

**LOS ANGELES CITY PLANNING DEPARTMENT
RECOMMENDATION REPORT**

CITY PLANNING COMMISSION

DATE: July 25, 2002
TIME: after 8:30 a.m.*
PLACE: Airtel Plaza Hotel
7277 Valjean Avenue
Van Nuys, CA 91423

CASE NO: CPC-2002-3158-CA
CEQA: ENV-2002-3159-CE
LOCATION: Citywide
COUNCIL DISTRICTS: All
PLAN AREAS: All

PUBLIC HEARING REQUIRED

REQUEST: Amendments to Sections 12.04.05, 12.10, 12.24, and 19.01 of the Los Angeles Municipal Code.

SUMMARY: A proposed ordinance (Appendix A) amending the Los Angeles Municipal Code to facilitate the processing of childcare facility applications and to reassign the decision makers to allow appeals to be heard by an Area Planning Commission. The proposed ordinance will also increase the by-right number of children for childcare facilities from 20 to 50 in R3 and RAS3 Zones with required standards for operation.

RECOMMENDATION:

1. **Adopt** the staff report as its report on the subject.
2. **Adopt** the attached findings.
3. **Approve** the proposed ordinance (Appendix A) and recommend City Council adoption.

Simon Pastucha, City Planner 213/978-1475

Thomas Rothmann, Project Coordinator 213/978-1338

Table of Contents		Page
I	Summary	2
II	Findings	3
III	Staff Report	5
	Request	5
	Discussion	5
	Conclusion	7
	Environmental Impact	7
Appendix A		attached

ADVICE TO PUBLIC: *The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communications may be mailed to the *Commission Secretariat, 200 North Main Street, Room 532, Los Angeles, CA 90012* (Phone No. 213/978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent to the week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to this programs, services and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request no later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at 213/978-1300.

SUMMARY

The proposed ordinance (Appendix A) reassigns the decision makers for childcare facility determinations. This reassignment, requiring seven modifications to the Zoning Code, is intended to provide more convenient local hearings on initial applications and to direct appeals to the local Area Planning Commission (APC). Reassigning the decision makers will reinforce the prescribed roles of the various tiers of authority defined in the City Charter, in addition to expediting project reviews. These amendments reflect a request of the City Planning Commission and were derived from City Planning staff suggestions stemming from the ongoing review of the Charter revision status and APC operations. This proposed ordinance would require reviews of these detailed neighborhood-oriented issues with the Zoning Administrator (ZA) and, in some cases, the local APC.

The proposed ordinance returns childcare determination authority back to the ZA, with appeals going to the local APC. The Zoning Code amendments that were part of the new Charter in 2000 moved the conditional use permit authority for childcare facilities from the ZA to the City Planning Commission (CPC) and combined several types of childcare discretionary permits. At the time, the Department of City Planning recommended that the ZA retain this decision-making ability. However, childcare facility sitings were put into a group of discretionary permits having citywide issue (similar to schools, airports, hospitals, etc.) and that they should require a review by the citywide CPC, appealable to the City Council.

Applying for a conditional use permit is available to applicants of those projects that do not meet the by-right standards for childcare facilities as defined in the R3 section of the Zoning Code. The current conditional use procedure is a discretionary review process that involves notification, a hearing officer hearing, a public hearing, and action by the CPC and may be appealed to the Planning and Land Use Management (PLUM) Committee and the City Council. Moving this authority to the ZA will not alter the public input but will change the decision maker, allowing more flexibility with regards to scheduling.

The relatively narrow scope and local detail of these applications coupled with the mandatory CPC review sometimes result in lengthy citywide hearings on local issues. The conditions associated with siting a childcare facility are, primarily, of local concern and should be under the authority of the ZA, who can hold a hearing in the project area and on any day of the week in a location convenient to residents. Additionally, the appeals under the new ordinance would be made to the local APC's, where any unresolved issues on these specific local projects could be addressed. The APC's meet during the late afternoon and early evening at a location closer to the project area. The location of the CPC hearings are dictated by the scheduling on its calendar, which rotates the meetings strictly between downtown City Hall and a Valley location, altogether omitting CPC meetings in farther reaches of the City. Additionally, in those cases where outstanding issues exist and there is a likelihood of resolution, the Zoning Administrator can take the case under advisement pending discussions rather than have requests for last minute continuances hearings made to the CPC which require return trips to CPC meetings by applicant, the public, etc.

