

Public Hearing

to be held at the City of Penticton, Council Chambers
171 Main Street, Penticton, B.C.

To view the live broadcast, visit www.penticton.ca

Tuesday, October 17, 2023
at 6:00 p.m.

- | | | |
|-------|--|------|
| 1. | Mayor Calls Public Hearing to Order for “Zoning Amendment Bylaw No. 2023-37” | 1-13 |
| CO | Reads Opening Statement and Introduction of Bylaw

“Zoning Amendment Bylaw No. 2023-37” (174 Jermyn Avenue)

Purpose: To amend Zoning Bylaw No. 2023-08 as follows:

Add site-specific provision within the RD1 (Duplex Housing) zone, as follows:

<ul style="list-style-type: none"> • In the case of Lot 2 District Lot 202 Similkameen Division Yale District Plan 6240 and That Portion of Closed Road in District Lot 202 Similkameen Division Yale District Adjoining Lot 2 District Lot 202 Similkameen Division Yale District Plan 6420 As Shown on Plan B7815, located at 174 and 176 Jermyn Avenue, a major day care centre shall be permitted. <p>The applicant is proposing to relocate the AreaKids Day Care from the Kings Park Sportsplex (550 Eckhardt Ave E) to the subject property. To operate the AreaKids Day Care with 25 childcare spaces a zoning amendment is required. The applicant has applied for a site-specific zoning amendment to the RD1 (Duplex Housing) zone to permit ‘major day care centre’, which allows more than 8 children in care, as a permitted use.</p>
Notice: Pursuant to the <i>Local Government Act</i> the Public Hearing was advertised on Friday, October 6, 2023 and Wednesday, October 11, 2023 in an online news source and the newspaper. | |
| CO | No letters have been received regarding the Zoning Amendment Bylaw (as of noon Wednesday, October 11, 2023). | |
| Mayor | Requests Development Services staff describe the proposed bylaw | |
| Mayor | Invitation to applicant for comment or elaboration on the application | |
| Mayor | Invitation to electronic and in person participants to present their views | |
| Mayor | Invites Council members to ask questions | |
| Mayor | Invites applicants to respond to questions | |
| | PUBLIC HEARING for “Zoning Amendment Bylaw No. 2023-37” is terminated and no new information can be received on this matter. | |

Regular Council Meeting
held at City Hall, Council Chambers
171 Main Street, Penticton, B.C.

Tuesday, October 3, 2023
at 1:00 p.m.

Resolutions

8.10 Zoning Amendment Bylaw No. 2023-37
Re: 174 Jermyn Avenue

354/2023

It was MOVED and SECONDED

THAT Council give first reading to "Zoning Amendment Bylaw No. 2023-37" for Lot 2 District Lot 202 Similkameen Division Yale District Plan 6240 and That Portion of Closed Road in District Lot 202 Similkameen Division Yale District Adjoining Lot 2 District Lot 202 Similkameen Division Yale District Plan 6420 As Shown on Plan B7815, located at 174 and 176 Jermyn Avenue, a bylaw to add the following site-specific provision to the property within the RD1 (Duplex Housing) zone:

- A major day care centre shall be permitted;

AND THAT Council forward "Zoning Amendment Bylaw No. 2023-37" to the October 17, 2023 Public Hearing.

CARRIED UNANIMOUSLY

Council Report

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Date: October 3, 2023
To: Kristen Dixon, Interim Chief Administrative Officer
From: Steven Collyer, Senior Planner
Address: 174 Jermyn Avenue

File No: RMS/174 Jermyn Ave

Subject: Zoning Amendment Bylaw No. 2023-37

Staff Recommendation

THAT Council give first reading to "Zoning Amendment Bylaw No. 2023-37" for Lot 2 District Lot 202 Similkameen Division Yale District Plan 6240 and That Portion of Closed Road in District Lot 202 Similkameen Division Yale District Adjoining Lot 2 District Lot 202 Similkameen Division Yale District Plan 6420 As Shown on Plan B7815, located at 174 and 176 Jermyn Avenue, a bylaw to add the following site-specific provision to the property within the RD1 (Duplex Housing) zone:

- A major day care centre shall be permitted;

AND THAT Council forward "Zoning Amendment Bylaw No. 2023-37" to the October 17, 2023 Public Hearing.

