the Zoning Bylaw with wording the same or similar to the following:

outdoor play areas.

7. **THAT** Section 308.3(1) of the Zoning Bylaw be amended by adding the bolded text as follows:

*(1) Every business or undertaking shall be conducted within a completely enclosed building except for parking and loading facilities, produce and garden displays, outdoor restaurant seating, **outdoor play areas**, and mobile retail carts.*

8. **THAT** Section 309.3(1) of the Zoning Bylaw be amended by adding the bolded text as follows:

*(1) Every business or undertaking shall be conducted within a completely enclosed building except for parking and loading facilities, produce and garden displays, **outdoor play areas**, and outdoor restaurant seating.*

3.2 Child care facilities in the P2 Administration and Assembly, P3 Park and Public Use, and P6 Regional Institutional Districts

Issue

There is a need to facilitate the establishment of child care facilities as a principal use in the P2, P3, and P6 Districts.

Discussion

The availability of quality child care meets an important community need and contributes to the social and economic well-being of Burnaby. According to the vision statement of Burnaby's Child Care Policy, the City is committed to work towards improving 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, the Burnaby Zoning Bylaw, community plans, and other City regulations.

Child care facilities are currently permitted in a number of RM and C districts, in addition to the P1, P5 and P11 Districts. Allowing child care facilities in additional P Districts can increase the potential to provide child care spaces in Burnaby. The P Districts which provide for the accommodation of cultural, recreational and institutional uses, such as schools and community centres, should also accommodate child care facilities as a supportive service. In doing so, child

care facilities can operate in conjunction with the institutional/educational uses, and both uses would benefit from this collaboration.

In 2014, the City of Burnaby and the Burnaby School District signed a Child Care Facilities Memorandum of Agreement to provide up to 12 child care centres on school sites throughout the City. In addition, on 2019 April 29, Council adopted a motion to authorize staff to explore the desirability and feasibility of including child care facilities in the building program for future community centres.

Many school sites and community centres are zoned P2 Administrative and Assembly, or P3 Park and Public Use Districts, which currently do not permit child care facilities as a principal use. Currently, in the absence of the Zoning Bylaw provisions to allow child care facilities as an outright permitted use in the P2 and P3 Districts, these facilities are permitted as an accessory use, or through a rezoning process. In order to facilitate the establishment of child care facilities as a principal use without rezoning, it is recommended that child care facilities be permitted as an outright permitted use in the P2 and P3 Districts.

A majority of the P3-zoned properties are owned by the City and are provided for public uses such as cultural and recreational facilities, public parks, public libraries, and public playgrounds. To ensure these properties will continue to be used for public purposes following construction of child care facilities, it is recommended that the child care facilities located on P3-zoned properties which are owned, leased or controlled by the City, be operated by, or on behalf of the City.

The P6 Regional Institutional District provides for the accommodation of large scale public institutional uses at a municipal, metropolitan or regional level. These uses which include major educational institutions such as colleges, universities, and technical schools, create a demand for easily accessible child care facilities. Therefore, it is recommended that child care facilities be permitted as an outright permitted use in the P6 District to facilitate the establishment of these facilities as a principal use.

Recommended Bylaw Amendments

9. **THAT** Sections 502.1(19), 503.1(12), and 506.1(9) be added to the Zoning Bylaw with wording the same or similar to the following:

Child care facilities.

10. **THAT** Sections 503.2(3) be added to the Zoning Bylaw with wording the same or similar to the following:

(3) *A child care facility shall be operated by the City, or on behalf of the City, where it is located on lands that are owned, leased or controlled by the City.*

3.3 Prohibition of certain uses on properties containing home-based child care facilities

Issue

The Zoning Bylaw does not limit the number of principal and accessory uses which can occur on a property. The co-location of multiple accessory home occupations with on-site client services, or uses which provide housing or care services to the clients in a dwelling may intensify the use of residential properties and trigger parking and traffic concerns.

Discussion

The Zoning Bylaw defines home occupation as an occupation or profession that is incidental to the residential use of a lot occupied by a dwelling. The home occupation may include an office or studio, the keeping of two boarders or lodgers, and home-based child care facilities. The Bylaw does not limit the number of home occupations on a property provided that no person who is not a resident in the dwelling shall be employed in such occupation, with the exception of one non-resident employee in home-based child care facilities.

