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## MEMORANDUM

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**TO:** CAO

**FROM:** BRIGID REYNOLDS, CONSULTING TOWN PLANNER

**MEETING DATE:** APRIL 22, 2025

**SUBJECT:** TEMPORARY USE PERMIT TUP2025-01

**SUBJECT PROPERTY:** 89 SOUTH SHORE ROAD (UNITS C & D), LOT A, DL 12, LAKE COWICHAN DISTRICT, PLAN 29793

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### PURPOSE

The purpose of this report for Council's consideration of a proposed Temporary Use Permit TUP2025-01 at 89 South Shore Rd, units C & D to permit a childcare facility in the lower unit.

### PREVIOUS COUNCIL DIRECTION

2019-09-17 R.0127/19	Council approved a Temporary Use Permit for Lot A, Plan VIP29793 (87 South Shore Road) for a three year period, subject to the following conditions: <ul style="list-style-type: none"><li>• Use of designated crosswalk on South Shore Road to access playground across the street;</li><li>• Full-time accompaniment of children by day care worker for all crossings to the playground;</li><li>• Dedicated drop-off and pick-up spot (loading zone) on street adjacent to 75 South Shore Road that will require signage and loading area painted; and</li><li>• Meet all building, safety and fire code standards as set forth in the BC Building Code and BC Fire Code</li></ul>
2019-03-26	Removal of Note on Title on Lot A, Plan 29793 That the note on Title on Lot A, Plan 29793 be removed and that a covenant be placed on the property that limits the lower level to commercial and storage use with the requirement that prior to occupancy for such use/firewall and ceiling ratings have to be verified and approved by the Building Inspector and Fire Chief.

## **BACKGROUND**

As noted above Council previously approved a Temporary Use Permit in 2019 for a childcare in this location. The childcare facility was discontinued at this location shortly after due to Covid.

The childcare operator, Carrie Wilkinson, Creative Angles Daycare, is currently located across the street at 82 South Shore Road. The owner of that has informed Ms. Wilkinson that she must move from this location as soon as possible. The childcare provides spaces for 30 children ages from 12 months to 12 years. The operator/facility has held a licence from VIHA since 2015.

There have been Building Code issues at this property, but these have been resolved.

## **REGULATIONS**

### ***Local Government Act*** - Part 14, Division 8

The LGA provides that a local government may issue a TUP for a use that is otherwise not permitted in the zoning bylaw, may specify conditions under which the TUP may be carried out, and may regulate the construction of buildings and structures related to this use.

The LGA states that a TUP is valid for a three-year period and may be renewed once. The LGA also allows Council to require conditions associated with its approval of a TUP.

### ***Zoning Bylaw***

The subject property is zoned C-3 – Lakefront & Riverfront Commercial and day is not a permitted use. The use is permitted in the C-1 – General Commercial zone district, across the street. Section 2.5 of the Zoning Bylaw states Council may designate a property within the Town for a temporary use permit.

#### *Section 2.5 Temporary Uses*

*The Town of Lake Cowichan Council may designate areas within the Town for the issuance of temporary use permits and may issue such permits in all commercial, industrial and water recreation zones. Applications for temporary use permits must follow the process outlined in the Local Government Act. Cannabis retail sales shall also be considered in accordance with the Cannabis Retail Sales Policy of Council.*

#### *Schedule B –Parking Spaces*

Section 7, Table B-1 requires 2 parking stalls per 100 m<sup>2</sup> of gross floor area for childcare facilities. The space is 279. Six parking stalls are required.

Section 7, Table B-4 requires 1 loading space for commercial buildings that are between 100 m<sup>2</sup> to 2000 m<sup>2</sup> floor space.

No designated barrier free parking space is required per Table B-2.

No bicycle parking is required per Table B-3.

Schedule B, Section 3 Reuse of Buildings states that a change of use within Table B-1 Required Vehicular Parking Spaces **may** require additional on-site parking, a Development Variance Permit or cash-in-lieu.

