		<b>AGENDA ITEM EXECUTIVE SUMMARY</b>					
		Title:		Recommend Approval of a Special Use for a Daycare Center on Lot 2 of the Tyler & Rt. 64 PUD (Children of America)			
		Presenter:		Matthew O'Rourke			
Please check appropriate box:							
	Government Operations				Government Services		
X	Planning & Development (12/12/11)				City Council		
	Public Hearing						
Estimated Cost:		NA		Budgeted:		YES	NO
If NO, please explain how item will be funded:							
<b>Executive Summary:</b>							
<p>This item was tabled at the 11/14/11 meeting to give committee members the opportunity to review the materials submitted by Anisa Ali, Owner of the Goddard School – St. Charles. Those materials are attached. Staff is also including a legal opinion from the City's Legal Counsel regarding these materials.</p> <p>The applicant, Bob Rasmussen, has submitted applications for a Special Use and PUD Preliminary Plan for a Children of America Daycare Center on a portion of Lot 2. The salient features of the proposed development are as follows:</p> <ul style="list-style-type: none"> <li>• The daycare is proposed in the same location as the approved building 4.</li> <li>• A 4,000 SQ FT outdoor play area is proposed north of the Daycare Center.</li> <li>• This proposal will add 3 parking spaces for a total of 191 for all 4 buildings.</li> <li>• Access to the site is through an existing network of drives with a full access on Tyler Road and a right-in right-out on Rt. 64.</li> </ul> <p>The Plan Commission held a public hearing on October 18, 2011 to discuss the proposal. The Plan Commission recommended approval of the Applications for a Special Use for a Daycare Center and PUD Preliminary Plan on November 8, 2011. The vote was 5- AYE and 0- NAY.</p>							
<b>Attachments:</b> <i>(please list)</i>							
Preliminary/Final Engineering Plans; ESI Consultants, LTD; dated 10-3-11 Landscape Plan; Pamela Self; 10-7-11 Elevation; Culver Franchise System; dated 10-25-11 Materials Submitted by Anisa Ali, Owner of the Goddard School – St. Charles; dated 11-14-11 Legal Opinion from Robin Jones; Gorski and Good; dated 12-1-11							
<b>Recommendation / Suggested Action</b> <i>(briefly explain):</i>							
Staff recommends approval of the Application for a Special Use for a Daycare Center in the Tyler & Rt. 64 PUD (Children of America).							
For office use only:		Agenda Item Number: 3a					

Community Development  
Planning Division

Phone: (630) 377-4443

Fax: (630) 377-4062



**Staff Report**

**TO:** Chairman Cliff Carrignan  
And the Planning & Development Committee

**FROM:** Matthew O'Rourke, AICP  
Planner

**RE:** Proposed Special Use and Preliminary PUD Plan (Children of America)

**DATE:** November 4, 2011

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**I. APPLICATION INFORMATION:**

**Project Name:** Tyler & Rt. 64 PUD - Special Use for a Daycare Center (Children of America)

**Applicant:** Bob Rasmussen

**Purpose:** To Develop Property as a Daycare Center

**General Information:**

Site Information	
Location	Lot 2 in the Tyler and Rt. 64 PUD, Southwest Corner of Tyler Road and Rt. 64; South of the St. Charles Chrysler Dealership
Acres	0.5

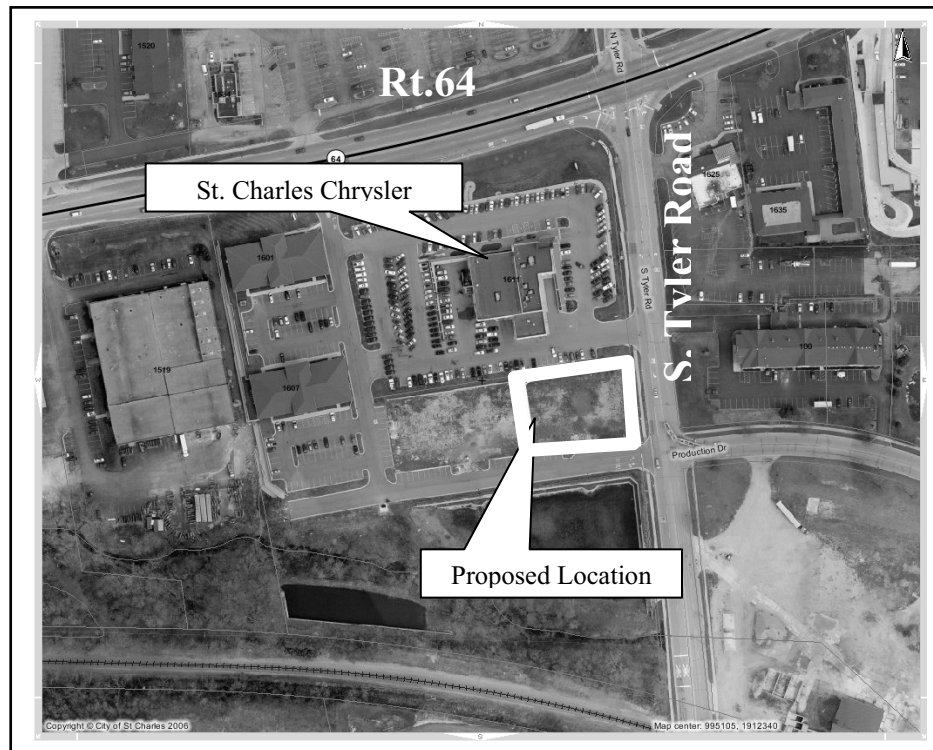
Applications	1) Special Use for a Daycare Center 2) PUD Preliminary Plan
Applicable Zoning Code Sections	All provision for the PUD are incorporated into ORD 2004-Z-14
PUD ORD-2004-Z-14	ORD 2004-Z-14 established the bulk standards and list of permitted and Special Use on the site.

Existing Conditions	
Land Use	Vacant
Zoning	BC- Community Business District (PUD)

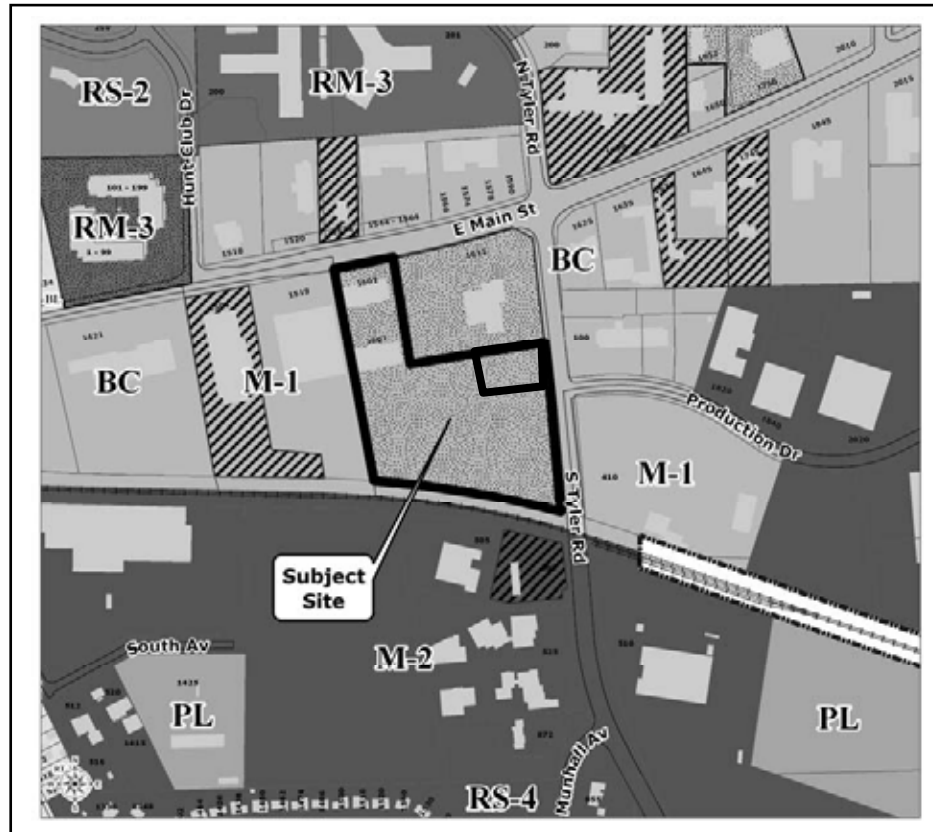
Zoning Summary		
North	BC- Community Business District (PUD)	St. Charles Chrysler Dealership
East	BC- Community Business District	Days Inn
South	BC- Community Business District (PUD)	Detention Pond
West	BC- Community Business District (PUD)	Vacant/ Office Buildings