Among the various home occupations, some are associated with “on-site client services” which requires the presence of clients in the dwelling to receive services, such as home-based child care facilities and the keeping of boarders and lodgers. Given that a combination of a number of home occupations with on-site client services could intensify the use of residential properties and create traffic and parking issues, it is recommended that home occupations with on-site client services be prohibited on a property containing a home-based child care facility.

Similarly, it is recommended that other outright permitted uses that provide housing for the clients for overnight accommodation, or medical or assisted living care, be prohibited in a dwelling containing home-based child care facilities. These uses include boarding, lodging and rooming houses; group homes; private hospitals; and supportive housing facilities.

This recommendation is consistent with the intent of the Zoning Bylaw, which restricts the keeping of boarders or lodgers, the operation of home-based child care facilities, group homes, and similar uses where a single family dwelling contains a secondary suite. The purpose of the Bylaw is to protect the residential character of the neighbourhoods, and to eliminate potential parking and traffic concerns as a result of non-residential use of the property.

Recommended Bylaw Amendments

11. THAT Section 6.8A(4) be added to the Zoning Bylaw with wording the same or similar to the following:

- (4) In a dwelling that contains a home-based child care facility, the following uses shall not be permitted:*
 - (a) keeping of boarders or lodgers;*

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- (b) a boarding, lodging and rooming house;
- (c) a group home;
- (d) a private hospital;
- (e) a supportive housing facility; and,
- (f) any home occupation that includes on-site client services.

3.4 Lot area requirement for child care facilities in the P1 Neighbourhood Institutional, and P5 Community Institutional Districts.

Issue

There is a need to remove the Zoning Bylaw provisions which require an additional lot area for child care facilities exceeding 20 children in the P1 and P5 Districts, in order to facilitate the establishment of these facilities.

Discussion

Child care facilities are permitted in the P1 and P5 Districts subject to a minimum lot area of 890.0 m² (9,580.19 sq. ft.), and an additional lot area of 19.0 m² (204.52 sq. ft.) per child for facilities exceeding 20 children in care. The requirement for additional lot area which was originally introduced to the Bylaw in 1965 for “kindergarten³” uses was to ensure sufficient indoor and outdoor areas are provided in facilities with higher numbers of children in care. It should be noted that the provision of additional lot area is not required for child care facilities permitted in any other district, such as the RM and C Districts.

According to the *CCLR*, child care facilities’ licensees must provide a minimum of 3.7 m² (39.83 sq. ft.) of usable indoor floor area per child, not including the areas provided for hallways, storage, bathrooms, and appliances. In addition, a minimum of 6.0 m² (64.58 sq. ft.) per child must be provided for outdoor play area in child care facilities. However, the provided outdoor play areas are permitted to be less than what is required, given the potential aggregate use of these areas. Accordingly, the additional 19.0 m² (204.52 sq. ft.) lot area requirement of the Zoning Bylaw seems to be excessive compared to the *CCLR* requirements, and this can negatively impact the possibility of establishing or expanding child care facilities, given the size of the lot.

Considering that the *CCLR* regulates child care facilities’ minimum required indoor and outdoor areas, it is recommended that the additional lot area requirement for child care facilities exceeding 20 children in care be removed, in order to eliminate the lot area barrier for the establishment or expansion of child care facilities, and to be consistent with child care facilities’ requirements in other districts.

³ In 1996, a Zoning Bylaw amendment was adopted to replace the term “kindergarten” with “child care facility”.

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Recommended Bylaw Amendments

12. THAT Section 501.4 of the Zoning Bylaw be amended with wording the same or similar to the following:

Each lot shall have an area of not less than 890 m² (9,579.9 sq. ft.) and a width of not less than 24.5 m (80.38 ft.).

13. THAT Section 505.4(1)(b) of the Zoning Bylaw be repealed.

4.0 CONCLUSION

The above Zoning Bylaw text amendments are proposed in order to clarify certain aspects of the Bylaw, make amendments in support of existing practices and Council policies, and achieve other regulatory changes. It is recommended that Council approve the above proposed text amendments, as outlined in Section 3.0 of this report, for advancement to a Public Hearing on 2019 October 29.



E. W. Kozak, Director
PLANNING AND BUILDING

PS:sa

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