FINDINGS:

1. In accordance with Charter Section 556, that the proposed ordinance (Appendix A) is in substantial conformance with the purposes, intent, and provisions of the General Plan. The proposed ordinance (Appendix A) will allow for the provision of services to support the projected needs of the City's population and businesses and to encourage the development of childcare facilities adjacent to park and ride facilities, in conjunction with new residential and commercial development in locations consistent with the Community Plans as stated in Objective 2.3 of the Housing Element of the General Plan; and
2. in accordance with Charter Section 558 (b)(2), that the proposed ordinance (Appendix A) will have no adverse effect upon the General Plan, specific plans, or any other plans being created by the Department of City Planning because the proposed ordinance is consistent with the General Plan and carries out the General Plan goals, policies and objectives discussed above. There will be no substantive changes made to the existing Los Angeles Municipal Code, therefore there will be no effects on any above-referenced plan; and
3. in accordance with Charter Section 558 (b)(2), that the proposed ordinance (Appendix A) will be in conformity with the public necessity, convenience, general welfare and good zoning practice. This ordinance will change the decision makers in the approval process for childcare facilities and will increase the number of children in childcare facilities permitted by right in the R3 and RAS3 Zones. The ordinance will result in local Area Planning Commissions having the authority on all appeals.

4. that the proposed ordinance (Appendix A) is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Article III, Section 2, Subsection (m) of the City's CEQA Guidelines (ordinances which do not of themselves have an impact on the physical environment). The proposed increase of the number of children, from 20 to 50, in a childcare facility is allowed by-right in conformance with standards of operation. These standards are similar to those currently required for a CPC review of such facilities. Additionally, each discretionary project permit will have its own environmental clearance.

CON HOWE
Director of Planning

FRANKLIN P. EBERHARD
Deputy Director

APPROVED BY:

REVIEWED BY:

ROBERT JANOVICI
Chief Zoning Administrator

SIMON PASTUCHA
City Planner

PREPARED BY:

THOMAS ROTHMANN
Project Manager

STAFF REPORT

REQUEST:

At the request of the City Planning Commission, the Department staff has drafted this proposed ordinance, which is intended to expedite childcare facility determinations. This proposed ordinance would transfer the initial decision making authority from the City Planning Commission (CPC) to the Office of Zoning Administration. This transfer of authority will subsequently change the appellate body for these application appeals from the City Council to the Area Planning Commissions (APC).

Additionally, this proposed ordinance would increase the allowable number of children permitted by right in childcare facilities in the R3 Zone. This reduction is intended to lessen the number of discretionary reviews, thereby reducing the burden on the approval process for those childcare facilities for over 50 children, which will remain as conditional uses. Currently, the CPC may grant permits for childcare facilities for up to 50 children in R3 Zones, when certain standards are met. This proposed ordinance will continue to allow by-right childcare facilities for up to 20 children, in addition to permitting by right childcare facilities for 21 to 50 children, when certain standards are met.

DISCUSSION:

The Department of City Planning mission is to provide sound professional land use guidance and the highest level of technical service to achieve safe and healthy residential neighborhoods and service a business climate, which fosters sustained economic growth. It is for this reason that the Charter changes of 2000 added the APC's as appellate bodies for discretionary applications concerning projects with relatively narrow scopes and focused local concerns. It was intended that where local issues were not resolved by the Zoning Administrator (ZA), that each APC would review those appeals.

As part of the Charter changes, the City Council moved the conditional use permit authority for childcare facilities from the Zoning Administrator (ZA) to the CPC. This required that childcare facility sitings be reviewed by the full CPC and appealable to the City Council. It was viewed that the placement of childcare facilities, although each being location specific, was a citywide programmatic matter rather than a local matter and therefore required a comprehensive citywide review. In reviewing the applications that appeared before the CPC, staff noted hours spent on local issues such as siting driveways, pick-up and drop off areas, and noise from play areas. Returning the authority back to the ZA is intended to provide faster decisions and more convenient and local hearings for these projects. This reassignment will also reinforce the intended role of the APC's as local arbitrators.

At the time of the Charter changes, the Department of City Planning recommended that the ZA retain decision-making authority over childcare facilities. However, given that it was perceived by some to be a citywide issue (similar to schools) the recommendation to keep the authority with the ZA was not implemented and, subsequently, the CPC has been reviewing each childcare permit. The CPC believes that a proliferation of location specific applications has interfered with the Commission's intended citywide functions and that ZA reviews for local projects would be a more efficient use of resources.

This ordinance will also allow childcare facilities for up to 50 children that are located in R3 and RAS3 Zones to be established by right. Currently, the code only allows childcare facilities in the R3 Zone a maximum of 20 children by right or up to 50 children when certain performance standards are met. The Department of City Planning previously approved increasing the by right maximum number of children from 20 to 50 in 1997, however that proposal was denied by the City Council. In response to the continuing need for more childcare facilities, this proposed ordinance is again requesting that the number of allowable children be increased to 50. Currently, the CPC has the authority to grant permits for those childcare facilities for up to 50 children if the facilities meet required findings. The applicable findings have been turned into by right standards of operation.

