

**DEPARTMENT OF
CITY PLANNING**

COMMISSION OFFICE
(213) 978-1300

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**CITY OF LOS ANGELES
CALIFORNIA**



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EXECUTIVE OFFICES
200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
(213) 978-1271

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August 26, 2021

Los Angeles City Council
% Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

**DEPARTMENT OF CITY PLANNING – REPORT BACK ON VARIOUS CASE PROCESSING
FEES AND DATA (CF 09-0969-S3)**

On May 18, 2021, the City Council approved an amendment to Sections 19.00 through 19.12 of the Los Angeles Municipal Code to update fees and more accurately represent the cost of providing planning and land use services for the Department of City Planning. This included the concurrence with the Department's recommendations to charge less than full cost recovery on certain fees based on various policy considerations. That Council action instructed the City Attorney to prepare and present the ordinance to effectuate those changes, and also requested that City Planning report back with additional background and data on some of the fees. This report is to address the various requests for information as part of that action.

RECOMMENDATION

That the City Council note and file this report inasmuch as it is for informational purposes only.

Background

The City Council instructed the Department of City Planning to report with information on the following:

1. **Child Care Entitlement Processing Fee:** The potential impact of eliminating the child care entitlement processing fee to the City.

In accordance with Section 12.24 X.24 of the Los Angeles Municipal Code (LAMC), a Zoning Administrator (ZA) may grant an entitlement to permit a child care facility for 21 to 50 children in the R3 zone. The existing fee for this application is \$4,281, which was 50% of the cost calculated in the previous fee study. The updated full cost of this fee is \$10,777. In May 2021, the City Council adopted the Department’s recommendation in concept, to increase this fee to \$5,389, thereby maintaining the 50% subsidy.

Child care facilities for 20 or less children are permitted by-right in the R3/RAS3 zones. Per LAMC Section 12.10.A.5.5, child care facilities serving 21-50 children in the R3/RAS3 zones would trigger a ZAD per LAMC Section 12.24.X.24. A Conditional Use is needed under LAMC Section 12.24.W.51, for child care facilities in the following Zones: A, RE, RS, R1, RU, RZ, RMP, RW, R2, R3, RAS 3 or RD Zones and in the CM and M Zones. The Zoning Code does not specify limitations or maximum student enrollment under the Conditional Use provisions.

With the passage of Senate Bill 234, effective January 1, 2020, Large Family Child Care Homes (caring for up to 14 children) are treated the same as Small Family Child Care Homes (caring for up to 8 children) under all local laws. SB 234 mandates that a city or county government cannot require a zoning permit or business license for large or small family child care homes.

Additionally, per Section 19.01 H.3. of the LAMC, there no fee required in connection with an application, appeal, or approval of plans for a conditional use for a child-care facility or nursery school which is determined to be nonprofit, including, but not limited to, parent-cooperatives and facilities funded by a governmental agency or owned or operated by a philanthropic institution, church, or similar institution.

Between January 2016 and April 2021, there were a total of 70 childcare projects filed with the Department. Based on pre-pandemic averages, there were about 14 cases filed per year, and an average revenue of \$61,000 annually. There is no data or evidence to indicate whether the currently subsidized fee has encouraged or been an impediment to the filing of applications for child care facilities. Below is the historical data on Childcare Facility Entitlement Cases.

Childcare Facility Entitlement Cases		
Year	No. of Cases Filed	Revenue
2016	13	\$62,742
2017	11	\$45,293
2018	20	\$67,823
2019	11	\$64,534
2020	10	\$14,296
2021 (Jan-Apr)	5	\$11,672

If this fee were to be fully subsidized, it would require an additional General Fund appropriation of \$61,000 to City Planning's salaries account to replace lost Case Processing Special Fund revenue.

2. Appeal Filing Statistics:

- a. The number of appeals filed for projects requiring 500-foot radius notification that come from within the community itself or outside of the community, and potentially expanding the notification to a one-mile radius.
- b. The nexus of the appeal process relating to the questions of location and success as factors for development projects, and whether appeals are being used as dilatory tools to slow down the process for the growth of businesses and affordable housing projects in the City.