Strategic Priority Objective

Livable and Accessible: Proactively plan for deliberate growth; focused on an inclusive, healthy, safe and desirable place to live.

Proposal

The applicant is proposing to relocate the AreaKids Day Care from the Kings Park Sportsplex (550 Eckhardt Ave E) to the subject property consisting of two legal lots at 174 Jermyn Ave. The applicant has submitted a letter of intent which describes their proposal and operation in more detail (Attachment 'D'). No external renovations or new construction is required to facilitate the proposed day care use.

A minor day care centre for up to 8 children is permitted on the property, however to operate the AreaKids Day care with 25 spaces a Zoning Amendment Bylaw is required to add 'major day care centre' as a permitted use. A major day care centre is for more than 8 children in care. The property would keep its current RD1 (Duplex Housing) zoning, with 'major day care centre' added as a site-specific use.

Background

Site Context

The subject property is located on the south side of Jermyn Avenue, east of Main Street and adjacent to the KVR trail (Figure 1). The property is across the street from Penticton Secondary School to the north and across the KVR trail from KVR Middle School to the east. A duplex is located on the neighbouring lot to the west (170 & 172 Jermyn Ave).

The subject property currently contains a single detached dwelling which was originally constructed in 1930. The subject property consists of two separate legal lots (174 & 176 Jermyn Ave), with a small vacant triangular piece of land being the side yard for this property. The combined property area is 615m² (0.15ac).



Figure 1 - Property location map

Zoning for Day Cares

Section 3.2 of the Zoning Bylaw defines two categories of day cares:

<p>Minor Day Care Centre: Means a premise that is licensed and regulated by the <i>Community Care and Assisted Living Act: Child Care Licensing Regulation</i>, which provides care for <u>not more than eight (8) children</u>, for not more than thirteen (13) hours per day.</p>	<p>Major Day Care Centre: Means a premise that is licensed and regulated by the <i>Community Care and Assisted Living Act: Child Care Licensing Regulation</i>, which provides care for <u>more than eight (8) children</u>, for not more than thirteen (13) hours per day.</p>
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The key distinction between the two categories is that minor facilities are for no more than 8 children, while major facilities are for more than 8 children. This category change when exceeding 8 children in care comes from the provincial *Community Care and Assisted Living Act: Child Care Licensing Regulation*.

The different categories are allowed in different zones in the Zoning Bylaw. Major day care centres are permitted in the following zones:

- RD4 (Low Density Cluster Housing)
- RM2 (Low Density Multiple Housing)
- RM3 (Medium Density Multiple Housing)
- C1 (Commercial Transition)
- C2 (Neighbourhood Commercial)
- C3 (Mixed Use)
- C4 (General Commercial)
- C5 (Urban Centre Commercial)
- C6 (Urban Peripheral Commercial)
- C7 (Service Commercial)
- CT1 (Tourist Commercial)
- P1 (Public Assembly)

AreaKids Day Care

The applicant intends to relocate their day care operation (AreaKids Day Care) to the subject property. The applicant has been operating the day care in the King’s Park Sportsplex, a City-owned facility, for 5 years. The City advised the applicant that the current location of the day care within the Kings Park Sportsplex may be repurposed in the future as part of the planned renovations for the soccer clubhouse project. The applicant has therefore secured another location for the day care operation.

The AreaKids day care at the Kings Park Sportsplex had 25 day care spaces and the new location on the subject property is expected to have 25 day care spaces as well, resulting in no net loss in childcare spaces for Penticton.

Technical Review

Child Care Action Plan

The Penticton Child Care Action Plan identifies that Penticton requires at least 722 net new child care spaces by 2030. Since the plan was endorsed by City Council, there have been several new centres that have opened or started construction to add net new spaces to the community. The retention of existing spaces, such as AreaKids, is important to ensure that Penticton can meet its targets.