Comprehensive Plan Designation	
Retail and Service	

## Aerial Photo



## Surrounding Zoning



## II. OVERVIEW:

### 1. BACKGROUND

In 2004, the City Council approved Ordinance 2004-Z-14 “An Ordinance Granting a Special Use as a Planned Unit Development (Tyler and Rt. 64 PUD)”. The approved PUD included two lots. Lot 1 was developed as the Al Piemonte Dealership (now St. Charles Chrysler). Lot 2 was approved with 4 office buildings and a stormwater retention facility. Two of these office buildings are already constructed.

### 2. PROPOSAL

The applicant, Bob Rasmussen, has submitted Applications for a Special Use and PUD Preliminary Plan for a Children of America daycare center on a portion of Lot 2. The salient features of the proposed development are as follows:

- The daycare is proposed in the same location as the approved building 4.
- The building footprint is reduced from 11,000sf to 10,000sf.
  - The new footprint is 15 ft. wider and 20 ft. more shallow than the original footprint.
- A 4,000 SQ FT outdoor play area is proposed north of the Daycare Center.
- The existing curb cut off of the east-west access-drive is relocated further east.
- This proposal will add 3 parking spaces for a total of 191 for all 4 buildings.
- The eastern parking lot has been shifted 24 ft. to the east.
- Access to the site is through an existing network of drives with a full access on Tyler Road and a right-in right-out on Rt. 64.

## III. ZONING ANALYSIS

The majority of permitted uses and bulk standards were incorporated into ORD 2004-Z-14. Staff has reviewed the proposal to ensure compliance with those standards as detailed below:

### 1. PERMITTED AND SPECIAL USES

Per Exhibit III of the Tyler and Rt. 64 PUD, Nursery Schools and Daycare Centers are listed as a special use.

Additionally, the underlying Zoning District for this property is BC-Business Community. Daycare Center is listed as a permitted use in the underlying Zoning District.

### 2. BULK STANDARDS

**Table 1** details Staff’s review to ensure compliance with the established bulk standards.

**Table 1**

Category	Standards Established per ORD 2004-Z-14	Proposed
<b>Lot Area</b>		No Changes
<b>Lot Width</b>	Layout approved as part of PUD	No Changes
<b>Building Setbacks:</b>		
<i>Tyler Road Setback</i>	40’ from S. Tyler Road	117’ from S. Tyler Road

<i>Interior Side</i>	5'	N/A
<i>Exterior Side</i>	N/A	N/A
<i>Rear</i>	20'	29.7'
<b>Parking/Paving Setbacks:</b>		
<i>Tyler Road Setback</i>	40' from S. Tyler Road	41.1'
<i>Interior Side</i>	N/A	N/A
<i>Exterior Side</i>	N/A	N/A
<i>Rear</i>	None	0'
<b>Building Coverage (FAR)</b>	N/A	N/A
<b>Parking Stall Size</b>	9' wide by 18'	9' wide by 18'
<b>Drive-Aisle Width</b>	24' Wide	24' Wide

## Parking

Category	Standards Established per ORD 2004-Z-14	Proposed
<b>Parking Requirement (Per Approved PUD Preliminary Plan for all 4 Buildings)</b>	188 Shared Parking Spots	191 Shared Parking Spots
<b>Parking Requirement for Daycare Centers</b>	1 Space per Employee and 1 Space per Every 15 Students	21 Employees (21 Spaces) 183 Students (12.2 Spaces)  <b>Total of 33 Off-Street Spaces Required</b>  <b>40 Spaces Shown on Site Plan</b>

Staff examined the difference in parking requirements for the original proposed office use and the Daycare Center use. The approved PUD contemplated 188 shared parking spaces based on the use category, professional office. The parking requirement for professional office is 4 spaces per every 1,000 SQ FT of floor area. The original building at 11,000 SQ FT would have had a requirement of 44 spaces. The Daycare use requires 33 off-street parking spaces; therefore, the revised proposal shows an increase in the total number of off-street parking spaces provided, and a decrease in the number of required off-street parking spaces.

## Architectural Review

Section 2 A. Preliminary Plan Approval of Ordinance 2004-Z-14 states, "Building elevations for Office Buildings Three and Four on Lot 2 must be approved by the City Council, upon recommendation by the Plan Commission, prior to issuance of any building permits for these buildings."

The applicant has submitted elevations for the proposed building. The materials shown compliment the color scheme and design of the approved elevations for buildings 1 and 2.

## **Landscape Review**

Staff compared the revised landscape plan to the one approved as part of the PUD. This plan shows an increase in the amount of overall landscaping. An additional 10.5ft of foundation landscaping has been added east of the proposed building.

## **IV. PLAN COMMISSION**

### **A. PUBLIC HEARING**

The Plan Commission held a public on 10-18-11 regarding this application. During that hearing, there were traffic concerns raised by members of the public. In particular, how the proposed use would affect the surrounding road network.

Staff has examined the proposed special use within the context of the Tyler and Rt. 64 PUD and the surrounding road network. There are no known capacity issues in this vicinity.

Staff also considered this use within the context of the surrounding properties and the underlying Zoning District of the subject property. The majority of the properties in the location are zoned BC-Community Business District, including the subject property. Daycare is considered a permitted use in the BC District, and therefore would not require a Special Use review or traffic analysis when a new daycare use is established. Daycare is considered a special use in the Tyler and Rt. 64 PUD because the property was zoned M1 Limited Manufacturing District at the time the PUD was approved. However, in 2006 the underlying zoning was modified as a result of the complete Zoning Ordinance rewrite. At that time, it was determined that the character of this development is more commercial in nature and not manufacturing. Therefore, the request for a daycare does not create any unique concerns in this location.

### **B. RECOMMENDATION**

This item has been placed on the November 8, 2011 Plan Commission Meeting agenda for a recommendation. Staff will forward that recommendation to the Planning & Development Committee under separate cover.

## **V. RECOMMENDATION**

Staff is recommending approval and has provided DRAFT Findings of Fact to support that recommendation.

