

Agenda Report

TO: CITY COUNCIL **DATE:** SEPTEMBER 14, 1998
FROM: ACTING CITY MANAGER
SUBJECT: ZONING CODE AMENDMENT REGARDING LARGE FAMILY DAY CARE HOMES

CITY MANAGER AND PLANNING COMMISSION RECOMMENDATION: It is recommended that the City Council following a public hearing:

1. Acknowledge that the proposed zoning code amendment is exempt from CEQA as Class 1 alteration or use of existing facilities;
2. Find that the proposed amendment is consistent with the General Plan and adopt an amendment to the Zoning Code making large family day care homes a permitted use subject to an over-the-counter review; and
3. Hold first reading on the zoning code amendments implementing the recommendations contained in this report.

EXECUTIVE SUMMARY:

This proposed code amendment was initiated at the request of the City Council and is the result of recent meetings members of the City Council have had with community groups. At these meetings the availability of child care has come up in the context of Welfare Reform. Concerns arose about the availability of reasonably affordable child care for parents who would be returning to the workforce. The City Council reviewed a report submitted by the Department of Human Services, Recreation and Neighborhoods that recommended that staff create an over-the-counter review process. As a result, staff was asked to review the current zoning code requirements to see if barriers to affordable child care could be removed while still maintaining some review over the location of future large family day care homes. The proposed amendment will result in allowing large family day care homes to be established by an over-the-counter review process rather than the present minor conditional use permit process. Applicants will have to demonstrate that they meet parking requirements, loading requirements, and a 300-foot distance requirement prior to receiving an over-the-counter approval. By eliminating the minor conditional use permit review process, applicants will not have to apply for a minor conditional use permit which has a fee of \$1,582. A letter from the Planning Commission's detailing as to why it is recommending approval of this amendment is contained in Exhibit 1.

BACKGROUND:

On April 27, 1998 the City Council adopted a recommendation to initiate a zoning code amendment related to large family day care homes. The City Council reviewed a report submitted

by the Department of Human Services, Recreation and Neighborhoods. This report came about because of concerns raised about the increased need to provide affordable day care facilities for families. With recent welfare reform, issues have been raised about the need for affordable child day care for persons returning to the workforce.

On July 22, 1998, the Planning Commission reviewed the proposed amendment. There was one speaker in opposition to the code amendment and two speakers in favor. After the public hearing the Planning Commission voted 6-1 to recommend approval to the City Council of this amendment. The proposed code amendments were also reviewed by the Northwest Commission at their April 8, 1998 meeting and by the Commission on the Status of Women at their April 14, 1998 meeting. Both commissions have recommended approval of the proposed code amendment.

Family Day Care Homes

Under State law, a "family day care home" is a facility that "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 the age of 10 residing in the home. A small family day care home serves 8 or less children, while a large family day care homes serves up to 14 children. 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 the provider is eligible to expand and be licensed by the State as a large family day care home.

Small Family Day Care Homes

Under State law a small family day care home is a residential use of property and local government cannot impose a business license requirement, fees, or taxes 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 Marshall to assure compliance with basic standards (e.g. fire extinguisher, smoke detector, etc.). Cities are pre-empted by the State from regulating small family day care homes.

Large Family Day Care Homes

Large family day care homes are also governed by State law and are considered a residential use of property. Cities cannot completely prohibit large family day care homes from lots zoned for single-family dwellings. However, cities have three options. They can:

1. Make them a permitted, "by right" use within a residential district;
2. Establish reasonable standards regarding four areas (spacing and concentration, parking, traffic, and noise) and grant an over-the-counter permit to any such home that complies with these standards; or
3. Require a discretionary permit (i.e. a use permit) application, with standards regarding spacing, concentration, parking, traffic and noise.

Currently, the City of Pasadena requires a minor conditional use permit for the right to establish a large family day care home. The zoning code has standards for large family day care homes. These standards were developed in 1989 when the zoning code was revised to bring the code into conformance with State law. The code regulates the following items:

1. Spacing and Concentration - requires at least 300 feet between child day care facilities in any residential district;
2. Noise - requires the site to meet the noise requirements of the noise ordinance;

3. Traffic - requires reasonable loading and unloading access that does not unduly restrict the flow of traffic;
4. Parking - requires one space for each employee, allows for parking to be located on a driveway leading to covered parking.

ANALYSIS:

Members of the City Council have had recent meetings with community groups, and the issue of large family day care has come up in the context of Welfare Reform. Concerns arose about the availability of reasonably affordable child care for parents who would be returning to the workforce. As a result, staff was asked to review the current zoning code requirements to see if barriers to affordable child care could be removed while still maintaining some reviews over the location of future large family day care homes. Staff contacted the City's child care coordinator and was provided with the City's Child Care Policy and information on the availability of child care within the City.

The City's Child Care policy states:

"The City of Pasadena will facilitate the establishment of quality, safe, accessible, and affordable, child care services by reviewing and where necessary, revising City regulations that unduly inhibit or otherwise interfere with the establishment of these services. Invisible barriers may include zoning statues, permits, and licensing procedures, application fees, transportation, and other administrative regulations affecting child care."

According to Child Care Information Services, the City has experienced a decline in licensed child care spaces over the past two years. This is particularly significant for family day care homes. While in 1996, Pasadena had 151 such homes with 1,162 spaces available, in 1998, the City has dropped to 126 licensed family day care homes with only 806 spaces available. Of the 806 vacancies, many are not actually available for enrollment, as they represent "licensed capacity" which exceed what a provider will actually accommodate (e.g. a license is issued for 6 spaces requiring 2 staff, but the operator elects to remain as a sole provider at an enrollment of 4 children).