The City Council requested information related to the filing of appeals and nexus to location. Below is a set of data with the number of appeals filed for projects within a specific radius of the project. Based on the data available, approximately 43% of appeals filed were within the required 500-foot radius notification. The data also shows that over 50% of all appeals are filed from addresses that are outside of the current notification area. Therefore, it may be reasonable to infer that those outside the notification area who are impacted by the development and are seeking out the appeal remedies already have the necessary tools and notification to file an appeal. However, a deeper dive of the notification requirement, as well as whether appeals are being used to slow development, would likely require a more comprehensive analysis by an outside consultant or professional survey to determine impacts.

Appeals					
Distance from Project Site	Number of Appeals Filed*				Percent of Appeals
	2018	2019	2020	Total	
0 to 500 feet	61	20	4	85	43%
500 to 1,500 feet	9	3	3	15	8%
1,500 feet to 1 mile	7	4	1	12	6%
Over 1 mile	60	24	4	88	44%
Total:	137	51	12	200	100%

* Between January 2018 and December 2020, there were a total of 456 appeals filed, but database limitations prevented us from identifying the address for 256 appellants. This analysis is based on the remaining 200 appellants with complete address information in our database.

3. **Potential Annual Inspection Fee for Oil Drilling Operations:** The payment of oil drilling fees by operating wells, ensuring that oil wells are being inspected and maintained; and, on a potential annual inspection fee, to be reported jointly with the Department of Public Works.

In 2018, the City Council adopted a motion instructing the Board of Public Works, Office of Petroleum and Natural Gas Administration and Safety (OPNGAS) to report on a plan to implement an oil and gas well and drill site facility compliance program that would require annual compliance checks and inspections. The program will seek to ensure compliance with City rules and laws, and track adherence to State and County regulations and report to relevant agencies or jurisdictions of regulatory non-compliance. In order to empower the OPNGAS to do this, an ordinance is required to adopt a formal Oil and Gas Well and Drill Site Facility Compliance program. The Fiscal Year 2021-22 Adopted Budget approved resolution authority for three positions within the Board of Public Works (BPW) to launch a pilot compliance program. Moreover, this Program is contingent upon the completion of a fee study to establish potential fees to make this program cost-neutral. BPW engaged a consultant, MRS Environmental, to prepare a fee study, and a draft of that report is currently being reviewed.

4. **Eldercare Facilities Fee:** Eldercare Facilities including the existing and new fee, number of cases per year, process, and cost to the City to reduce the fee.

The Eldercare Facility Unified Permit Process Ordinance was initiated by the Department of City Planning in 2003 and adopted on December 30, 2006 per Ordinance No. 178,063. The creation of this ordinance helped streamline the review of Alzheimer's/Dementia Care Housing, Senior Independent Housing and Skilled Nursing Care Housing by creating a single process for approvals. Since the adoption of the Ordinance there have not been any changes to LAMC Section 14.3.1. However, in response to Council File 13-1325, which directed the City Planning Department to establish guidelines for the processing of Eldercare cases, the Department developed a Technical Bulletin to provide guidance to applicants, staff and decision-makers reviewing said applications. In accordance with LAMC Section 14.3.1, a Zoning Administrator serves as the decision maker for Eldercare Facility permits for facilities located in the A1 through R3 Zones. The Zoning Administrator also has the initial decision making authority if the facility is located within an adopted specific plan or as it relates to site plan approval, if required. This application has a single fee which is currently charged at \$7,442. However, the full cost of providing these services is \$13,542. In May 2021, the City Council adopted the Department's recommendation in concept, to increase this fee to that amount.

Between January 2016 and April 2021, there were over 100 Eldercare Facility applications filed with the Department. Based on pre-pandemic averages, there were about 20 cases filed per year, and an average revenue of \$271,000 annually. Below is the historical data on Eldercare Facility cases.

Eldercare Facility Entitlement Cases		
Year	No. of Cases Filed	Revenue
2016	18	\$288,462
2017	21	\$349,811
2018	22	\$251,744
2019	18	\$195,021
2020	17	\$98,696
2021 (Jan-Apr)	5	\$66,870

If this fee were to be fully subsidized, it would require an additional General Fund appropriation of \$271,000 to City Planning’s salaries account to replace lost Case Processing Special Fund revenue.

5. **Coastal Development Permits:** Information regarding Coastal Development Permits, including the existing and new fee, number of cases per year, process, and cost to the City to reduce the fee.

There are a number of different filing fees for Coastal Development Permit applications. Below is a table showing the existing fees, and the proposed new fee at full cost recovery.

