

Agenda Report

TO: CITY COUNCIL

DATE: April 27, 1998

FROM: CITY MANAGER

**SUBJECT: RECOMMENDATION TO REVISE CITY APPLICATION
PROCESS AND ZONING CODE FOR LARGE FAMILY DAY CARE HOMES**

RECOMMENDATION:

It is recommended that the City Council direct staff to initiate a zoning code amendment to revise the current City zoning code and related City application process so that large family day care homes that meet specified development standards in four areas (spacing and concentration, parking, traffic, and noise) are a permitted use in all zoning districts in which residential uses are permitted, with applications and approvals for such projects issued through a streamlined, over-the-counter process.

SUMMARY

Existing City regulations require that large family day care homes (single-family dwellings offering child care for up to 14 children in a provider's own home) secure a Minor Conditional Use Permit (MCUP), at a fee of \$1,582, in addition to requirements for State licensing, Fire Marshal clearance and City home occupation/business license. The MCUP is costly for such an activity, and has been eliminated by most California cities particularly as cities are limited by state law to imposing conditions in only four areas: spacing and concentration, parking, traffic and noise (all other areas or conditions are in the jurisdiction of State Community Care Licensing, Fire Marshall, or other authorities). A review of City records for the past five years reveals no compliance problems or complaints to Planning and Permitting regarding such homes. It is therefore recommended to revise the current City application process and zoning code so that large family day care homes which meet specific development standards (delineated in the current zoning code) in the four areas allowed by state law (spacing and concentration, parking, traffic and noise) be classified a permitted use in all zones which permit residential uses. Applications for such eligible projects would then be processed in a streamlined, over-the-counter manner, at a significantly reduced fee (estimated to be approximately \$85).

This recommendation was reviewed and endorsed by the Northwest Commission at their meeting of April 8, 1998, and by the Commission on the Status of Women at their meeting of April 14, 1998. It will be reviewed by the Planning Commission once the amendment is initiated by the City Council. The purpose of this modification is to streamline the application and approval process and reduce the fee for large family day care homes that meet standards specified in the zoning code. Further, it will strengthen the working relationship between large family day care operators and the City, and promote quality, affordable child care in Pasadena.

BACKGROUND

This action focuses on licensed, home-based "family day care", which offers convenient, affordable, neighborhood-based care citywide. These homes offer a cost-effective, family-like alternative to the more school-like child care centers which are considered a business use and generally have a much larger enrollment (in some cases more than 100 children). A typical family day care home operates in a single-family dwelling which is the provider's own home, serving 6 or 7 children who live within two miles of the home, each weekday between the hours of 7:00 am to 6:00 pm. This action does *not* amend the City's current zoning code and Conditional Use Permit requirements for child care center facilities (including those proposing to serve more than 14 children in a residential neighborhood). Further, it does *not* revise the development standards currently required by the zoning code for family day care homes.

Our analysis of this issue included a review of data, application forms, meetings and/or discussions involving representatives of the Planning and Permitting Dept. (Zoning, Code Compliance, Permit Counter), Fire (State Fire Marshal), and Business License staff. We also secured information from Child Care Information Services (the local child care resource and referral agency), various child care offices of other Southern California cities and of L. A. County, the Public Counsel Child Care Law Project, and other sources.

CURRENT REGULATORY PROCESS

Under state law, a "family day care home" (FDCH) "regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away. . . ." Included in the maximum number of children is any child under age 10 residing in the home. A **small** family day care home serves eight or less children, while a **large** family day care home serves up 14. Family day care homes are licensed by the State's Community Care Licensing office. A provider must have at least one year of successful day care operation and qualifying experience (generally operating a *small* family day care home) before he/she is eligible to expand and be licensed as a large family day care home.

State law declares small family day care homes a residential use of property, and local government cannot impose any business license, fee or tax for operating such a facility. The only City contact with small family day care homes is by the Fire Department, which inspects the facility representing the State Fire Marshal to assure compliance with basic standards (e.g. fire extinguisher, smoke detector). Cities are pre-empted by the State from in any way regulating or charging fees of small family day care homes.

With regard to large family day care homes, State law significantly restricts how local government deals with such homes. Cities *cannot* prohibit large family day care homes “on lots zoned for single-family dwellings”, but shall do one of the following three options:

- 1) Make them a permitted, “by right” use of residential property;
- 2) Establish reasonable standards regarding four areas (spacing and concentration, parking, traffic, and noise) and grant a “nondiscretionary” or “administrative” permit to any such home that complies with these standards;
- 3) Require a modified (minor) permit application, with limited fees and reasonable standards in the four areas listed in option 2.

To date, the City of Pasadena utilizes the third option – requiring a minor conditional use permit (MCUP) application, at a cost of approximately \$1,600 to the applicant. In comparison to other area cities, Pasadena’s MCUP process is costly and time-consuming (for both City staff and the applicant), and requires significant work by the applicant on radius maps, plot plans, hearing preparations, etc. This appears of limited value when the state “occupies the field” such that the City can *only* impose conditions in the areas of spacing/concentration, parking, traffic and noise. Key issues such as program operations, supervision, staff qualifications, play equipment, etc. are *exclusively* regulated and addressed by the State licensing agency; key safety issues are regulated by the Fire Marshal.

The current zoning code for Pasadena (17.64.040) establishes standards for large family day care homes, as follows:

- Spacing and Concentration - - requires at least 300 feet between any child day care facilities in any residential zone
- Noise - - consistent with the existing residential noise requirements
- Traffic - - requires reasonable loading and unloading access which does not unduly restrict the flow of traffic
- Parking - - requires off-street parking space (and prohibiting front or side yard parking).

