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TO: City Planning Commission
FROM: M. Rory Bolger, City Planner
RE: **Proposed and Revised Childcare Facilities Text Amendment**
DATE: February 14, 2024

On February 15, 2024, a 6:30 PM statutory public hearing will be held for consideration of the updated Childcare Facilities text amendment to Chapter 50 of the 2019 Detroit City Code.

BACKGROUND

In Spring 2023, the Mayor’s Office of Early Learning (OEL) and the Law Department provided a draft text amendment to Chapter 50 of the 2019 Detroit City Code, *Zoning*, relative to three childcare facility land uses: Child Care Centers, Group Day Care Homes (7-12 children), and Family Day Care Homes (1-6 children).

Following a May 4, 2023 presentation by then OEL director, Adrian Monge, the CPC conducted a public hearing on the draft text amendment on June 29, 2023. Considerable discussion among commissioners took place and nine comments from the public were recorded. At the September 21, 2023 meeting, updates to the Commission were presented, including survey questionnaire findings, and on January 5, 2024, the Commission voted to accept the staff recommendation to revise the draft to address concerns of the public and the Commission.

SCOPE OF THE REVISED ORDINANCE

The revised draft of the text amendment provides for the following, four of which provisions are new as a result of the CPC vote on January 5, 2024 as indicated:

- to update the **definitions** of “family day care home,” “group day care home,” and “child care center” for consistency with recent amendments to State law; *Secs. 50-16-152, 50-16-201, 50-16-222;*
- to allow **child care centers** as a principal use on a conditional basis in the R1 and R2 Districts where they are currently prohibited and as an accessory use to “public, civic, and institutional uses”; *Sec. 50-8-21, 50-8-51, 50-12-43, 50-12-512;*
- to allow **child care centers** on a by-right basis in the PR District where they are currently prohibited; *Secs. 50-11-145, 50-12-43;*

- to allow **family day care homes** on a by-right basis in the B1, B2, B4, MKT, and SD2 Districts where they are currently prohibited; *Secs. 50-9-15, 50-9-45, 50-9-105, 50-11-205, 50-11-265, 50-12-43;*
- to allow **group day care homes** on a by-right basis in the R1, R2, R3, R4, R5, R6, and SD4 Districts where they are currently a conditional use; *Secs. 50-8-15, 50-8-45, 50-8-75, 50-8-81, 50-8-105, 50-8-111, 50-8-135, 50-8-141, 50-8-165, 50-8-171, 50-9-15, 50-11-291, 50-11-297, 50-12-43;*
- to allow **group day care homes** on a by-right basis in the B1, B2, B4, B5, and SD1 Districts where they are currently prohibited; *50-9-45, 50-9-105, 50-9-135, 50-9-135, 50-11-235, 50-11-265;*
- to prohibit **group day care homes** in “multiple-family dwellings,” “lofts,” and “residential uses combined in structures with permitted commercial or industrial uses;” *Sec. 50-12-18(a) & (b);*
- per the vote of the City Planning Commission on January 5, 2024, to specify the **minimum distance between** any two group day care homes as the lesser distance of: 1) on the same block face or 2) 500 linear feet; *Sec. 50-12-130;*
- per the vote of the City Planning Commission on January 5, 2024, to require **notification** by the city of nearby properties upon approval of a group day care home identifying its location and the care provider and providing contact information of the related state and local regulatory agencies; *Sec. 50-12-185(c);*
- per the vote of the City Planning Commission on January 5, 2024, to require family day care homes and group day care homes to provide **rear yard fencing** where rear yards are present; *Sec. 50-12-185(e);*
- per the vote of the City Planning Commission on January 5, 2024, to require family day care homes and group day care homes to operate so as to not create a **nuisance**; *Sec. 50-12-185(f);*
- to require child care centers to provide 100 square feet of **outdoor play area** per child or 1,200 square feet, whichever is greater, where 2,000 square feet of outdoor play area are currently required; *Sec. 50-12-183;*
- to allow for the consideration of suitable **outdoor play areas** at child care centers that are not immediately adjacent to the center; *Sec. 50-12-183;*
- to eliminate the portion of the **off-street parking** requirement for child care centers based on the capacity of the center while retaining the portion of the requirement based on the

number of employees; *Sec. 50-14-39*;

- to extend the applicability of certain **noise** standards to protect child care facilities; *Sec. 50-14-587*.

FINDINGS

Per requests of the Commissioners, the Buildings, Safety Engineering and Environmental Department (BSEED) reports that the fee for a Special Land Use hearing is \$1,160, however per the Mayor's office, Group Day Care Homes need only to pay \$1,000 with the \$160 site plan review fee being absorbed by the City. An applicant/owner can pay over time on a payment plan. However, it should be noted, BSEED's fee for Special Land Use hearings increased to \$1,171 on January 1st, 2024.

The typical lag time between a special land use hearing and a written decision and order is around 30 days unless a recommendation from the Planning and Development Department is delayed.

Other Communities' Approaches to Permitting Group Day Care Homes

Commissioners were interested in knowing how other communities treat Group Day Care Homes. Prior to the January 5th CPC meeting, the OEL had researched 15 Michigan communities to ascertain their handling of **Group Day Care Homes** as a land use, finding that Detroit is not unusual in treating group day care as a Special Land Use (SLU). (Detroit refers to "Special" Land Uses as "Conditional" Land Uses.)