## **VI. FINDINGS OF FACT FOR SPECIAL USE:**

### **1. Public Convenience: The Special Use will serve the public convenience at the proposed location.**

The proposed daycare use is located near existing commercial businesses, offices, manufacturing facilities, and residential districts and will provide a convenient location for local employees or residents. The location is situated on a collector street that provides convenient access for anyone trying to enter this site.

**2. Sufficient Infrastructure: That adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided.**

All necessary utilities, access roads, and other facilities are already constructed, or will be constructed in conjunction with this project. The majority of utilities needed for the development of the proposed use were constructed as part of the Tyler and Rt. 64 PUD.

**3. Effect on Nearby Property: That the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.**

The proposed use is similar in character to the existing businesses and permitted uses in the surrounding neighborhood. The proposed use will be a harmonious mix with the surrounding properties and the development of the vacant property will add to and not diminish the property values in the area.

**4. Effect on Development of Surrounding Property: That the establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.**

The majority of the surrounding properties are already developed. The development of this use will continue the planned development of Lot 2 in Tyler and Rt. 64 PUD, and assist with the orderly development in this portion of the City of St. Charles.

**5. Effect on General Welfare: That the establishment, maintenance or operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The establishment of this special use will permit a daycare center to be constructed on Lot 2 of the Tyler and Rt. 64 PUD, which is a permitted use in the underlying BC-Community Business District. Since this use is allowed within the underlying Zoning District and is compatible with the surrounding established uses, the special use will not endanger the public health, safety, comfort, or general welfare.

**6. Conformance with Codes: That the proposed Special Use conforms to all existing Federal, State and local legislation and regulation and meets or exceeds all applicable provisions of this Title, except as may be varied pursuant to Special Use for Planned Unit Development.**

The applicant has submitted the following plans:

- Preliminary/Final Engineering Plans for Tyler & Rt. 64 Daycare Center; ESI Consultants, LTD.; Dated 10-3-11
- Landscape Plan; Pamela Self; Dated 10-7-11
- Architectural Elevation; Lima Architects, LLC.; Dated 10-25-11

These plans demonstrate that the proposed use will meet the applicable guidelines of the underlying BC-Community Business District and the requirements established by Ordinance 2004-Z-14, “An Ordinance Granting a Special Use as a Planned Unit Development (Tyler and Rt. 64 PUD)”.

Cc: Russell Colby, Planning Division Manager  
Bob Rasmussen, Applicant



# CITY OF ST. CHARLES

TWO EAST MAIN STREET  
ST. CHARLES, ILLINOIS 60174-1984



COMMUNITY DEVELOPMENT/PLANNING DIVISION

PHONE: (630) 377-4443 FAX: (630) 377-4062

## PUD PRELIMINARY PLAN APPLICATION

Received Date

RECEIVED

AUG 4 - 2009

PLANNING OFFICE

### CITYVIEW

Project Name: \_\_\_\_\_

Project Number: 2009 -PR- 011

Application Number: 2009 -AP- 025

### Instructions:

To request approval of a PUD Preliminary Plan, complete this application and submit it with all required plans and attachments to the Planning Division. Normally this application will track with an application for Special Use for a PUD, unless a Special Use for a PUD has previously been granted and no amendment is necessary.

When the application is complete staff will distribute the plans to other City departments for review. When the staff has determined that the plans are ready for Plan Commission review, we will place the PUD Preliminary Plan on a Plan Commission meeting agenda.

The information you provide must be complete and accurate. If you have a question please call the Planning Division and we will be happy to assist you.

<b>1. Property Information:</b>	Parcel Number (s): <u>09-26-328-010.000</u>	
	Proposed Name of PUD: <u>Tyler + 64 Business Park - Lot #2</u> <sup>(630)</sup> <u>774-9101</u>	
<b>2. Applicant:</b>	Name <u>Tyler + 64 LLC</u>	Phone <u>630-443-9393</u>
	Address <u>409 Illinois Ave #1-D</u>	Fax <u>630-443-9008</u>
	<u>St. Charles, IL 60174</u>	Email <u>Bob@MidwestCustomHomes.com</u>
<b>3. Record Owner:</b>	Name <u>Same</u>	Phone
	Address	Fax
		Email
<b>4. Billing:</b> Who is responsible for paying application fees and reimbursements?	Name <u>Same</u>	Phone
	Address	Fax
		Email

## ***Attachment Checklist***

*Note: The City Staff, Plan Commission, or City Council, may request other pertinent information during the review process.*

- ☐ **APPLICATION:** Completed application form signed by the applicant
- ☐ **APPLICATION FEE:** Application fee in accordance with Appendix B of the Zoning Ordinance.
- ☐ **REIMBURSEMENT OF FEES AGREEMENT:**

An original, executed Reimbursement of Fees Agreement and deposit of funds in escrow with the City, as provided by Appendix B of the Zoning Ordinance.

- ☐ **PROOF OF OWNERSHIP and DISCLOSURE:**

- a) a current title policy report; or
- b) a deed and a current title search.

If the owner is not the applicant, an original letter of authorization from the owner permitting the applicant to act on his/her behalf is required. If the owner or applicant is a Trust, a disclosure of all beneficiaries; if the owner or applicant is a Partnership, a disclosure of all partners; if the owner or applicant is a Corporation, a disclosure of all owners with an interest of at least ten percent (10%).

- ☐ **LEGAL DESCRIPTION:** For entire subject property, on 8 ½ x 11 inch paper
- ☐ **PLAT OF SURVEY:**

A current plat of survey for the Subject Realty showing all existing improvements on the property, prepared by a registered Illinois Professional Land Surveyor.

- ☐ **SOIL AND WATER CONSERVATION DISTRICT APPLICATION:**

Copy of completed Land Use Opinion application as required by state law, as submitted to The Kane-Dupage Soil and Water Conservation District. <http://www.kanedupageswcd.org/>

- ☐ **ENDANGERED SPECIES REPORT:**

Copy of Endangered Species Consultation Agency Action to be filed with the Illinois Department of Natural Resources. <http://dnrecocat.state.il.us/ecopublic/>

- ☐ **PLANS:**

All required plans shall be drawn on sheets no larger than 24" x 36", unless the Director of Community Development permits a larger size when necessary to show a more comprehensive view of the project. All required plans shall show north arrow and scale, and shall be drawn at the same scale (except that a different scale may be used to show details or specific features). All plans shall include the name of the project, developer or owner of site, person or firm preparing the plan, and the date of plan preparation and all revisions.

### **Copies of Plans:**

- Initial Submittal - Fifteen (15) full size copies, Three (3) 11" by 17", and a PDF electronic file on a CD-ROM.
- Revision Submittal for Plan Commission - Twenty-Two (22) full size copies, Three (3) 11" by 17" and a PDF electronic file on a CD-ROM.