These standards would *continue* with adoption of the recommended streamlined application and approval process. Should a large family day care home *not* meet these standards, the operator will be required to apply for a variance.

EXISTING FAMILY DAY CARE HOMES IN PASADENA AND REGULATORY STATUS

According to Child Care Information Services (the state-funded resource and referral agency working with local child care providers and consumers), there are presently 126 state-licensed family day care homes in Pasadena, including 91 small (eight children or less) and 35 large (up to 14 children). A review of City zoning and code compliance files reveals no problems or complaints filed regarding these 35 locations over the past five years. Further, it appears that the State has issued licenses to large family day care home providers without requiring compliance with local zoning regulations. Large family day care homes in Pasadena appear to have secured State licenses and Fire clearance for operation of the home, but generally the provider has not secured a City Business License nor a Minor Conditional Use Permit.

The current process to apply for and open a large family day care home in Pasadena requires the following steps:

1. Secure a State license to operate a large family day care home (from State of California Dept. of Social Services, Community Care Licensing Division) at a fee of \$50
2. Secure Fire Marshal Clearance (from Pasadena Fire Dept.) at a fee of approximately \$80 (or more, if additional site visits are required)
3. Secure a Minor Conditional Use Permit (or MCUP, from Pasadena City Planning and Permitting Dept.) at a fee of approximately \$1,582
4. Secure a Business License (from Pasadena City Finance Dept. - Municipal Services) at a fee of approximately \$125

The total cost is approximately \$1,837, with the primary expense (86%) due to the City requirement for a Minor Conditional Use Permit. In comparison to other Southern California cities, this cost is significantly more AND the zoning process is more complex and time-consuming. For example:

City of Los Angeles – Total fees approx. \$200; No CUP or MCUP.

Planning Dept. requires filing a “Notice of Intention to Operate a Large Family Day Care Home” form (sample included, see Attachment A), which is an over-the-counter process and requires the operator, under penalty of perjury, to comply with established standards regarding parking, traffic, etc.

City of San Diego – No City fees. No CUP or MCUP.

Large Family Day Care Homes are permitted by right in all zones where residential use is permitted.

City of Arcadia – Total fees approx. \$65. No CUP or MCUP required.

City of Sierra Madre – Total fees approx. \$220, for required CUP.

City of San Marino – Total fees approx. \$415, for required CUP.

In reviewing the zoning and code compliance files for Pasadena addresses listed as having State-licensed large family day care homes, there have been *NO* applications filed for MCUP's over the past five years, nor any complaints filed regarding addresses which have State licensing and Fire clearance for their homes. Accordingly, it would appear that the Pasadena requirement of an MCUP for state-licensed large family day care homes may not provide added value to the regulatory process.

RECOMMENDATIONS FOR REVISED CODE AND PRACTICES

It is in the City's and the providers' interest to maintain a database which lists the locations of large family day care homes, for such reasons as disaster response and to differentiate licensed care homes from complaints regarding child care centers operating illegally in residential neighborhoods. Further, requiring compliance with reasonable standards will prevent potential problems in the areas of parking, traffic, and noise, as well as prevent any neighborhood from developing a concentration of family day care homes.

We recommend replacing the current City of Pasadena requirement of a Minor Conditional Use Permit for large family day care homes with an over-the-counter application form, similar to the "Notice of Intention to Operate A Large Family Day Care Home" form (copy attached) utilized by the City of Los Angeles. This could be included with the process of applying for a City Business License, and could be processed by the City for a very modest fee to cover staff/application processing costs. Coupled with the existing requirements to secure a State license and Fire clearance, this revision to City practice will streamline the system in a manner that encourages positive City-provider-neighborhood relationships and the expansion of quality, affordable home-based day care services for children. Further, the City will work with the State licensing office and Fire Marshal to assure that future approval of large family day care homes is contingent upon compliance with City requirements.

In a new streamlined process, an applicant would file a form with the City listing the site address, hours, State license number, etc. and sign a declaration under penalty of perjury that his/her meets the standards. Only those large family day care homes which do *not* meet the specified standards would require further application for a variance.

Upon adoption of this new system, a primary concern will be securing the compliance of those existing large family day care homes which are operating without City zoning approval. To expedite this process, it is proposed that existing providers would have 90 days to complete the streamlined application process and come into compliance. The City's Child Care Coordinator will do outreach and work directly with these providers during this 120 day "grace" period, to provide technical assistance as needed in completing the applications

and securing the appropriate City approvals. After the 120 day period, any large family day care home remaining out of compliance will be addressed by the City Code Compliance office.

FISCAL IMPACT: Adoption of this recommendation will have no significant fiscal impact, as the cost of processing the large family day care applications will be offset by the recommended fee for said application (estimated to be in the range of \$85 to \$100). As additional large family day care homes secure Business Licenses, a small amount of revenue may be realized.

WORKLOAD IMPACT: If this code amendment is of high priority to the City Council, it will be placed at the top of the work program for the Current Planning Section. This means that work on other code amendments will be delayed as well as work on the overall zoning code rewrite. Staff is currently working on code amendments for the control of tobacco and alcohol billboard advertising (initiated by the Planning Commission), second units (initiated by the General Plan), and revisions to the trash enclosure requirements for the Old Pasadena area (requested by the Development Department). It is estimated that this proposed code amendment will be brought to the Planning Commission in June and then to City Council in July, 1998.

Respectfully Submitted,



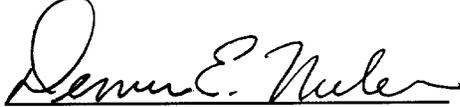
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