



# Corporate Report

NO: L004

COUNCIL DATE: May 18, 2005

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## REGULAR COUNCIL - LAND USE

TO: Mayor & Council                      DATE: May 11, 2005  
FROM: General Manager, Planning and Development      FILE: 7903-0188-00  
SUBJECT: Additional Conditions for Proposed Rezoning to Child Care Zone (CCR)  
10672 - 164A Street – Application No. 7903-0188-00  
Owners: Kerry Jocelyn and Lee Jocelyn

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## RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information;
2. Instruct the applicant to submit to the City, in registrable form, an executed Restrictive Covenant, for registration by the City immediately subsequent to the adoption of Zoning By-law No. 15314, that contains the following restrictions:
  - a. The operation of the child care facility on the lot is to be restricted to:
    - i. before and after school care to a maximum of 20 children in care for the months from September to June inclusive; and
    - ii. family child care to a maximum of 7 children in care for the months of July and August of each year;
  - b. The hours of operation for the before and after school care use are to be restricted to the hours:
    - i. between 7:00 a.m. and 9:00 a.m. and between 2:30 p.m. and 6:00 p.m. on regularly scheduled school days except for the care of children in kindergarten;
    - ii. for children in kindergarten, between 7:00 a.m. and 6:00 p.m. on regularly scheduled school days; and
    - iii. between 7:00 a.m. and 6:00 p.m. for all school children on non statutory holidays that would normally be school days, but when school children are not required to attend school, such as "professional development" days; and
  - c. The hours of operation for the family child care use is to be restricted to weekdays only and on those days to between the hours of 7:00 a.m. and 6:00 p.m.; and
3. Instruct the City Clerk to forward a copy of this report, together with a copy of the related Council resolution, to Kerry and Lee Jocelyn and the Fraser Health Authority.

## INTENT

The purpose of this report is to respond to Council's directive to:

1. Determine conditions that could be applied to achieve parking restrictions in the cul-de-sac for pick-up and drop-off for the proposed child care facility; and
2. Report on the applicant's willingness to limit the hours of operation to before and after school care, from September to June, by way of a Restrictive Covenant.

## BACKGROUND

At the Regular Council - Public Hearing meeting on December 13, 2004, a Public Hearing was held with respect to

Rezoning By-law No. 15314 that, if adopted, would rezone the site at 10672 – 164A Street (see map attached as Appendix I) from "Single Family Residential Zone (RF)" to "Child Care Zone (CCR)" to permit the operation of a child care facility within a single-family dwelling. After considering the comments expressed at the Public Hearing, Council gave Third Reading to the rezoning by-law.

At the Regular Council meeting on January 17, 2005, under "Any Other Business" Council adopted the following resolution:

"That Council direct staff to report on conditions that could be applied to achieve parking restrictions for pick-up, drop-off in the cul-de-sac through business license process, as well as a restrictive covenant to limit the hours of operation to before and after school from September to June".

## DISCUSSION

### Parking Restrictions in the 167A Street Cul-de-Sac

In accordance with the Surrey Zoning By-law, 1993, No. 12000, the proposed childcare facility requires two parking spaces for employees and two parking spaces for drop-off, plus two spaces for the existing residence, for a total of six parking spaces. This parking requirement is satisfied by the two parking spaces within the two-car garage (for the residents) and the four parking spaces located in front of the garage on the driveway.

Traffic congestion on the subject cul-de-sac has been a concern expressed by some of the neighbouring property owners. This appears to relate, in some respects, to the dropping off of school children in the cul-de-sac, who then use a walkway from the cul-de-sac to the school grounds to access the Fraser Wood Elementary School. The applicant has indicated that she is amenable to impose, through her contract with her clients, a requirement for her clients to use the adjoining school site parking lot for access to the childcare facility rather than the fronting cul-de-sac. In a letter dated January 16, 2004 from the Surrey School District, a tentative contract has been reached with the applicant, which must be renewed annually, to permit parking for loading and unloading purposes for the child care use at the south parking lot of the Fraser Wood Elementary School, subject to specific conditions.

In accordance with Council's direction of January 17, 2005, staff investigated the possibility of imposing parking restrictions on the cul-de-sac for the proposed childcare facility through the business license process, such that the cul-de-sac could not be used by the patrons of the childcare centre for pick-up and/or drop-off. This is not feasible, since child care centres do not need a business license under the current Surrey Business License By-law.

The operator of a regulated child care facility must obtain a license, pursuant to the *Community Care Facility Act* (the "Act") and the Child Care Licensing Regulations, through the Fraser Health Authority. Fraser Health Authority staff can only impose restrictions/conditions in their licensing process for matters that are covered by their legislation. They have advised that parking regulations cannot be restricted through the Fraser Health Authority licensing process.

