



Staff Report to Council

Planning and Development

FILE: 3360-20-2020-03

REPORT DATE: September 28, 2020 MEETING DATE: October 06, 2020
TO: Mayor and Council
FROM: Anne Berry, Director of Planning and Development
SUBJECT: Land Use Contract No. 15 Bylaw Amendment Application for 12149
Harris Road

CHIEF ADMINISTRATIVE OFFICER REVIEW/APPROVAL:

RECOMMENDATION(S): THAT Council:

- A. Grant first and second readings to Land Use Contract No. 15 Authorization Amendment Bylaw No. 2870, 2020; AND
- B. Schedule a public hearing for an upcoming Regular Council Meeting; OR
- C. Other.

PURPOSE

To present an application to amend Land Use Contract No. 15 to permit a child daycare use at 12149 Harris Rd.

☐ Information Report ☒ Decision Report ☐ Direction Report

DISCUSSION

Background:

Applicant: Masoud Mamani – Bright Butterfly Childcare Centre Ltd.
Owner: Jade Agencies Ltd.
Civic Address: 12149 Harris Rd
Property Size: 6,839 m² (73,616 ft²)

OCP:	Town Centre Commercial
	Development Permit Area No. 7 Towncentre Commercial
Zoning:	Community Commercial (C-3)

Relevant Policy, Bylaw or Legislation:

The Official Community Plan Bylaw No. 2352, 2007 designates this property as Town Centre Commercial, which “permits high density mixed commercial and residential uses appropriate to the community’s central area and does not include highway commercial uses”.

The property’s C-3 zoning in the City’s Zoning Bylaw No. 2505, 2011 provides convenience retail service for the surrounding community.

The property is also governed by a Land Use Contract. Land Use Contracts were a mechanism used in the 1970’s for subdivision and development control. They are contracts between the local government and the registered owner that were registered on title and run with the land until they are discharged. While new Land Use Contracts are no longer permitted, existing ones remain and supercede any underlying zoning. All Land Use Contracts in BC are set to expire in 2024 but remain in force until then.

In this particular case, Land Use Contract No. 15 was adopted by bylaw in 1979 and sets out parameters for the use, siting and development of a commercial development “to include business and professional offices, banks and financial institutions, restaurants and other businesses and retail shops that do not involve the sale, production, repair or treatment of goods in the open air or create or cause a public offence or nuisance, whether by noise, vibration, smoke, dust, heat, glare, electrical interference or by any other means”.

The City received a legal opinion several years ago advising that a child care use would not be permitted under this Land Use Contract unless it were amended.

Section 546 of the *Local Government Act* permits amendments to permitted uses in Land Use Contracts by bylaw.

Analysis:

This application is to add child daycare as a permitted use to Land Use Contract No. 15. The applicant is an experienced child care centre operator and proposes to create up to 32 new child care spaces at this location.

When this land use contract was adopted in 1979, it is likely that the need for child care spaces was nowhere near the level it is today and why this type of use was not considered to be included into the land use contract.

This location is within the City centre and is located close to parks and schools. Being on Harris Road also makes it a convenient location for parents that may be commuting out of the City for work.

The applicant is working with the licensing authority for daycares, Fraser Health, to confirm appropriate outdoor space if necessary and depending on the age range of children that would attend.

Child Care Needs Assessment

Earlier this year, the City received its Child Care Needs Assessment. It identified the need for more child care spaces and options within the City. One of the five strategic directions from the assessment is:

- Facilitate and support community efforts in the development of additional child care spaces

The following actions are identified to help implement that direction, that are relevant to this application:

- Support the creation of new child care spaces in the community by establishing land use regulations that enable the development of child care spaces in residential, commercial and institutional zones. This action is aimed at removing any future regulatory barriers and shifting existing non-conforming child care programs into zoning compliance.
- Review and where applicable amend the City of Pitt Meadows's zoning to remove any potential barriers to child care spaces that meet the range of family and child needs for care. Embed child care and child friendly planning in all community planning activities.
- Encourage new child care facilities to be located close to areas with child and family related uses, such as schools, multi-family residential housing and recreation programming.