Schedule B, Section 6 allows Council to waive on-site parking requirements in exchange for cash-in-lieu of \$4,000 per on-site parking space.

***Community Care and Assisted Living Act and the Child Care Licensing Regulation***

The Island Health Authority is responsible for monitoring and licensing childcare facilities pursuant to the Provincial Act and Regulation. Each facility is monitored and assessed on an individual basis for its compliance with the Act and Regulation. At the time of the report, the applicant has not yet applied to VIHA for a license for this facility. Should/once the TUP is approved, the applicant will complete all the necessary Provincial licensing requirements. This application requires sign off from the Town’s Fire Chief and Building Inspector. The childcare facility cannot open until Island Health Authority has approved it.

***Business License***

The applicant has a current business license, and should the TUP be approved; the applicant will apply for a change of address for her business license.

**DISCUSSION**

There are limited childcare spaces in the Town and the business owner must leave their existing premises by the end of May. This childcare facility provides full time childcare and after school care. It is intended to accommodate 30 children from 12 months to 12 years of age. Anytime the children are going off the facility property they are accompanied with a staff member. The hours of operation are Monday to Friday 6:30 am to 5:30 pm and the facility closed for all statutory holidays, for a week in July and in August and over the school Christmas break.

A TUP was previously permitted for this use in this location in 2019, but this facility was closed due to the pandemic. The facility continued to operate in the larger space across the street, where they are currently located, but now must move.

***Parking & Loading***

As noted above six parking spaces and one loading space is required but as with many buildings in the Town’s core, this is an older building with no parking spaces on site. There are 2-hour parking limits on South Shore Road. There are a total of six staff members and three staff members currently do not have vehicles and do not drive. The staff members with vehicles parked in one of the Town parking lots close by.

Pick up and drop off for children is staggered between 6:30 and 9:30 am and 4:00 and 5:30 pm, usually for 2 children at a time. The previous TUP required that a dedicated drop-off/pick-up spot be designated on the street in front of 75 South Shore Rd with signage and a loading area painted on the street. The Supervisor of Public Works has indicated that should Council approve this, all costs associated with the sign installation including a deposit for its eventual removal would be required.



Zoning Bylaw Schedule B, Section 3 provides Council with an option to **waive** parking in a building where there is a change in use. Council also has the option to require cash-in-lieu in exchange for parking spaces, \$4,000.00 per space or require a development variance permit.

The OCP Section 5.2.1.6 Density Bonus

policies identifies childcare facilities as a public benefit and the provision of this use could warrant consideration of a density bonus. This use is often considered a community amenity because many communities are lacking in these facilities. Also, childcare facilities are typically not highly profitable. Therefore, the contract planner recommends that the parking requirements be waived.

#### *Building improvements*

There were previous building infractions that resulted in a notice being placed on title until these matters were resolved. Council approved removal of this notice at its March 26<sup>th</sup> 2019 regular meeting subject to the registration of a section 219 covenant on the title restricting the lower level to commercial or storage use and that prior to occupancy firewall and ceiling ratings must be verified and approved by the Building Inspector and Fire Chief.

The covenant remains on title restricting the uses and childcare facilities are considered a commercial use in the Town's Zoning Bylaw. According to the building inspection records the building matters were resolved October 1, 2019.

#### **PUBLIC ENGAGEMENT**

The LGA and *Community Charter* requires notice to be published in two editions of a local newspaper and these were published in the April 10<sup>th</sup> and 17<sup>th</sup> editions of the Cowichan Valley Citizen. At the time of preparing this staff report no comments were received.

#### **RECOMMENDATION**

To approve TUP2025-01 for the property located at 89 South Shore Road, Lot A, DI 12, Lake Cowichan District, Plan 29793 for a three-year period subject to

- the establishment of the loading zone fronting 75 South Shore Rd,
- all costs associated with establishing the loading zone including sign installation and
- a deposit for its eventual removal to be provided by the applicant to the Town.