- ☐ **SITE/ENGINEERING PLAN:**

A plan or plans showing the following information:

1. Accurate boundary lines with dimensions
2. Existing and proposed easements: location, width, purpose

3. Streets on and adjacent to the tract: Name and right-of-way width, center line elevation, and culverts
4. Location, size, shape, height, and use of existing and proposed structures
5. Location and description of streets, sidewalks, and fences
6. Surrounding land uses
7. Legal and common description
8. Date, north point, and scale
9. Existing and proposed topography
10. All parcels of land intended to be dedicated for public use or reserved for the use of all property owners with the proposal indicated
11. Location of utilities
12. Building/use setback lines
13. Location of any significant natural features
14. Location of any 100-year recurrence interval floodplain and floodway boundaries
15. Location and classification of wetland areas as delineated in the National Wetlands Inventory
16. Existing zoning classification of property
17. Existing and proposed land use
18. Area of property in square feet and acres
19. Proposed off-street parking and loading areas
20. Number of parking spaces provided, and number required by ordinance
21. Angle of parking spaces
22. Parking space dimensions and aisle widths
23. Driveway radii at the street curb line
24. Width of driveways at sidewalk and street curb line
25. Provision of handicapped parking spaces
26. Dimensions of handicapped parking spaces
27. Depressed ramps available to handicapped parking spaces
28. Location, dimensions and elevations of freestanding signs
29. Location and elevations of trash enclosures
30. Provision for required screening, if applicable
31. Provision for required public sidewalks
32. Certification of site plan by a registered land surveyor or professional engineer
33. Geometric plan showing all necessary geometric data required for accurate layout of the site
34. Grading plans showing paving design, all storm sewers, and detention/retention facilities including detention/retention calculations) and erosion control measures
35. Utility plans showing all storm sewers, sanitary sewers, watermains, and appropriate appurtenant structures
36. Exterior lighting plans showing:
  - Location, height, intensity and fixture type of all proposed exterior lighting

- Photometric information pertaining to locations of proposed lighting fixtures

37. Typical construction details and specifications

38. Certification of site engineering plans by a registered professional engineer

39. Proof of application for Stormwater Management Permit

❑ **SKETCH PLAN FOR LATER PHASES OF PUD:**

For phased PUD's, where a sketch plan is permitted, it shall include, at minimum, the following:

- General location of arterial and collector streets
- Location of any required landscape buffers
- Location of proposed access to the site from public streets
- Maximum number of square feet of floor area for nonresidential development
- Maximum number of dwelling units for residential development
- Open space and storm water management land

❑ **ARCHITECTURAL PLANS:**

Architectural plans and data for all principal buildings shall be submitted in sufficient detail to permit an understanding of the exterior appearance and architectural style of the proposed buildings, the number, size and type of dwelling units, the proposed uses of nonresidential and mixed use buildings, total floor area and total building coverage of each building.

❑ **TREE PRESERVATION PLAN:**

Tree Preservation Plan when required in accordance with Chapter 8.30 of the St. Charles Municipal Code. The information required for this plan may be included as part of the Landscape Plan set.

❑ **LANDSCAPE PLAN:**

Landscape Plan showing the following information:

1. Delineation of the buildings, structures, and paved surfaces situated on the site and/or contemplated to be built thereon
2. Delineation of all areas to be graded and limits of land disturbance, including proposed contours as shown on the Site/Engineering Plan.
3. Accurate property boundary lines
4. Accurate location of proposed structures and other improvements, including paved areas, berms, lights, retention and detention areas, and landscaping
5. Site area proposed to be landscaped in square feet and as a percentage of the total site area
6. Percent of landscaped area provided as per code requirement
7. Dimensions of landscape islands
8. Setbacks of proposed impervious surfaces from property lines, street rights-of-way, and private drives
9. Location and identification of all planting beds and plant materials
10. Planting list including species of all plants, installation size (caliper, height, or spread as appropriate) and quantity of plants by species
11. Landscaping of ground signs and screening of dumpsters and other equipment

☐ **PUBLIC BENEFITS, DEPARTURES FROM CODE:**

A description of how the PUD meets the purposes and requirements set out in Section 17.04.400 of the Zoning Ordinance. Any requests for departures from the requirements of Title 16, "Subdivisions and Land Improvement," and Title 17, "Zoning," shall be listed and reasons for requesting each departure shall be given.

☐ **SCHEDULE:** Construction schedule indicating:

- a. Phases in which the project will be built with emphasis on area, density, use and public facilities, such as open space, to be developed with each phase. Overall design of each phase shall be shown on the plat and through supporting material.
- b. Approximate dates for beginning and completion of each phase.
- c. If different land use types are to be included within the PUD, the schedule must include the mix of uses to be built in each phase.

☐ **INCLUSIONARY HOUSING SUMMARY:** For residential developments, submit information describing how the development will comply with the requirements of Chapter 17.18, Inclusionary Housing, including:

- The number and rental/for sale status of Market-Rate Units and Affordable Units to be constructed including type of dwelling, number of bedrooms per unit, proposed pricing, and construction schedule, including anticipated timing of issuance of building permits and occupancy certificates.
- Documentation and plans regarding locations of Affordable Units and Market-Rate Units, and their exterior appearance, materials, and finishes.
- A description of the marketing plan that the Applicant proposes to utilize and implement to promote the sale or rental of the Affordable Units within the development; and,
- Any proposal to pay fees in lieu of providing the required Affordable Unit, per section 17.18.050.

☐ **SUBDIVISION PRELIMINARY PLAN CHECKLIST:**


If the PUD Preliminary Plan involves the subdivision of land, a completed Subdivision Preliminary Plan Checklist must be submitted. This Subdivision Checklist may reference the same set(s) of plans as the preceding checklists for Site/Engineering, Sketch Plan, Tree Preservation, and Landscape Plans, but the additional information required by the Subdivision Preliminary Plan Checklist must be included, where applicable.


☐ **APPLICATION FOR SPECIAL USE FOR A PUD:**

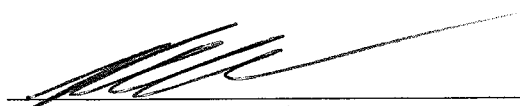
The application for PUD Preliminary Plan must be accompanied by an application for a Special Use for a PUD, unless the Special Use was previously granted and no amendment is needed. Documentation required for both applications need not be duplicated.

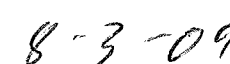
☐ **HISTORIC DESIGNATION:** Is the property a designated Landmark or in a Historic District? \_\_\_\_\_

**I (we) certify that this application and the documents submitted with it are true and correct to the best of my (our) knowledge and belief.**

  
\_\_\_\_\_  
Record Owner

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Applicant or Authorized Agent

  
\_\_\_\_\_  
Date

## SUMMARY OF PROPOSED DEVELOPMENT



Name of Development Tyler + 64 Business Park

Number of years expected for build out 1

### Acreage or Square Ft. Breakdown:

Area of residential development \_\_\_\_\_

Area of nonresidential development 1/2 acre

Area of private open space \_\_\_\_\_

Area of stormwater ponds/basins \_\_\_\_\_

Park land dedication \_\_\_\_\_

School land dedication \_\_\_\_\_

Total Acres \_\_\_\_\_

### Residential Breakdown:

#### Number of units

Single Family Detached: \_\_\_\_\_

Attached Single Family (Townhomes): \_\_\_\_\_

Multi-Family: \_\_\_\_\_

Other: \_\_\_\_\_

Total Dwelling Units \_\_\_\_\_

Gross Density (Total D.U./Total Residential Acres) \_\_\_\_\_

Estimated Total Population (from Park Worksheet) \_\_\_\_\_

Estimated Student Population (from School Worksheet) \_\_\_\_\_

# CITY OF ST. CHARLES

TWO EAST MAIN STREET  
ST. CHARLES, ILLINOIS 60174-1984



COMMUNITY DEVELOPMENT/PLANNING DIVISION

PHONE: (630) 377-4443 FAX: (630) 377-4062

## SPECIAL USE APPLICATION

Received Date

RECEIVED

AUG 4 - 2008

PLANNING OFFICE

### CITYVIEW

Project Name:

2009 PRO11

Project Number:

-PR-

Application Number:

2009

-AP-

024

To request a Special Use for a property, or to request to amend an existing Special Use Ordinance for a property, complete this application and submit it with all required attachments to the Planning Division.

