



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change

HEARING DATE: NOVEMBER 21, 2013

Project Name: **Amendments Relating to Child Care Facility Oversight**
Case Number: 2013.1400T [Board File No. 130864]
Initiated by: Supervisor Yee / Reintroduced October 22, 2013
Staff Contact: Aaron Starr, Legislative Affairs
aaron.starr@sfgov.org, 415-558-6257
Reviewed by: AnMarie Rodgers, Manager Legislative Affairs
anmarie.rodgers@sfgov.org, 415-558-6395
Recommendation: **Recommend Approval**

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PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code to transfer proposed child care facility oversight from the Department of Children, Youth and Their Families to the Office of Early Care and Education (hereinafter OECE).

The Way It Is Now:

Planning Code Section 410.10 identifies the Department of Children, Youth and Their Families as the responsible agency for determining if a proposed child-care facility will help meet the needs identified in the San Francisco Child Care Needs Assessment and if it will be consistent with the City Wide Child Care Plan.

The Way It Would Be:

The proposed ordinance would modify section 410.10 so that the OECE would be responsible agency for determining if a proposed child-care facility will help meet the needs identified in the San Francisco Child Care Needs Assessment. It also changes the name of the City Wide Child Care Plan to the San Francisco Citywide Plan for Early Care and Education and Out of School Time.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

This change is being made because in the City's FY 12-13 budget, responsibility for providing strategic direction, planning and oversight of early care and education programs was consolidated in the new agency, OECE. Previously these functions had been spread across three city agencies, including the Department of Children Youth and Families, the Human Services Agency and First Five. This Ordinance is simply correcting the Planning Code so that it is in line with the City's current practices and adopted budget.

ENVIRONMENTAL REVIEW

The proposed Ordinance would result in no physical impact on the environment. The proposed amendment is exempt from environmental review under Section 15060(c)(2) of the CEQA Guidelines.

PUBLIC COMMENT

As of the date of this report, the Planning Department has not received any correspondence regarding this Ordinance.

RECOMMENDATION: Recommendation of Approval with Modification
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 130864



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Resolution

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RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE THAT WOULD AMEND PLANNING CODE SECTION 410.10 TO TRANSFER PROPOSED CHILD CARE FACILITY OVERSIGHT FROM THE DEPARTMENT OF CHILDREN, YOUTH AND THEIR FAMILIES TO THE OFFICE OF EARLY CARE AND EDUCATION; ADOPTING FINDINGS, INCLUDING ENVIRONMENTAL FINDINGS, PLANNING CODE SECTION 302 FINDINGS, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND PLANNING CODE SECTION 101.1.

WHEREAS, on October 22, 2013, Supervisors Yee introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 130864, which would amend Sections 410.10 of the Planning Code to transfer proposed child care facility oversight from the Department of Children, Youth and Their Families to the Office of Early Care and Education (hereinafter OECE);

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on November 21, 2013; and,

WHEREAS, the proposed Ordinance has been determined to be categorically exempt from environmental review under the California Environmental Quality Act Section 15060(c); and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; and

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approve** the proposed ordinance.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. In the City's FY 12-13 budget, responsibility for providing strategic direction, planning and oversight of early care and education programs was consolidated in the new agency, OECE
2. The proposed Ordinance will correct the Planning Code so that it is in line with the City's current practices and adopted budget.
3. **General Plan Compliance.** The proposed amendments to the Planning Code are not addressed in the General Plan; the Commission finds that the proposed Ordinance is not inconsistent with the Objectives and Policies of the General Plan.
4. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative effect on neighborhood serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for

resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have a negative effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have a negative effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have a negative effect on the City's parks and open space and their access to sunlight and vistas.

- 8. Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on November 21, 2013.