There are no definitive numbers on how much child care spaces will be needed for the welfare reform programs. Speculation is that the City will not know the full impact until January, 1999 when the deadlines start to take effect and welfare recipients must be in a job, job training, or community service at least 32 hours per week.

However, the City does know that there are approximately 7,000 children in Pasadena on AFDC (Aid to Families with Dependent Children, now transitioning to the new CalWorks program) and that their caretakers will be affected by welfare reform and the children will need some form of child care. Currently, there are a total of 4,271 licensed child care spaces available (i.e. vacant) in Pasadena (this includes 3,465 spaces in child day care centers and 806 in family day care homes). Assuming that all of these spaces were actually available, accessible and affordable to the CalWorks clients, there is a shortage of 2,729 spaces. The gap between need and supply is significant.

According to the report submitted by Patricia Lane to 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

Performance Standards

In reviewing an application over the zoning counter, staff will be checking to see if the following standards are met:

1. Spacing and Concentration.

Staff will be reviewing each application to check to see if each application for a large family day care home is not within 300 feet from another large family day care home or child day care center. This is a current requirement of the zoning code. Currently the code allows the hearing officer to approve large family day care homes that are closer than 300 feet if such a use offers a unique service. Under the revised process a large family day care home that is proposed to be closer than 300 feet will be required to apply for a minor conditional use permit.

2. Noise.

The existing noise ordinance will govern any potential noise problem. This is the current requirement and staff makes no recommendations for changes in this requirement.

3. Traffic.

The current code requirement is that conditions may be imposed on the applicant that ensure adequate loading and unloading that does not restrict traffic flow. Since the review of the applications will be over the counter, staff will be reviewing the application to ensure that there is a loading/unloading space for children since a hearing will not occur for most cases. In speaking with the staff at Public Works and Transportation, they did not think it was necessary for their department to review the loading and unloading location for each application. They felt that loading and unloading at large family day care homes was going to occur on the existing driveways or that parents would park their cars on the street and then retrieve their children.

4. Parking.

Staff will review the application to ensure that parking is being met. No change in the parking requirement will be proposed. This requirement is one uncovered space per employee. Parking may be located on a driveway leading to covered parking. If the site has covered parking, the covered parking can serve to meet the required parking.

5. Play Equipment.

Staff will review the application so that play equipment is located only within the rear yard.

6. Signs.

Staff will check to ensure that signs conform to the regulations of the zoning district in which the facility is located.

ENVIRONMENTAL DETERMINATION:

The proposed amendments have been determined to exempt from CEQA because it effects only existing facilities. That is, the proposed zoning code amendment effects existing facilities i.e. residential uses that will operate as large family day care homes.

GENERAL PLAN CONSISTENCY:

The proposed code amendment is consistent with the General Plan as follows: The Vision Statement of the General Plan calls for Pasadena to be, "Promoted as a healthy family community" in which "Human services will be coordinated and made accessible to those who need them." The proposed code amendment will remove barriers to the future establishment of large family day care homes so that this needed human service will have greater availability.

Additionally, policy 10.7 states, "Streamlining - Provide a more stable and sound environment for investment and business decisions by reducing uncertainty and streamlining the land use entitlement process." The proposed code amendment streamlines the review process for large family day care homes by eliminating the minor conditional use permit requirement and replacing this review with an over-the-counter review.

WORKLOAD IMPACT:

The proposed code amendment will result in work being shifted from a hearing body to an over-the-counter review. This should not result in major impacts on staff workload.

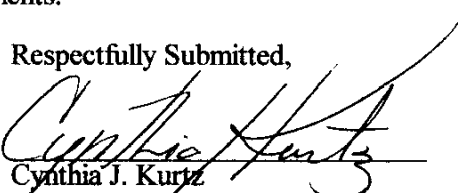
FISCAL IMPACT:

The proposed code amendment will eliminate the minor conditional use permit process for large family day care homes. Staff estimates that approximately 2 to 3 applications for minor conditional use permits will not be processed each year. Thus the fiscal impact will be a reduction in fees derived from minor use permits of \$3,164 a year.

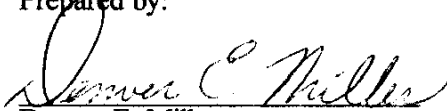
CONCLUSION:

It is staff's opinion that the zoning code can be amended such that large family day care homes could be a permitted use subject to an over-the-counter review to ensure that all development standards are being met. Staff has recommended development standards and developed a procedure that will ensure compliance with requirements.

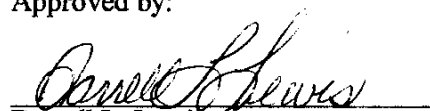
Respectfully Submitted,


Cynthia J. Kurtz
Acting City Manger

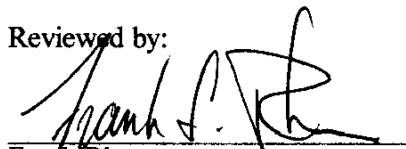
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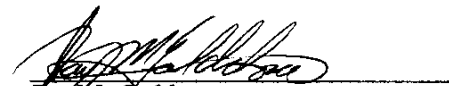
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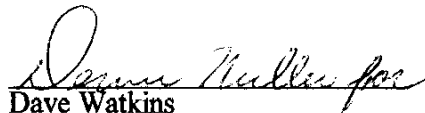

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LIST OF EXHIBITS

Exhibit 1 – Letter from Planning Commission