City staff will review submittals for completeness and for compliance with applicable requirements prior to establishing a public hearing date for an application.

The information you provide must be complete and accurate. If you have a question please call the Planning Division and we will be happy to assist you.

<b>1. Property Information:</b>	Parcel Number (s): 09-26-328-010.000	
	Street Address (or common location if no address is assigned): Tyler + 64 Business Park - Lot #2	
<b>2. Applicant Information:</b>	Name Tyler + 64 L.L.C.	Phone 630-443-9393
	Address 409 Illinois Ave. #1-D	Fax 630-443-9008
	ST. Charles, IL 60174	Email
<b>3. Record Owner Information:</b>	Name Same	Phone
	Address	Fax
		Email
<b>4. Billing:</b> To whom should costs for this application be billed?	Name Same	Phone
	Address	Fax
		Email

**Information Regarding Proposed Special Use:**

Comprehensive Plan designation of the property: office

Is the property a designated Landmark or in a Historic District? NO

What is the property's current zoning? PUD

What is the property currently used for? Vacant

What Special Use(s) are you applying for? Please select from the list of Special Uses in the Zoning Ordinance for the appropriate zoning district.

If the proposed Special Use is approved, what improvements or construction are planned?

Construction of 10,000 sq Building

**For Special Use Amendments only:**

What Special Use ordinance do you want to amend? Ordinance No. \_\_\_\_\_

Why is the proposed change necessary?

What are the proposed amendments? (Attach proposed language if necessary)

**Note for existing buildings:**

If your project involves using an existing building, whether you plan to alter it or not, please contact the St. Charles Fire Department (630-377-4458) and the Building and Code Enforcement Division (630-377-4406) for information on building, life safety and other code requirements. Depending on the proposed use, size of structure and type of construction, these requirements can result in substantial costs.

**Attachment Checklist**

- ☐ **APPLICATION:** Completed application form signed by the applicant
- ☐ **APPLICATION FEE:** Application fee in accordance with Appendix B of the Zoning Ordinance.
- ☐ **REIMBURSEMENT OF FEES AGREEMENT:** An original, executed Reimbursement of Fees Agreement and deposit of funds in escrow with the City, as provided by Appendix B of the Zoning Ordinance.
- ☐ **PROOF OF OWNERSHIP and DISCLOSURE:**
  - a) A current title policy report; or
  - b) A deed and a current title search.



If the owner is not the applicant, an original letter of authorization from the owner permitting the applicant to act on his/her behalf is required. If the owner or applicant is a Trust, a disclosure of all beneficiaries; if the owner or applicant is a Partnership, a disclosure of all partners; if the owner or applicant is a Corporation, a disclosure of all owners with an interest of at least ten percent (10%).

❑ **LEGAL DESCRIPTION:** For entire subject property, on 8 1/2 x 11 inch paper

❑ **PLAT OF SURVEY:**

A current plat of survey for the Subject Realty showing all existing improvements on the property, prepared by a registered Illinois Professional Land Surveyor.

❑ **SOIL AND WATER CONSERVATION DISTRICT APPLICATION:**

Copy of completed Land Use Opinion application as required by state law, as submitted to The Kane-Dupage Soil and Water Conservation District. <http://www.kanedupageswcd.org/>

❑ **ENDANGERED SPECIES REPORT:**

Copy of Endangered Species Consultation Agency Action to be filed with the Illinois Department of Natural Resources. <http://dnrecocat.state.il.us/ecopublic/>

❑ **TRAFFIC STUDY:** If requested by the Director of Community Development.

❑ **PLANS:**

All required plans shall be drawn on sheets no larger than 24" x 36", unless the Director of Community Development permits a larger size when necessary to show a more comprehensive view of the project. All required plans shall show north arrow and scale, and shall be drawn at the same scale (except that a different scale may be used to show details or specific features). All plans shall include the name of the project, developer or owner of site, person or firm preparing the plan, and the date of plan preparation and all revisions.

**Copies of Plans:**

- Initial Submittal - Fifteen (15) full size copies, Three (3) 11" by 17", and a PDF electronic file on a CD-ROM.
- Revision Submittal for Plan Commission - Twenty-Two (22) full size copies, Three (3) 11" by 17" and a PDF electronic file on a CD-ROM.

❑ **SITE PLAN (Note: For a Special Use for PUD, submit PUD Preliminary Plan Application in lieu of Site Plan)**

A plan or plans showing the following information:

1. Accurate boundary lines with dimensions
2. Streets on and adjacent to the tract: Name and right-of-way width
3. Location, size, shape, height, and use of existing and proposed structures
4. Location and description of streets, sidewalks, and fences
5. Surrounding land uses
6. Date, north point, and scale
7. Ground elevation contour lines
8. Building/use setback lines
9. Location of any significant natural features
10. Location of any 100-year recurrence interval floodplain and floodway boundaries
11. Location and classification of wetland areas as delineated in the National Wetlands Inventory
12. Existing zoning classification of property
13. Existing and proposed land use
14. Area of property in square feet and acres
15. Proposed off-street parking and loading areas
16. Number of parking spaces provided, and number required by ordinance

17. Angle of parking spaces
18. Parking space dimensions and aisle widths
19. Driveway radii at the street curb line
20. Width of driveways at sidewalk and street curb line
21. Provision of handicapped parking spaces
22. Dimensions of handicapped parking spaces
23. Depressed ramps available to handicapped parking spaces
24. Location, dimensions and elevations of freestanding signs
25. Location and elevations of trash enclosures
26. Provision for required screening, if applicable
27. Exterior lighting plans showing:
  - a. Location, height, intensity and fixture type of all proposed exterior lighting
  - b. Photometric information pertaining to locations of proposed lighting fixtures

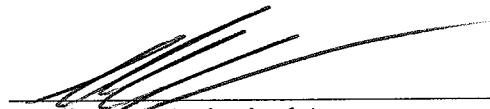
**I (we) certify that this application and the documents submitted with it are true and correct to the best of my (our) knowledge and belief.**



Record Owner

8-3-09

Date



Applicant or Authorized Agent

8-3-09

Date

## FINDINGS OF FACT SHEET – SPECIAL USE

*The St. Charles Zoning Ordinance requires the Plan Commission to consider the factors listed below in making a recommendation to the City Council.*

*As the applicant, the "burden of proof" is on you to show how your proposed Special Use will comply with each of the applicable standards. Therefore, you need to "make your case" by explaining specifically how your project meets each of the following standards.*



\_\_\_\_\_  
*Project Name or Address*

\_\_\_\_\_  
*Date*

### **From the Charles Zoning Ordinance, Section 17.04.430.C.2:**

No Special Use or amendment to Special Use shall be recommended by the Plan Commission unless it finds that the proposed Special Use or amendment to Special Use will conform with each of these standards. The Plan Commission shall submit its written findings together with its recommendations to the City Council after the conclusion of the Public Hearing, and also may recommend such conditions as it may deem necessary to ensure conformance with these standards.