Building Permit and Business Licensing

A building permit would be required to ensure the washrooms, existing, and smoke alarm requirements for a day care are met. The Building Department has provided initial comments to the applicant to prepare for that building permit application. A business license will be required for the proposed day care operation on the subject property, should the requested Zoning Bylaw Amendment be adopted by Council.

Analysis

When considering a Zoning Amendment Bylaw application, staff encourage Council to consider the relevant goals, objectives, and policies in the Official Community Plan as well as the potential impacts on surrounding neighbourhoods from the proposal. In this case, no new buildings or structures are proposed, rather a new use is proposed to be allowed on the subject property, enabling a major day care centre with 25 spaces rather than the 8 spaces which are currently permitted.

The OCP contains policy support for childcare and appropriate employment opportunities in residential neighbourhoods, as outlined below:

- OCP Policy 4.1.6.1 Ensure all residential neighbourhoods in Penticton provide a range of appropriately-scaled housing types and tenures, employment opportunities such as home-based businesses, transportation options like walking and cycling, *social supports such as childcare facilities*, and access to green space and parks. (emphasis added)
- OCP Policy or 4.3.6.2 Develop and *implement* a plan, in partnership with senior governments, to attract and retain businesses and skilled workers that encompasses strategies around communication, education and training, appropriate and affordable housing and *childcare*, support for remote workers, support for new immigrants, and promotion of regional attractants such as climate and lifestyle. (emphasis added)

In addition to the policy support above, staff note the following supportive elements of this application:

- Property Location:
 - Adjacent to two schools in a central location in the city.
 - Only one residential neighbour (side-by-side duplex) to the west, and no neighbours to the east or at the rear.
 - Walking distance to the library, play fields, and the KVR trail.
- Neighbourhood Character and External Appearance:
 - The proposed day care would not significantly change the residential character of the property.
 - No external additions or renovations are proposed as part of this proposed use.
 - Some internal renovations (i.e. washroom upgrades) are required, which will not result in any external visual impact to the property.
- Day Care Function:
 - Drop-off and pick up is easily facilitated along the property's wide frontage (35m or 115 feet) on the south side, and uninterrupted frontage on the north side of Jermyn (adjacent to Penticton Secondary School).
 - Parking spaces for staff are available in the existing driveway on the subject property, leaving street-parking available for pick-ups and drop-offs.
 - The side yard on the east side of the home is well-suited for outdoor play use. Its location away from the neighbouring duplex to the west helps mitigate potential noise concerns.
 - The applicant has shared the day care will not operate late in the evenings, on weekends, or on statutory holidays (Attachment 'D'), which helps mitigate potential impacts on the surrounding area.

Provincial legislation allows home day cares with up to 8 spaces in residential areas regardless of municipal zoning. The City's Zoning Bylaw allows minor day care centres (up to 8 children) in any zone of the City. 'Major' day cares for more than 8 children may have more impacts on their neighbourhoods, and therefore are only allowed in certain zones as-of-right. Staff considered the unique characteristics of this site and its surroundings and consider the proposed major day care use suitable in this location given the reasons noted above.

Rather than rezoning to a commercial or institutional use (which have 'major day care centre' listed as a permitted use), the applicant is requesting a site specific zoning amendment to allow for the major day care use and that the existing RD1 zoning remain, as that is more reflective of other zones in the immediate area.

Given the reasons above, staff recommend that Council give "Zoning Amendment Bylaw No. 2023-37" first reading and forward the bylaw to the October 17, 2023 Public Hearing. The Public Hearing will provide the applicant and any interested persons the opportunity to speak to the proposed bylaw prior to further consideration.

Alternate Recommendations

Council may consider this proposal to add ‘major day care centre’ as a permitted use on the subject property is undesirable. In this case, Council may choose the alternate recommendation which is to deny first reading of the Zoning Amendment Bylaw. Staff are recommending against this option based on the analysis outlined in this report showing the application has merit for consideration.

- 1. THAT Council deny first reading of “Zoning Amendment Bylaw No. 2023-37.”