Coastal Development Permits - Fees		
CDP Type	Current Fee	Approved New Fee
CDP - Single Family Residential Dwelling	\$13,753	\$12,016
CDP - Multi-Family Residential Dwelling	\$13,753	\$15,928
CDP - Non-Residential	\$13,753	\$15,928
CDP - Exemption Determination	\$1,437	\$1,492
CDP - Amendment	\$5,517	\$10,475
CDP - Mello Compliance Review - City Review	\$6,547	\$3,236

Below is the historical data on Coastal Development Permit cases.

Coastal Development Permits - Cases			
Year	No. of Cases Filed	Revenue	No. of Appeals
2016	139	\$823,988	20
2017	142	\$896,418	20
2018	116	\$1,345,718	4
2019	115	\$1,310,194	9
2020	94	\$1,000,367	2
2021 (Jan-Apr)	32	\$369,481	0

The Department was also asked to report on exploring streamlining the process for Coastal Development Permits, but this is not something that is entirely within the City Planning Department's control. In 1978, the City assumed primary authority to issue California Coastal Development Permits, subject to the requirements of the Coastal Act and a permitting program approved by the California Coastal Commission. The permitting program requires that any permit issued by the City is subject to review and may be further appealed to the Coastal Commission. The Department cannot unilaterally implement process streamlining without amending the permitting program. However, with certification of a Local Coastal Program (LCP), the Department would have the authority to explore streamlining its review process with administrative reviews, depending on the thresholds established in the LCP.

6. **Ministerial (By-Right) Applications:** Strategies to increase and streamline the number of Administrative Reviews (ADM) and ministerial (versus discretionary) processes, with suggestions on this front especially focused on small and medium businesses, affordable housing, single-family and small residential, and to make these approval processes as simple as possible.

The Department continues to make it a priority to streamline administrative reviews for qualifying ministerial, or by-right, requests, particularly for small businesses, affordable housing, and single-family and small residential projects. Over the course of the last few years, data shows that the number of administrative reviews has increased significantly while there have been significantly fewer discretionary cases, thereby representing the successful streamlining of application reviews. In 2018, administrative applications made up approximately 60% of all case filings, and that number has grown to over 85% in 2021.

Administrative Reviews (ADM)				
Year	Entitlements Filed Discretionary	ADM Filed Ministerial	Total Case Filings	% of ADMs
2018	1,859	2,766	4,625	59.8%
2019	1,603	3,482	5,085	68.5%
2020	1,106	4,574	5,680	80.5%
2021 Jan-Jun	526	3,043	3,569	85.3%

The Department has also implemented a number of other streamlining measures. Earlier this year, City Planning issued a memo with an updated interpretation regarding implementation of the City’s Density Bonus Ordinance. The new interpretation allows requests for on-menu Density Bonus incentives to be processed ministerially, thereby exempting such requests from analysis under CEQA. While this new policy has only been in effect for six months, it is anticipated to facilitate a much faster permitting process for these types of Density Bonus projects when they do not require other discretionary entitlements. In addition, the Department has implemented an administrative review process for qualifying Streamlined Infill Project (SIP) projects that meet the affordable housing provisions of Senate Bill 35 and Assembly Bill 2162.

City Planning is currently working to update the City’s Housing Element, having released the draft plan for public review on July 1, 2021. The Housing Element Update proposes a number of implementation programs that will continue to streamline the approval process for affordable housing, including a Rezoning Program that will expand housing capacity to meet the City’s RHNA goal.

Specific Rezoning Program concepts include focusing rezoning strategies on commercial and residential corridors, areas zoned for Parking (P), transitional residential areas off commercial boulevards, in existing regional centers, on public and religious-owned land, and in other areas where multi-family, and therefore affordable housing, is not permitted today. The Rezoning Program will also look at creating more flexible zoning and incentives for existing single-family or lower density residential areas to create opportunities for a variety of “missing middle” low-scale housing typologies.

In addition, the Program will update and expand the City's affordable housing incentive programs (including Density Bonus and TOC) to include a wider array of areas and project types. The Density Bonus update will seek to further streamline affordable housing production by expanding the menu of available zoning incentives, expanding by-right development via a higher threshold for Site Plan Review, expanding adaptive reuse and micro unit housing, enshrining the TOC Program within the Density Bonus framework, and expanding incentives for 100% affordable housing projects.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Vincent P. Bertoni', is written over the printed name below.

VINCENT P. BERTONI, AICP
Director of Planning