On the basis of the evidence presented at the public hearing, the Plan Commission shall record its reasons for recommending approval or denial of the petition (findings of fact) in accordance with the following standards:

- A. Public Convenience: The Special Use will serve the public convenience at the proposed location.**

*Provide Day Care / Pre-school to nearby families*

- B. Sufficient Infrastructure: That adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided.**

*all facilities are currently in place from the original development*

- C. Effect on Nearby Property: That the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood.**

Facility will enhance the local businesses and restaurants by bringing more people to the location.

- D. Effect on Development of Surrounding Property:** That the establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

Facility will create similar traffic to original PUD and within similar hours as previously approved

- E. Effect on General Welfare:** That the establishment, maintenance or operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort or general welfare.

There are no potential negative affects from the facility. all parking, roadways and walkways will allow for safe use of the building.

- F. Conformance with Codes:** That the proposed Special Use conforms to all existing Federal, State and local legislation and regulation and meets or exceeds all applicable provisions of this Title, except as may be varied pursuant to a Special Use for Planned Unit Development.

The facility proposed abides by all development & building codes.

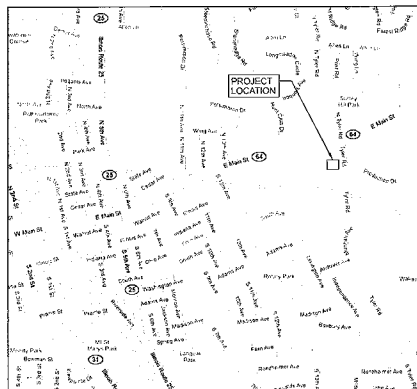
**PRELIMINARY / FINAL ENGINEERING PLANS  
FOR**  
**TYLER & 64 DAY CARE CENTER**  
**SW 1/4 OF SECTION 26, TOWNSHIP 40 NORTH, RANGE 8 EAST**  
**ST. CHARLES, KANE COUNTY, ILLINOIS**

**2010**

ESI CONSULTANTS PROJECT NO: 10-366

**INDEX OF DRAWINGS**

1. COVER SHEET
2. GENERAL NOTES & LEGEND
3. SITE PLAN
4. UTILITY PLAN
5. GRADING PLAN
6. SOIL EROSION & SEDIMENT CONTROL PLAN
- 7-9. STANDARD DETAILS



LOCATION MAP  
NOT TO SCALE

**BENCHMARKS**

PRIMARY BENCHMARK  
KANE COUNTY BENCHMARK 3-68  
ELEVATION 773.41  
SITE BENCHMARK  
NW FLANGE BOLT ON HYDRANT NEAR  
NW CORNER OF PARCEL  
ELEVATION 757.32



**CLIENT**  
TYLER & 64 LLC.  
P.O. BOX 3970  
ST. CHARLES, IL 60174  
630.443.9393

**ENGINEER**  
ESI CONSULTANTS, LTD.  
1979 NORTH MILL STREET, SUITE 100  
NAPERVILLE, IL 60563  
TEL: 630.420.1700 | FAX: 630.420.1733

ENGINEERING PLAN SUBMITTAL	
PROJECT: IMPROVEMENT PLAN AND OUTFALLS FOR THE TOWNSHIP OF ST. CHARLES FOR THE FOLLOWING PORTFOLIO ONLY	
<input checked="" type="checkbox"/>	PRELIMINARY PLAN REVIEWED
<input checked="" type="checkbox"/>	FINAL PLAN REVIEWED
<input checked="" type="checkbox"/>	PERMIT APPLICATIONS
<input checked="" type="checkbox"/>	RECORD
<input checked="" type="checkbox"/>	CONSTRUCTION

**PROFESSIONAL ENGINEER'S CERTIFICATION**

I HEREBY CERTIFY THAT THIS SUBMISSION WAS PREPARED UNDER MY  
PERSONAL DIRECTION. THIS TECHNICAL SUBMISSION IS INTENDED TO BE  
USED AS AN INTEGRAL PART OF AND IN CONNECTION WITH THE PROJECT  
SPECIFICATIONS AND CONTRACT DOCUMENTS.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_

ANTHONY MAIONE  
ILLINOIS REG. PROF. ENGINEER NO. 052-048995 EXPIRATION DATE 11-30-2011

**ESI** ESI CONSULTANTS, LTD.  
1979 NORTH MILL STREET, SUITE 100  
NAPERVILLE, IL 60563  
TEL: 630.420.1700 FAX: 630.420.1733  
WWW.ESI-CONSULTANTS.COM

**TYLER & 64 LLC.**  
1400 N. WYOMING AVE.  
ST. CHARLES, IL 60174  
TEL: 630.443.9393 FAX: 630.443.9394  
WWW.TYLERAND64.COM

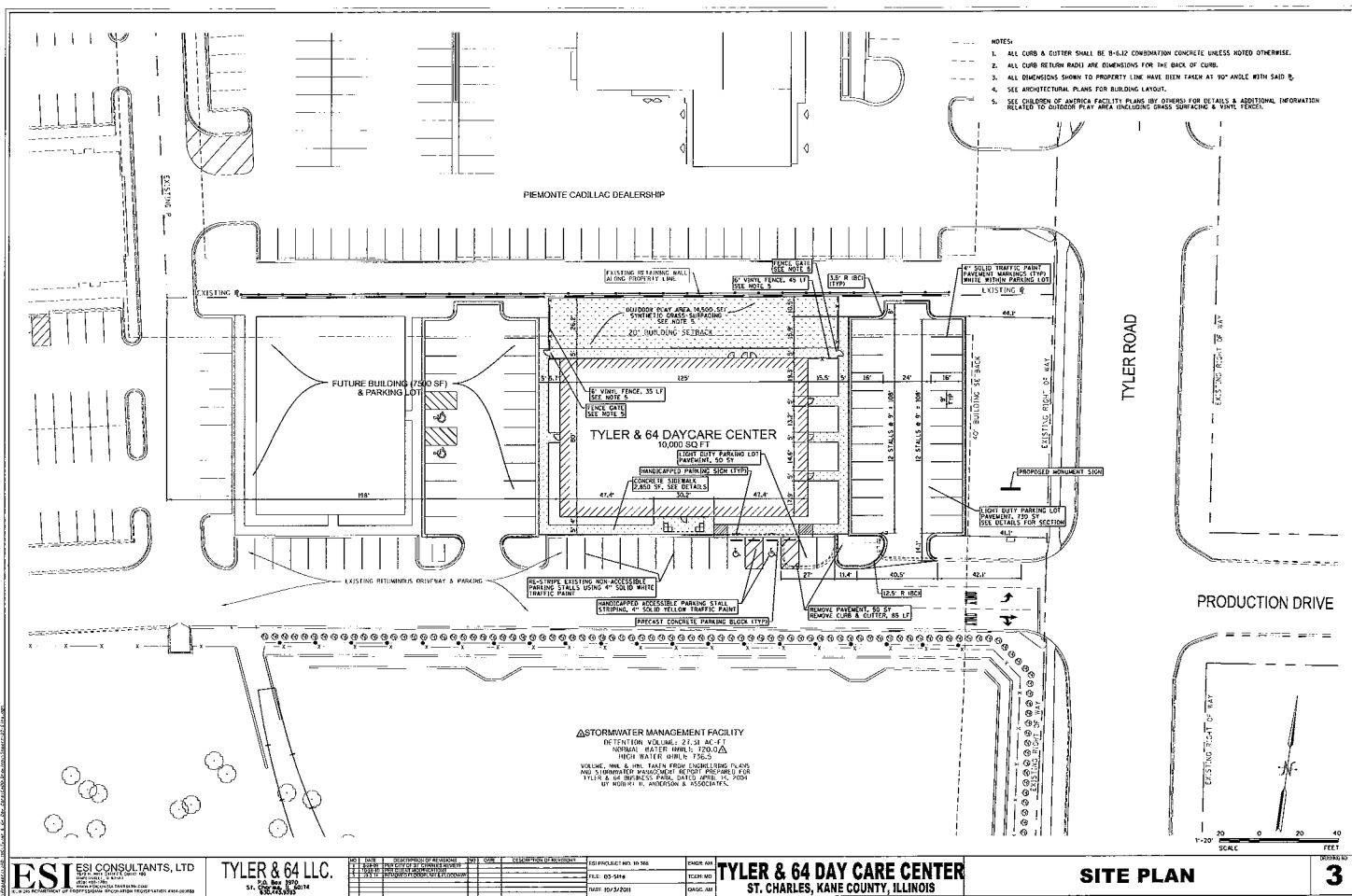
DATE	DESCRIPTION	BY	CHKD	REVISION
10/1/2010	PREPARED FOR ESI CONSULTANTS	ESI	ESI	
10/1/2010	FOR ESI CONSULTANTS	ESI	ESI	
10/1/2010	FOR ESI CONSULTANTS	ESI	ESI	
10/1/2010	FOR ESI CONSULTANTS	ESI	ESI	
10/1/2010	FOR ESI CONSULTANTS	ESI	ESI	
10/1/2010	FOR ESI CONSULTANTS	ESI	ESI	
10/1/2010	FOR ESI CONSULTANTS	ESI	ESI	
10/1/2010	FOR ESI CONSULTANTS	ESI	ESI	
10/1/2010	FOR ESI CONSULTANTS	ESI	ESI	
10/1/2010	FOR ESI CONSULTANTS	ESI	ESI	