Application for a conditional use permit is necessary for childcare facilities that do not meet the by-right standards defined in the R3 and RAS3 sections of the Zoning Code. The current conditional use procedure, under the authority of CPC, is a discretionary review process that involves notification, a hearing officer hearing, a public hearing, and action by the CPC and may be appealed to the City Council. Moving this authority to the ZA will not alter the public input but will change the decision makers, thereby allowing more flexibility.

The relatively narrow scope for these applications, the site-specific local concerns, and the current mandatory CPC review may cause delayed determinations in deference to more crucial citywide projects. It remains the Department's position that the conditions associated with siting a childcare facility should be under the authority of the ZA. Additionally, the sitings of childcare facilities are local issues that should be reviewed at locations throughout the City and on a more regular basis than the meetings of the CPC. Also, the appeals will now be made to the local APC's, where any unresolved issues on these specific local projects could be addressed.

This proposed ordinance deems that the ZA will be the decision maker on conditional use permits for childcare facilities with greater than 50 children in R3 and RAS3 Zones. Childcare facilities for fewer than 51 children will be by right when located in the R3 and RAS3 Zones, with those facilities for 21-50 children being required to meet performance standards. The proposed ordinance also designates the ZA to be the decision maker on conditional use permits for childcare facilities for any number of children in the A, RE, RS, R1, RU, RZ, RMP, RW, R2, R3, RAS3, RD, CM, and M Zones only when such facilities provide care for children of those people employed in the vicinity.

In addition to childcare facilities, determination authority for large family day care homes will also be moved to the ZA. These family day care homes, categorized as large (7 to 14 children) or small (eight or fewer children), regularly provide care, protection, and supervision for children in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away. Other than changing the decision-making authority for these facilities, no existing regulations will be altered.

The Department of City Planning believes that re-instituting the conditional use permit authority for childcare facilities to the Office of Zoning Administration will improve efficiency. Bestowing the ZA with this conditional use authority will give the CPC greater flexibility when reviewing citywide projects. The imposition of reviewing every childcare facility siting raises questions that could be better addressed by a more local discretionary review.

CONCLUSION:

The proposed ordinance (Appendix A) enables the Department of City Planning to rectify an existing situation in the L.A.M.C., which impedes the efficient approvals of childcare facilities throughout the City. The City Planning Department believes that by making the decision makers for such projects more local, it will increase options for managers of childcare facilities and expedite the approvals for these much needed facilities. Additionally, reducing the number of applications by raising the by right number of children permitted in childcare facilities will open up the process for larger projects.

ENVIRONMENTAL IMPACT:

The attached proposed ordinance (Appendix A) is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Article III, Section 2, Subsection (m) of the City of Los Angeles CEQA Guidelines (ordinances which have no negative impact on the physical environment). The proposed by-right increase from 20 to 50 children for childcare facilities contains standards of operation for those facilities housing 21-50 children. These standards are similar to those currently required for a CPC review of such facilities. Each individual discretionary project permit will have its own environmental clearance.

PROPOSED ORDINANCE FOR DISCUSSION

A proposed ordinance (Appendix A) amending the Los Angeles Municipal Code with a technical change to Section 12.04.05 B, an amendment to Section 12.10 A, two subdivision deletions in Section 12.24 U, a new subdivision in Section 12.24 W, two new subdivisions in Section 12.24 X, and technical changes to Section 19.01 E. These modifications are intended to facilitate the processing of applications for childcare facilities and reassign the decision makers for different types of childcare facilities to more accurately reflect the various tiers of authority.

THE PEOPLE OF THE CITY OF LOS ANGELES**DO ORDAIN AS FOLLOWS:**

Section 1. Subparagraph (i) of Paragraph (a) of Subdivision 1 of Subsection B of Section 12.04.05 of the Los Angeles Municipal Code is hereby amended to read:

(i) Parks and recreation facilities, including: bicycle trails, equestrian trails, walking trails, nature trails, park land/lawn areas, children's play areas, childcare facilities, picnic facilities, and athletic fields (not to exceed 200 seats in park) used for park and recreation purposes.

Section 2. Subdivision 5.5 of Subsection A of Section 12.10 of the Los Angeles Municipal Code is hereby amended to read:

5.5 **Childcare facilities.**

- (a) For no more than 20 children
- (b) For no more than 50 children when the proposed use meets the

following standards:

(1) The facility complies with all applicable State and local laws and requirements relating to child care facilities; and

(2) no loud speaker or public address system shall be installed or operated on any open portion of the premises or any recorded music used in connection with any activity shall be significantly modulated to ensure that the use does not disturb the neighboring residents; and

(3) the facility is not located within 300 feet of any existing childcare facility with more than 20 children.