Staff comments

If the land use contract were not in place, the underlying C-3 (Community Commercial) zoning would apply. The intent of this zoning designation is to provide convenience retail service for the surrounding community. The range of permitted uses is limited, and child daycare use is not one of them, although dog daycare is. If this application is approved, the child daycare use will not be in compliance with the underlying C-3 zoning but will be permitted as a land use contract trumps zoning.

However, one of the recommendations in the Child Care Needs Assessment is to expand the zoning designations that permit child daycare uses as a way of reducing barriers to

creating more child care spaces. When the Zoning Bylaw is next comprehensively reviewed, this is one area that staff will investigate.

All outdoor spaces must comply with Fraser Health's requirements for childcare facilities. In order for Fraser Health to consider a childcare application the appropriate zoning must be in place. Tenant improvements related to the daycare would not receive local government approval without Fraser Health's approval.

As noted earlier, all land use contracts expire in 2024. If the underlying C-3 zoning has not been amended to permit child daycare use by then, then this use would be considered "grandfathered" with legal non-conforming protections.

Other child care centres in the City have varying zoning designations. Most are located within mixed-use zoning designations, while others have institutional zoning. One received rezoning last year to be permitted in Meadowtown Centre, which is a highway commercial zone.

The property owner supports this application.

Under the Zoning Bylaw, two parking spaces are required, and this is met by the current mall parking.

A Land Use Contract amendment is similar to amending a rezoning. A development sign advising of the application has been posted on site and a public hearing is required in order to change the use.

Given its central location and the demonstrated need for additional child care spaces, staff support this application.

COUNCIL STRATEGIC PLAN ALIGNMENT

- ☒ Principled Governance ☒ Balanced Economic Prosperity ☐ Corporate Excellence
☐ Community Spirit & Wellbeing ☐ Transportation & Infrastructure Initiatives
☐ Not Applicable

Business Vitality. Foster a vibrant and diverse economy where local businesses thrive.

FINANCIAL IMPLICATIONS

- ☒ None ☐ Budget Previously Approved ☐ Referral to Business Planning
☐ Other
-

PUBLIC PARTICIPATION

- ☒ Inform ☒ Consult ☐ Involve ☐ Collaborate ☐ Empower

Comment(s):

A development sign is posted on site advising the application. A public hearing is

required, where members of the public can provide their comments on the application. Surrounding neighbours within 122 m of the site will be mailed a notice about the public hearing, along with newspaper advertisements and information on the City's website will provide information to the general public.

KATZIE FIRST NATION CONSIDERATIONS

Referral ☐ Yes ☒ No

SIGN-OFFS

Written by:

Allison Dominelli,
Development Services Technician

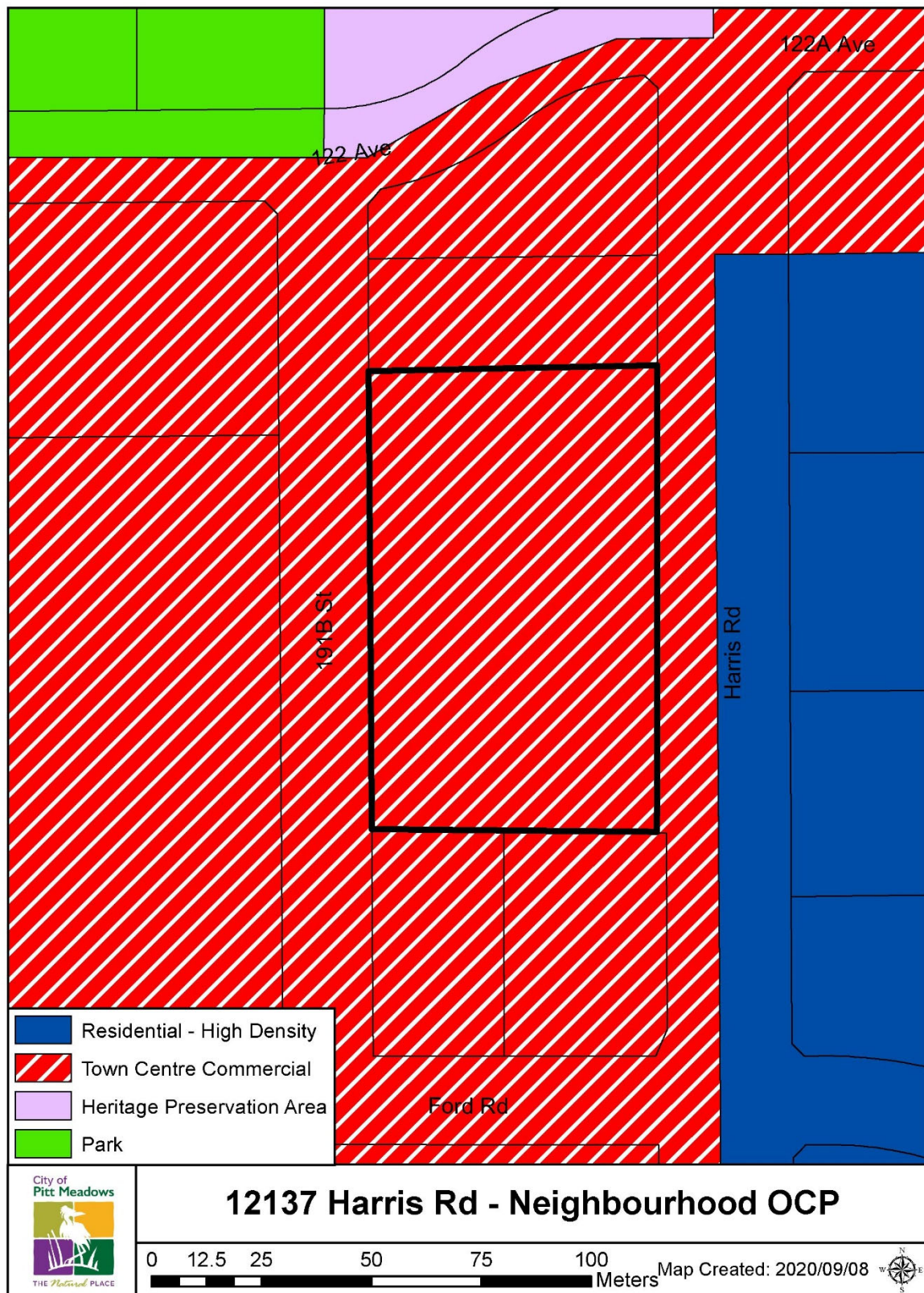
Reviewed by:

Alex Wallace,
Manager of Community Development

ATTACHMENT(S):

- A. Neighbourhood Zoning Map
- B. Neighbourhood OCP Map
- C. Aerial Photo Map
- D. Letter of Intent
- E. Land Contract No. 15 Authorization Amendment Bylaw No. 2870, 2020

ATTACHMENT A: Neighbourhood OCP Map



ATTACHMENT B: Neighbourhood Zoning Map



ATTACHMENT C: Aerial Photo Map



ATTACHMENT D: Letter of Intent

Dear Honorable Mayor Bill Dingwall and Council members,

We have been operating group childcare in Port Moody from the last three years, providing excellent services with natural/organic equipment, which have made us a unique and popular center in the Tricity area. We want to offer our services and experience to the beautiful city of Pitt Meadows.

We are trying to address part of the child care space shortage in the Pitt Meadows. As per the Child Care Needs Assessment Report, city of Pitt Meadows needs up to 888 new spaces in total before 2030 (Table 3, page 24). Also, a minimum of 86, up to 113 additional spaces, are needed only for infant/Toddler (table 8, page 53).

This new child care center will create eight jobs and 32 new spaces available for children to help the City reach its physical space creation target.