**TYLER & 64 DAY CARE CENTER**  
ST. CHARLES, KANE COUNTY, ILLINOIS

**COVER SHEET**

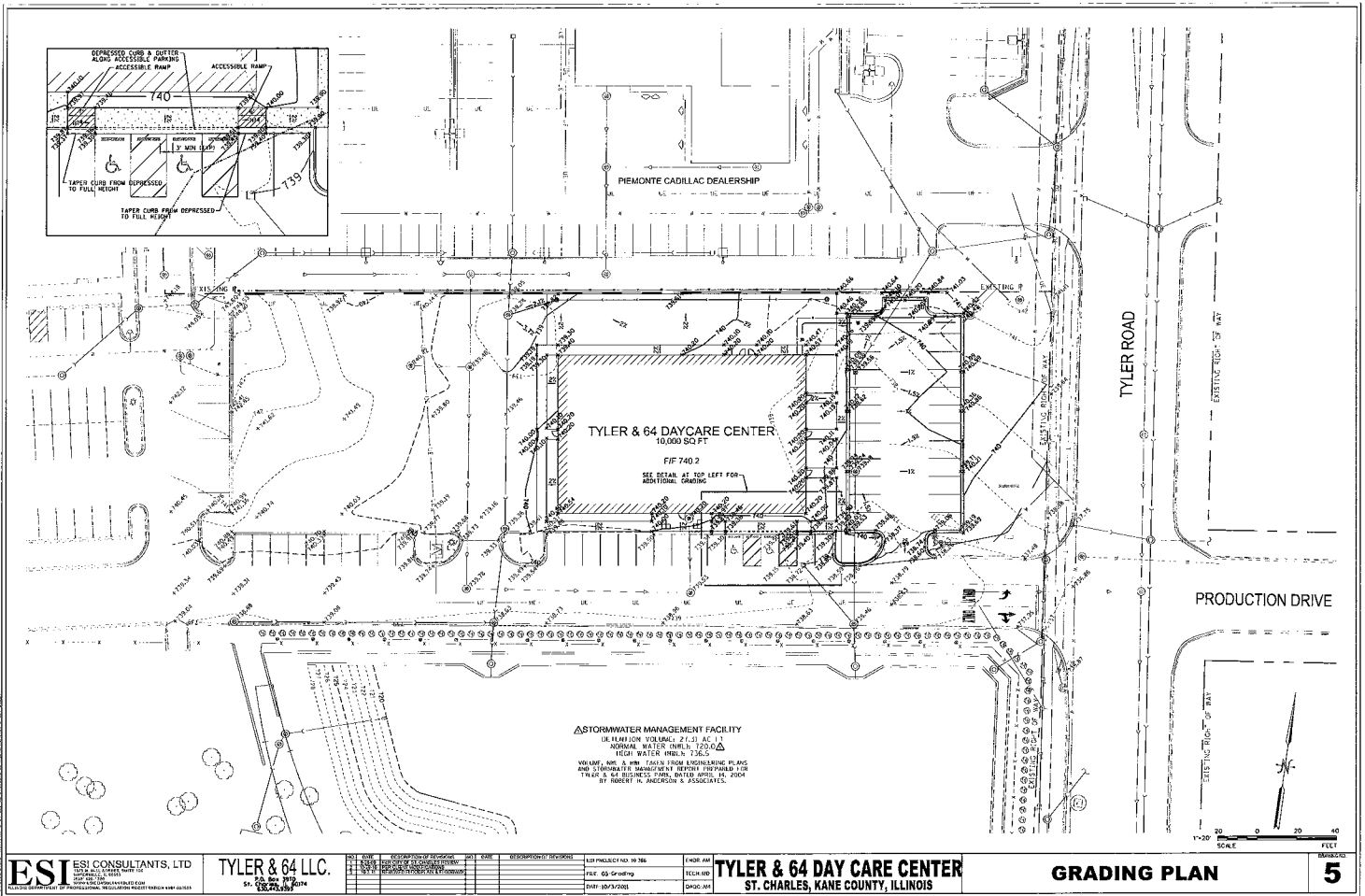
**1**











**ESI** CONSULTANTS, LTD.  
1000 N. LEXINGTON  
CHICAGO, IL 60610  
TEL: 312.281.1000  
FAX: 312.281.1001  
WWW.ESI-CONSULTANTS.COM

**TYLER & 64 LLC.**  
1000 N. LEXINGTON  
CHICAGO, IL 60610  
TEL: 312.281.1000  
FAX: 312.281.1001  
WWW.ESI-CONSULTANTS.COM

NO.	DESCRIPTION OF WORK	DATE	REVISIONS/REVISIONS
1	PRELIMINARY GRADING	10/10/04	10/10/04
2	FINAL GRADING	10/10/04	10/10/04