From a practical point of view, prohibiting the use of the cul-de-sac for vehicles, related to the child care facility, is problematic. Restricting vehicular use of a cul-de-sac for the residential uses only is unprecedented in the City. Pursuing such a restriction will be difficult to enforce as there will be cases, such as when a parent needs to pick up a sick child from the child care facility, that using the cul-de-sac rather than walking through the adjoining school grounds is reasonable.

Staff considered means other than business license restrictions to satisfy Council's directive. Engineering Department staff was consulted with regard to using signage to remind users of the child care facility that vehicular access to the child care facility is not permitted from the cul-de-sac. Given that there are seven homes on the subject cul de sac, each with driveway access from the cul-de-sac (see Appendix II), there is no curb-side space within the cul-de-sac for vehicles to park (i.e. the driveways consume most of the road edge). Since there is no potential for parking or stopping without blocking driveway access to other homes, signage is considered redundant and not recommended.

Legal Services staff were also consulted and advised that there is no effective legal mechanism to prohibit driving, parking or loading and unloading on the 164A Street cul de-sac. Registering a Restrictive Covenant was considered by Legal Services and is not recommended, since the potential costs of enforcement would greatly exceed the damages, if any, the City would claim for breach of contract if the operator of the child care facility does not enforce the agreement with her clients to not use the cul-de-sac. It would also create expectations on the City that would be difficult for the City to fulfil.

## **Restriction on the Child Care Use from September through June**

The applicant currently operates a family child care facility for seven children on the subject site. This use is permitted in accordance with the *Act* and the Child Care Regulations for lots that permit a single-family residence. The *Act* permits up to a maximum of eight children, but due to the applicant's credentials she is permitted a maximum of seven children. The applicant has requested rezoning to the CCR Zone to provide before and after school care for up to 20 children. Initially the rezoning request was to provide before and after school care for up to 25 children, as permitted in the CCR Zone; however, the applicant has agreed to reduce the maximum number to 20 children. Council has set a condition that, prior to final adoption of the Rezoning By-law, a Restrictive Covenant be registered on the title to the lot to restrict the maximum number of children in care to 20.

Planning staff contacted the applicant, Kerry Jocelyn, to determine if she intended to operate throughout July and August while school is not in session. Mrs. Jocelyn has confirmed that it is her intention to continue to operate throughout the summer months. However, she is willing to restrict her before and after school care to September through June of each year and would amend her license to allow her to operate as family child care for July and August of each year, with a maximum of seven children in care during these months. Amendments to her license would need to be carried out twice-annually, once for July and August and again for September through June, to change the licensed type of care. Staff contacted the Fraser Health Authority and confirmed these modifications to the license can be accommodated.

During the summer months, Mrs. Jocelyn indicated the children in care would be dropped off on the driveway at the front of her home, rather than at the south parking lot of the Fraser Wood Elementary School. The *Act* allows a licensed family care facility in any zone that allows a single-family dwelling and permits the care of up to eight children, as mentioned previously in this report.

With respect to the daily hours of operation, Mrs. Jocelyn has advised that on school days, the before and after care facility operates from 7:00 a.m. to 9:00 a.m. and from 2:30 p.m. to 6:00 p.m. She further advised that on non-statutory holidays that would normally be school days, but when school children are not required to attend school, such as "professional development" days, the before and after care operates for the full day from 7:00 a.m. to 6:00 p.m. The before and after care does not operate on weekends or statutory holidays.

With respect to the family child care that would operate during July and August of each year, this type of care would operate on weekdays only from 7:00 a.m. to 6:00 p.m.

## **CONCLUSION**

Based on the above, it is recommended that Council instruct the applicant to submit to the City, in registrable form, an executed Restrictive Covenant, for registration by the City, immediately subsequent to the adoption of Zoning By-law No. 15314, that contains the following restrictions:

- a. The operation of the child care facility on the lot is to be restricted to:
  - i. before and after school care to a maximum of 20 children in care for the months from September to June inclusive; and
  - ii. family child care to a maximum of 7 children in care for the months of July and August of each year;
- b. The hours of operation for the before and after school care use are to be restricted to the hours:
  - i. between 7:00 a.m. and 9:00 a.m. and between 2:30 p.m. and 6:00 p.m. on regularly scheduled school days except for the care of children in kindergarten;
  - ii. for children in kindergarten, between 7:00 a.m. and 6:00 p.m. on regularly scheduled school days; and
  - iii. between 7:00 a.m. and 6:00 p.m. for all school children on non-statutory holidays that would normally be school days but when school children are not required to attend school, such as "professional development" days; and
- c. The hours of operation for the family child care use is to be restricted to weekdays only and on those days to between the hours of 7:00 a.m. and 6:00 p.m.

It is further recommended that a copy of this report, together with a copy of the related Council resolution, be

forwarded to Kerry and Lee Jocelyn and the Fraser Health Authority.

Murray Dinwoodie  
General Manager  
Planning and Development

JJ/kms/saw

Attachments:

Appendix I Map of Subject Site

Appendix II Driveway Locations within 164A Street Cul-de-Sac

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Appendix I

Appendix II



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