Jonas P. Ionin
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: November 21, 2013

1 [Planning Code – Transfer of Child Care Facility Oversight to Office of Early Care and
2 Education]

3 **Ordinance amending the Planning Code to transfer proposed child care facility**
4 **oversight from the Department of Children, Youth and Their Families to the Office of**
5 **Early Care and Education; and making environmental findings.**

6
7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.
9 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
10 **Board amendment additions** are in double-underlined Arial font.
11 **Board amendment deletions** are in ~~strikethrough Arial font~~.
12 **Asterisks (* * * *)** indicate the omission of unchanged Code
13 subsections or parts of tables.

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. The Planning Department has determined that the actions contemplated in
16 this ordinance comply with the California Environmental Quality Act (California Public
17 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the
18 Board of Supervisors in File No. ____ and is incorporated herein by reference.

19 Section 2. The San Francisco Planning Code is hereby amended by revision Section
20 410.10, to read as follows:

21 **SEC. 410.10. COMPLIANCE BY ENTERING INTO AN ARRANGEMENT WITH A**
22 **NON-PROFIT ORGANIZATION.**

23 The sponsor of a development project subject to this Section may elect to satisfy its
24 child-care requirement by entering into an arrangement pursuant to which a nonprofit
25 organization will provide a child-care facility at a site within the City. The sponsor shall, prior to
the issuance of the first certificate of occupancy by the Director of DBI for the development
project, provide proof to the Director of Planning that:

1 (a) A space for a child-care facility has been provided by the nonprofit
2 organization, either for its own use if the organization will provide child-care services, or to a
3 nonprofit child-care provider without charge for rent, utilities, property taxes, building services,
4 repairs, or any other charges of any nature, as evidenced by a lease or sublease and an
5 operating agreement between the nonprofit organization and the provider with minimum terms
6 of three years;

7 (b) The child-care facility is a licensed child-care facility;

8 (c) The child-care facility has a minimum gross floor area of 3,000 square feet
9 or an area determined according to the following formula, whichever is greater:

10
$$\text{Net add. gross sq. ft. office or hotel space} \times .01 = \text{sq. ft. of child-care facility}$$

11 In the event that the net addition of gross square feet of office or hotel space is
12 less than 300,000 square feet, the child-care facility may have a minimum gross floor of 2,000
13 square feet or the area determined according to the above formula, whichever is greater;

14 (d) The nonprofit organization has executed and recorded a binding written
15 agreement, with a term of 20 years from the date of issuance of the first certificate of
16 occupancy for the development project, pursuant to which the nonprofit organization
17 guarantees that it will operate a child-care facility or it will lease or sublease a child-care
18 facility to one or more nonprofit child-care providers for as long as there is a demonstrated
19 need under Section 414.12, and that it will comply with all of the requirements imposed on the
20 nonprofit organization under Section 414.10 and imposed on a sponsor under Sections 414.4.

21 (e) To support the provision of a child-care facility in accordance with the
22 foregoing requirements, the sponsor has paid to the nonprofit organization a sum which
23 equals or exceeds the amount of the in-lieu fee which would have been applicable to the
24 project under Section 414.8.

1 (f) The ~~Department of Children, Youth and Their Families~~ Office of Early Care and
2 Education, or any successor entity has determined that the proposed child-care facility will help
3 meet the needs identified in the San Francisco Child Care Needs Assessment and will be
4 consistent with the ~~City Wide Child Care Plan~~ San Francisco Citywide Plan for Early Care and
5 Education and Out of School Time; provided, however, that this Paragraph (f) shall not apply to
6 any office or hotel development project approved by the Planning Commission prior to
7 December 31, 1999.

8 Upon compliance with the requirements of this Section, the nonprofit organization shall
9 enjoy all of the rights and be subject to all of the obligations of the sponsor, and the sponsor
10 shall have no further rights or obligations under Section 414.1 et seq.

11 Section 3. Effective Date. This ordinance shall become effective 30 days after
12 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
13 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
14 of Supervisors overrides the Mayor's veto of the ordinance.

15 Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
16 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
17 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
18 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
19 additions, and Board amendment deletions in accordance with the "Note" that appears under
20 the official title of the ordinance.

21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: _____
24 VIRGINIA DARIO ELIZONDO
25 Deputy City Attorney

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