Attachments

- Attachment A – Zoning Map
- Attachment B – Official Community Plan Map
- Attachment C – Photos of Property
- Attachment D – Applicant’s Letter of Intent
- Attachment E – Zoning Amendment Bylaw No. 2023-37

Respectfully submitted,

Steven Collyer, RPP, MCIP
Senior Planner

Concurrence

<p>Director of Development Services</p> <p><i>BL</i></p>	<p>Interim Chief Administrative Officer</p> <p><i>KD</i></p>
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Attachment A – Zoning Map



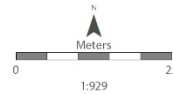
174 Jermyrn Avenue

Zoning Map



Legend

- Subject Parcel
- R2 - Small Lot Residential
- RD1 - Duplex Housing
- RM3 - Medium Density Multiple Housing
- P1 - Public Assembly
- RM2 - Low Density Multiple Housing
- P2 - Parks and Recreation



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Thursday, September 14, 2023 8:51:24 AM

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Attachment B – Official Community Plan Map



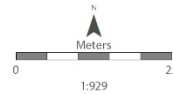
174 Jermyrn Avenue

Official Community Plan Map



Legend

- Subject Parcel
- Future Land Use
- Ground Oriented Residential
- Institutional and Civic
- Urban Residential
- Parks



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Thursday, September 14, 2023 9:01:01 AM

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Attachment C – Photos of Property





Attachment D - Applicant's Letter of Intent

August 3, 2023

Dear City Council,

My name is Danica-Ann Kennedy owner operator of AreaKids Daycare Ltd. which is currently residing at 550 Eckhardt Ave, the top floor of the Sports Plex at Kings Park, a city owned facility. January 2023, I was informed that the city would not be renewing AreaKids Daycare's lease and graciously has given the daycare until December 31, 2023, four months after the lease has expired, to find another facility to rent or purchase.

On July 15, 2023 I have entered an agreement to purchase 174 Jermyn Ave house with the intent to put AreaKids Daycare Ltd. in this house. To do so, I need this property to be rezoned from residential to commercial. Penticton is in a daycare crisis with many parents unable to find childcare and are on many waitlists hoping to find anything. This is true for AreaKids Daycare Ltd. Currently, all 25 spots are full with about 75 families on the waitlist. To lose a group Licensed daycare in this town would be devastating.

The grounds to this property does not need any work as it is fully fenced in and requires nothing in respect to Interior Health Licensing. The only work needed would be remodeling the bathroom to bring the amount of toilets and sinks to three.

This house is situated beside KVR Middle school and a neighboring house. Across the street is Pen High schools running track. There would be no too little negative impact to the neighborhood. There would be an increase in parking traffic with one to three extra cars parking between the hours of 7:30 to 5:15 with the majority of the drop off/pick up times being 7:30 to 9:00 and 4:00 to 5:15. Currently there are two staff with vehicles who would use the large driveway. With staff cars off the street, there would be 2 on property parking spots that parents can access during pick up and drop off times. The daycare is not open during weekend or statutory holidays.

The children at AreaKids Daycare Ltd. enjoy outside time twice a day, once in the morning and again in the afternoon for approximately an hour each time. The yard, which is fully fenced in and ready for use is on the KVR school side. The house and large driveway separate the neighbouring house which creates a large enough buffer for any outside children noise.

AreaKids Daycare Ltd. has been in operation for five years. The Daycare and its staff have built a positive loving environment for Penticton's children and families that foster social and emotional bonds with each other and the adults in their lives. If AreaKids Daycare Ltd. cannot continue to operated, the families that are currently enrolled will be left without childcare in a town where there are not enough daycare spots available and four people who work well together will be out of jobs. The impact on Penticton would be hugely felt. I would like to thank you for considering my rezoning application and look forward to continuing to serve this great town of Penticton.

Sincerely,



Danica-Ann Kennedy
Owner operator of AreaKids Daycare Lt.