OEL has gathered additional information from other communities to share at the February 15th meeting. Below is a summary of how the other aforementioned 15 cities regulate Group Day Care Homes:

- Birmingham: 750-foot spacing; accessory use
- Dearborn: SLU
- Grand Rapids: accessory use
- Lansing: SLU
- Livonia: 1,000-foot spacing; conditions
- Mt. Clemens: SLU; 1,500-foot spacing.
- Novi: SLU; opaque fencing; ½-acre lot
- Pontiac: SLU; 500-foot spacing from state-licensed residential facilities
- Rochester: 1,500-foot spacing; conditions
- Romulus: accessory with conditions in some districts; SLU in some districts.
- Royal Oak: SLU?
- Southfield: SLU
- Troy: SLU
- Warren: SLU at Zoning Board of Appeals; 750-foot spacing
- Ypsilanti: accessory; SLU [depending on district]

SURVEY RESULTS—Skepticism diminished

As noted in January, a broad survey was undertaken by CPC staff in order to contact every household on the same block (both sides) as an existing Group Day Care Home; 1,853 “neighborhood community impact surveys” were sent out by first class mail. Recipients were asked to respond by returning the 12-question survey in the enclosed postage-paid envelope or by responding on line using the provided link or QR code.

A total of 138 responses were received: 77 mailed responses were received by the CPC office and 61 electronic responses were received by the OEL. (Since the January 5th CPC meeting, OEL has conducted additional surveying, the response to which will be reported at the February 15th hearing.)

Interestingly, 52% of respondents reported being unaware of the existence of a nearby in-home childcare facility even though a state-licensed Group Day Care Home was located on their block. This response comported with BSEED’s observations that Group Day Care Homes have not been a notable complaint generator and that opposition to these homes at special land use hearings has not been uniform. Nearly half of all respondents (47% overall) had resided “in the neighborhood” for more than 20 years (61% of mailed responses and 33% of electronic responses).

Analysis of the survey data suggested that perceived benefits from in-home childcare substantially outweighed concerns. Some 66% of responses identified the benefit of care being provided in the family’s own neighborhood. Such proximity was noted for convenience in walking children to the home and because the provider “knows the neighborhood and the assets it provides for young children and families” and “families are more easily able to participate in the workforce.”

The survey also asked about concerns, “when there is a child care program in the heart of your neighborhood.” Of 126 responses to that question, 77 (61%) indicated, “I don’t have any concerns at this time.” Concerns that were noted included that, “It changes the look/feel of the community” and several mentions of “unacceptable noise levels,” “additional traffic,” and “children playing outside without a fence.”

ADDITIONAL FINDINGS

As indicated in earlier presentations to the CPC:

- Of 89 licensed Family Day Care Homes in Detroit, 85 are located in the R1 and R2 Districts.
- Of 62 licensed Group Day Care Homes in Detroit, 60 are located in the R1 and R2 Districts.
- Of the 302 licensed Child Care Centers in Detroit, 124 are located in the R1 or R2 Districts—typically within a school or church or community center.
- Of the 302 licensed Child Care Centers, 110 are located in the B2 or B4 Districts—typically as a commercial operation.
- A “typical” Group Day Care Home sits on a 40-foot wide lot on a block with 25 neighboring dwelling units; lot widths of existing Group Day Care Homes varies from 30 feet to 100 feet.
- Typical blocks hosting Group Day Care Homes:
 - 13 of 66 blocks shorter than 600 feet.

- 36 of 66 blocks 600-899 feet.
- 17 of 66 blocks 900 feet and longer

ROLE OF THE STATE

At various meetings, Commissioners, staff, and the public have sought clarification as to the role and responsibility of the state as opposed to the city. (At the June 29th public hearing, Ms. Latanya Ellington represented the Michigan Licensing and Regulatory Affairs (LARA) Department with respect to childcare licensing; she will be present at the February 15th hearing as well.)

It should be noted:

- All three childcare facilities require licensing by LARA per the statutory provisions of the Michigan Childcare Licensing Act, Public Act 116 of 1973 (MCL 722.111 – 722.127).
- Family and Group Day Care Homes are additionally subject to the Licensing Rules for Family and Group Child Care Homes in the Administrative Code (R400.1901 – R400.1963), requiring at least 600 square feet of outdoor play area for Group Day Care Homes and a minimum of 35 square feet per child of safe, usable, accessible indoor floor space, not including bathrooms and storage areas.” (The Administrative Code is silent, however, on spacing provisions to avert potential saturation of a given area.)
- The fitness of a childcare provider, the suitability of the facility and the maximum capacity of a facility are all determined by LARA.
- The city, not the state, determines in which zoning district a childcare facility may be located and what, if any, additional regulations apply.

EQUITY

As noted at the January 5th meeting, the American Planning Association (APA) has published “Equity in Zoning Policy Guide,” a document that was approved by the APA Delegate Assembly on December 15, 2022 and ratified by the APA board on December 20, 2022. Last year’s APA convention in Philadelphia and the Michigan Association of Planning’s conference in Traverse City focused significantly on this theme and it has been a guiding principle of the CPC’s own ZONEDETROIT project.

The authors of the policy guide poignantly suggest:

Zoning cannot change the fact that anything that makes housing, education, transportation, health care, or childcare more expensive will tend to perpetuate the disadvantages faced by historically disadvantaged and vulnerable communities as well as other low-income Americans (Pg. 7).

A conversion of Group Day Care Homes from a conditional use to a by-right use will make it less expensive to establish this use, which is favored by many families unable to afford more expensive and frequently less convenient Child Care Centers, noting that the very providers of this care frequently are themselves low-income Detroiters. The revisions requested by the

Commission on January 5, 2024 help to bring the proposed text amendment closer in line with the APA's equity policy.

NEXT STEPS

Since this proposed text amendment to Chapter 50 has been discussed, modified, and presented for public hearings, and is also related to a prior action of the Commission, following receipt of public testimony on February 15th, the CPC bylaws would allow for a vote to approve, deny, modify, or to further discuss this revised ordinance as updated by the Law Department.

cc: Lisa Sturges, Office of Early Learning
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