Section 3. Subdivisions 3 and 4 of Subsection U of Section 12.24 of the Los Angeles Municipal Code are hereby deleted:

~~3. **Child Care Facilities.** The City Planning Commission may grant an application to permit childcare facilities for no more than 50 children in the R3 Zone, or permit a large family day care home within 300 feet of any existing large family day care home.~~

~~(a) **Standards.** The application shall include information to show that the proposed use will meet the following standards:~~

~~(1) Drop-off and pick-up areas are provided, as are necessary to avoid interference with traffic and promote the safety of the children; and~~

~~(2) The facility complies with all applicable State and local laws and requirements relating to child care facilities; and~~

~~(3) The use does not create an unreasonable level of disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties; and~~

~~(4) All play equipment and structures are located in the rear yard only; and~~

~~(5) No loud speaker or public address system shall be installed or operated on any open portion of the premises, and any phonograph, radio or other recorded music used in connection with any activity shall be significantly modulated to ensure that the use does not disturb the adjoining and neighboring residences.~~

~~(b) **Procedures.** An application for permission pursuant to this subdivision shall follow the procedures for conditional uses set forth in Section 12.24 D except that notice of the hearing before the City Planning Commission need only be given to owners and residents within 150 feet of the proposed use. The public hearing may be waived if the applicant submits with the application a written waiver of public hearing from all the owners of all properties abutting, across the street or alley from or having a common corner with the subject property.~~

4. ~~Child care facilities or nursery schools~~ in the A, RE, RS, R1, RU, RZ, RMP, RW, R2, R3 or RD Zones, and in the CM and M Zones when providing care primarily for children of employees of industries in the vicinity.

Section 4. A new Subdivision 51 is hereby added to Subsection W of Section 12.24 of the Los Angeles Municipal Code to read:

51. **Child care facilities or nursery schools** in the A, RE, RS, R1, RU, RZ, RMP, RW, R2, R3, RAS3, or RD Zones, and in the CM and M Zones when providing care primarily for children of employees of businesses/industries in the vicinity.

Section 5. A new Subdivision 24 is hereby added to Subsection X of Section 12.24 of the Los Angeles Municipal Code to read:

24. **Child Care Facilities.** A Zoning Administrator may grant an application to permit a childcare facility for 21-50 children when it is located within 300 feet of any existing childcare facility with more than 20 children.

(a) **Procedures.** An application for permission pursuant to this subdivision shall follow the procedures for adjustments set forth in Section 12.28 C 1, 2, and 3. The Zoning Administrator may waive the public hearing required in that section if the applicant submits with the application the written approval of owners of all properties abutting, across the street or alley from or having a common corner with the subject property.

Section 6. A new Subdivision 25 is hereby added to Subsection X of Section 12.24 of the Los Angeles Municipal Code to read:

25. **Large Family Day Care Home.**

(a) A Zoning Administrator may grant an application to permit a large family day care home within 300 feet of any existing large family day care home. The application shall include information to show that the proposed use will meet the following standards:

(1) Drop-off and pick-up areas are provided, as are necessary to avoid interference with traffic and promote the safety of the children; and

(2) The day care home complies with all applicable State and local laws and requirements relating to child care facilities; and

(3) The use does not create an unreasonable level of disruption or interference with the peaceful enjoyment of the neighboring residents; and

(4) All play equipment and structures are located in the rear yard only; and

(5) No loudspeaker or public address system shall be installed or operated on any open portion of the premises or any recorded music used in connection with any activity shall be significantly modulated to ensure that the use does not disturb the neighboring residents.

(b) **Procedures.** An application for permission pursuant to this subdivision shall follow the procedures for adjustments set forth in Section 12.28 C 1, 2, and 3. The Zoning Administrator may waive the public hearing required in that section if the applicant submits with the application the written approval of owners of all properties abutting, across the street or alley from or having a common corner with the subject property.

Section 7. Row 4, Column 1 of Subdivision 1 of Subsection E of Section 19.01 of the Los Angeles Municipal Code is hereby amended to read:

Childcare facility for No More Than 50 Children in the R3 or RAS3 Zone.
(Section 12.24 ~~U-3~~ X 24)

Section 8. Row 5, Column 1 of Subdivision 1 of Subsection E of Section 19.01 of the Los Angeles Municipal Code is hereby amended to read:

Large Family Day Care Home Within 300 Feet of Any Existing Large Family Day Care Home. (Section 12.24 ~~U-3~~ X 25)

Section 9. The City Clerk shall certify...