We have leased a commercial premise at 12149 Harris Road- Pitt Meadows Centre. This great location allows us to serve families in the city of Pitt Meadows. Both location and plenty of available parking spots make this proposed child care centre suitable and easy to access for families in the area. Many people drive to work every day using Harris Road, and it allows them to drop in/off their kids on the way to work and back home.

Due to the current and post-COVID1-19 crises, many people even do not think about starting up a new business, but we took a risk and look forward to your support.

Please accept the Land Use Contract Amendment letting us using this premise as a child care centre.

Thank you for your time and considerations.

Sincerely yours,
Bright Butterfly Child Care Centre Ltd.

Masoud Marnani
m.marnani@gmail.com
(778) 863-2129

CITY OF PITT MEADOWS
LAND USE CONTRACT NO. 15 AUTHORIZATION AMENDMENT BYLAW
No. 2870, 2020

A bylaw to amend applicable sections of The District of Pitt Meadows and
 Uyesugi Enterprises Ltd. Land Use Contract No. 15 Authorization
 Bylaw No. 744, 1978

WHEREAS it is deemed expedient to amend The District of Pitt Meadows and Uyesugi Enterprises Ltd. Land Use Contract No. 15 Authorization Bylaw No. 744, 1978;

NOW THEREFORE the Council of the City of Pitt Meadows enacts as follows:

1. This Bylaw may be cited as the "City of Pitt Meadows Land Use Contract No. 15 Authorization Amendment Bylaw No. 2870, 2020".
2. The City of Pitt Meadows is authorized to enter into an Agreement
 - a) in the form and substance of the Agreement attached to, and forming part of, this Bylaw as Schedule 1;
 - b) to amend Land Use Contract No. 15 registered against the parcel of land legally described as:
 - (i) PID: 000-569-381
 Lot 55 Section 36 Block 6 North Range 1 East New Westminster
 District Plan 57707.

READ a FIRST and SECOND time on [DATE].

PUBLIC HEARING held on [DATE].

READ a THIRD time on [DATE].

ADOPTED on [DATE].

Bill Dingwall
 Mayor

Kate Barchard
 Corporate Officer

SCHEDULE 1

**CITY OF PITT MEADOWS
MODIFICATION OF LAND USE CONTRACT NO. 15**

THIS AGREEMENT made the ____ day of _____, 202_

BETWEEN: **CITY OF PITT MEADOWS**

Municipal Hall
12007 Harris Road
Pitt Meadows, BC
V3Y 2B5

(the "City")

OF THE FIRST PART;

AND **JADE AGENCIES LTD., INC. NO. 70151**

1201 - 845 Chilco Street
Vancouver, BC
V6G 2R2

(the "Owner")

OF THE SECOND PART;

WHEREAS the Owner is the registered owner of certain parcel of land more particularly known and described as:

PID: 000-569-381

Lot 55 Section 36 Block 6 North Range 1 East New Westminster District
Plan 57707

("the Land");

AND WHEREAS the City is the registered owner of a certain charge known as Land Use Contract No. 15 pursuant to the *Local Government Act*;

AND WHEREAS the owner wishes to modify Land Use Contract No. 175 registered under Filing Number R3870;

NOW THEREFORE IN CONSIDERATION of the premises and the payment of the sum of ONE DOLLAR (\$1.00) of lawful money of Canada (receipt of which is acknowledged by the City) the parties agree each with the other as follows:

1. That, pursuant to the *Local Government Act*, Land Use Contract No. 15, dated the 12th day of January, 1979, shall be modified as follows: Section 3 - Uses, shall be amended by adding the following: "A child daycare use is permitted".
2. That such modification of Land Use Contract No. 15 shall be registered in the New Westminster Land Title Office in accordance with the Land Title Act.

IN WITNESS THEREOF the said parties to this Contract have hereunto set their hands and seal the day and year first above written.

THE CORPORATE SEAL OF THE CITY OF PITT MEADOWS was
hereunto affixed on the day of , 202

Bill Dingwall
Mayor

Kate Barchard
Corporate Officer

Registered Owner
Jade Agencies Ltd.