The Corporation of the City of Penticton

Bylaw No. 2023-37

A Bylaw to Amend Zoning Bylaw 2023-08

WHEREAS the Council of the City of Penticton has adopted a Zoning Bylaw pursuant the Local Government Act;

AND WHEREAS the Council of the City of Penticton wishes to amend Zoning Bylaw No. 2023-08;

NOW THEREFORE BE IT RESOLVED that the Municipal Council of the City of Penticton, in open meeting assembled, hereby ENACTS AS FOLLOWS:

1. Title:

This bylaw may be cited for all purposes as "Zoning Amendment Bylaw No. 2023-37".

2. Amendment:

2.1 Zoning Bylaw No. 2023-08 is hereby amended as follows:

Add Section 10.4.4.2: "In the case of Lot 2 District Lot 202 Similkameen Division Yale District Plan 6240 and That Portion of Closed Road in District Lot 202 Similkameen Division Yale District Adjoining Lot 2 District Lot 202 Similkameen Division Yale District Plan 6420 As Shown on Plan B7815, located at 174 and 176 Jermyn Avenue, a major day care centre shall be permitted."

2.2 Schedule 'A' attached hereto forms part of this bylaw.

READ A FIRST time this	3	day of	October, 2023
A PUBLIC HEARING was held this		day of	, 2023
READ A SECOND time this		day of	, 2023
READ A THIRD time this		day of	, 2023
ADOPTED this		day of	, 2023

Notice of intention to proceed with this bylaw was published on the 6th day of October, 2023 and the 11th day of October, 2023 in an online news source and the newspaper, pursuant to Section 94.2 of the Community Charter.

Julius Bloomfield, Mayor

Angie Collison, Corporate Officer



Schedule A: Zoning Amendment Bylaw 2023-37

Date:

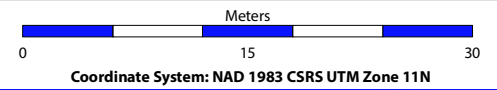
Corporate Officer:



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1:504
September 26, 2023 1:29:33 PM



**Late Submission
Public Hearing Package No. 3
Zoning Amendment Bylaw No. 2023-37
re 174 Jermyn Avenue**

138 Jermyn Avenue
Penticton, B.C.
V2A 2E1
October 16, 2023

Attention: Corporate Officer, City of Penticton
171 Main Street, Penticton, B.C. V2A 5A9

Subject: 174/176 Jermyn Avenue

Dear Mayor and Council,

I believe the City of Penticton needs to consider the following regarding the current traffic congestion and parking issues residents of Jermyn Avenue nearest Main Street have to deal with:

Traffic

- Parents drop off/pick up their children on Jermyn Avenue
- This is an issue already and any additional traffic/parking will only add to the existing congestion.

Parking

- Parking is on the residential side of Jermyn Avenue only
- In addition to the two schools is the Pen-Hi track which has access off Jermyn Avenue
- While there is a large parking lot at Pen-Hi (access via Eckhardt Avenue) students still continue to park in front of our homes
- Parents of KVR students attend special events
- Events occur at the Pen-Hi track throughout the year
- Re 174/176 Jermyn Avenue – part of the frontage on Jermyn Avenue has “Loading Zone” signage
- There are times when my driveway(138 Jermyn) has been blocked – like last week. Police/Bylaw officers have been called numerous times over the years. Signs of various types do not make a difference.

Council Report

On page 4, "Property Location: Only one residential neighbour (side-by-side duplex) to the west ..."

That is misleading. My property (138) is next to this duplex (170/172) and would also be impacted.

I'm retired and have disability issues. I regularly leave my family home early in the morning for health related appointments during which time the applicant states is their drop off time.

When away from my residence at other times I have to plan on returning home either before or after school gets out due to congestion.

I recognize there is a need for additional day care spaces in Penticton and am supportive of this. However, I believe the location is wrong due to the existing parking/traffic congestion problems.

Mayor and Council, before making a decision on this issue, it is hoped that you will visit this location especially 2:45 p.m. - 3:00 p.m. when school is getting out.

I appreciate your consideration in this matter.

Respectfully,



Trudean Hopkins