FOR PROJECT NO. 10 766  
FILE: 05 Grading  
DATE: 10/10/04

**TYLER & 64 DAY CARE CENTER**  
ST. CHARLES, KANE COUNTY, ILLINOIS

**GRADING PLAN**

**5**

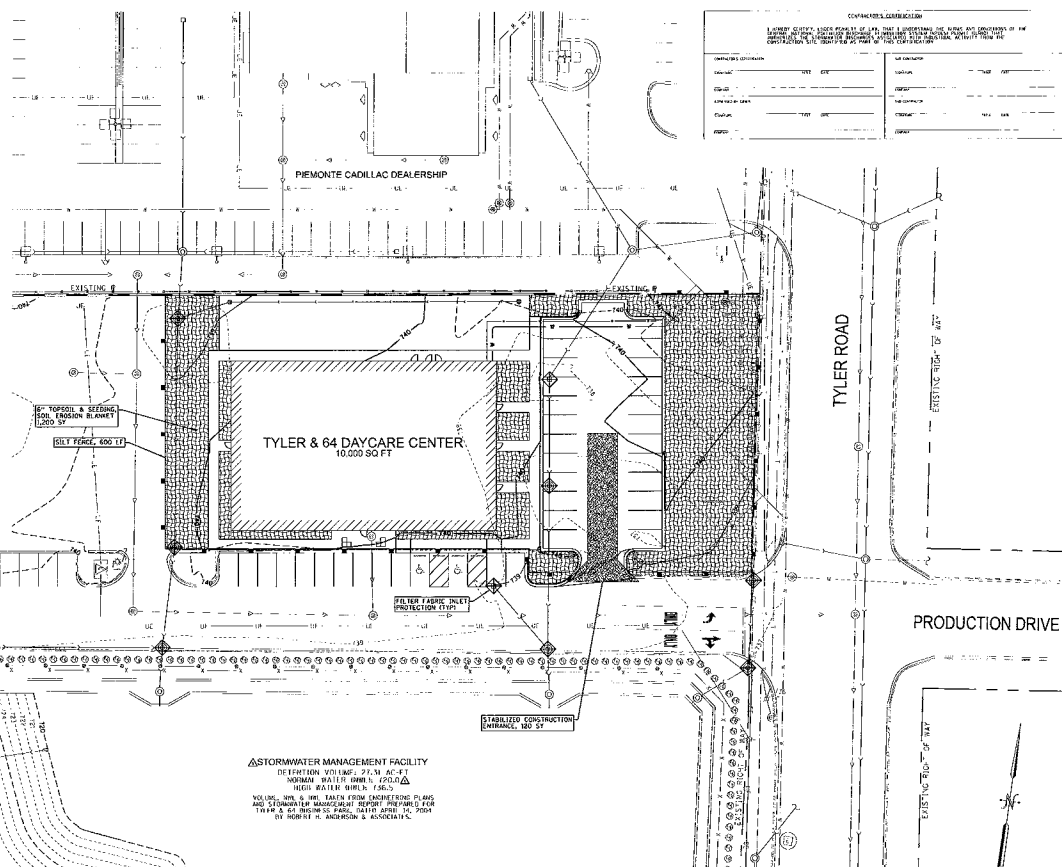
[illegible][illegible]

EACH PRACTICE SHALL BE APPLIED AT A MINIMUM RATE OF 90 LB/ACRE

SEEDING AND MULCHING APPLICATION RATES AND APPLICATION TIME OF YEAR AS WELL AS SEEDING SPECIES SHALL BE IN ACCORDANCE WITH THE ILLINOIS URBAN MANUAL, LATEST EDITION

TABLE 1

Species	Lbs/Acre	Lbs/1000 ft <sup>2</sup>	Seeding Dates
Grass	25	2	Early spring - July 1
Conifer Seed	90	2	Early spring - Sept. 30
Herb	50	2	Early spring - Sept. 30
Perennial Ryegrass	25	0.4	Early spring - Sept. 30

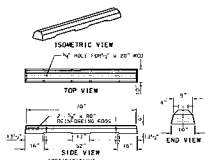


### STORMWATER MANAGEMENT FACILITY

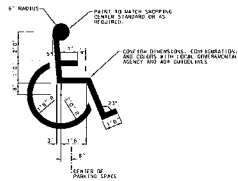
DEFLECTION VOLUME: 27.31 AC-FT  
NORMAL WATER GROUND: 120.0'   
HIGH WATER GROUND: 156.5'  
VOLUME, NML & HML TAKEN FROM ENGINEERING PLAN  
AND STORMWATER MANAGEMENT REPORT PREPARED FOR  
TIER 1 & 64 BUSINESS PARK, DATED APRIL 14, 2006  
BY ROBERT H. ANDERSON & ASSOCIATES.

[illegible]





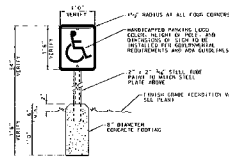
PRECAST CONCRETE PARKING BLOCK



HANDICAPPED PARKING SYMBOL



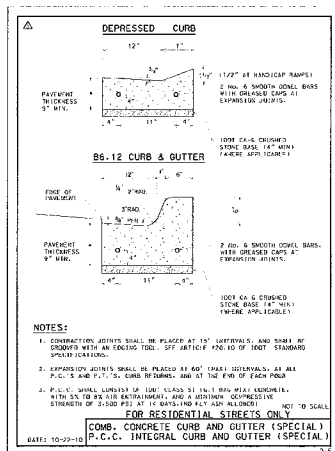
HANDICAPPED PARKING STALL



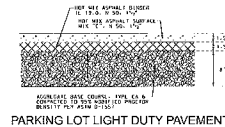
HANDICAPPED PARKING SIGN & POST



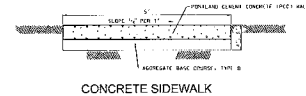
HANDICAPPED PARKING SIGN



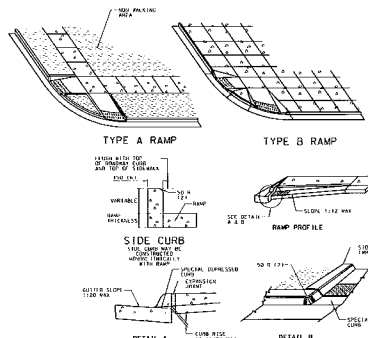
COMB. CONCRETE CURB AND GUTTER (SPECIAL)  
P.C.C. INTEGRAL CURB AND GUTTER (SPECIAL)



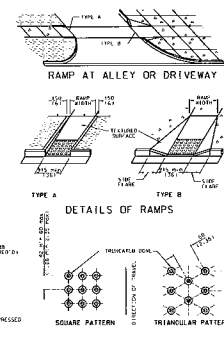
PARKING LOT LIGHT DUTY PAVEMENT



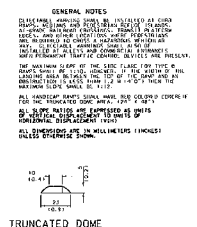
CONCRETE SIDEWALK



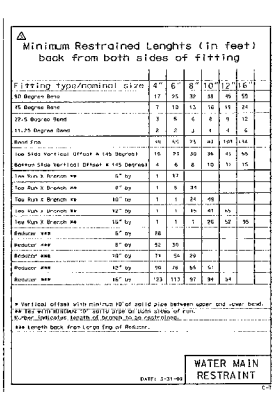
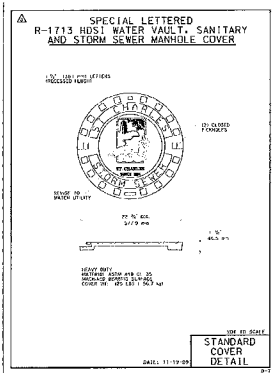
CURB RAMP ACCESSIBLE TO THE DISABLED

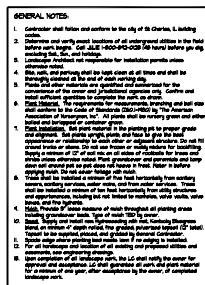


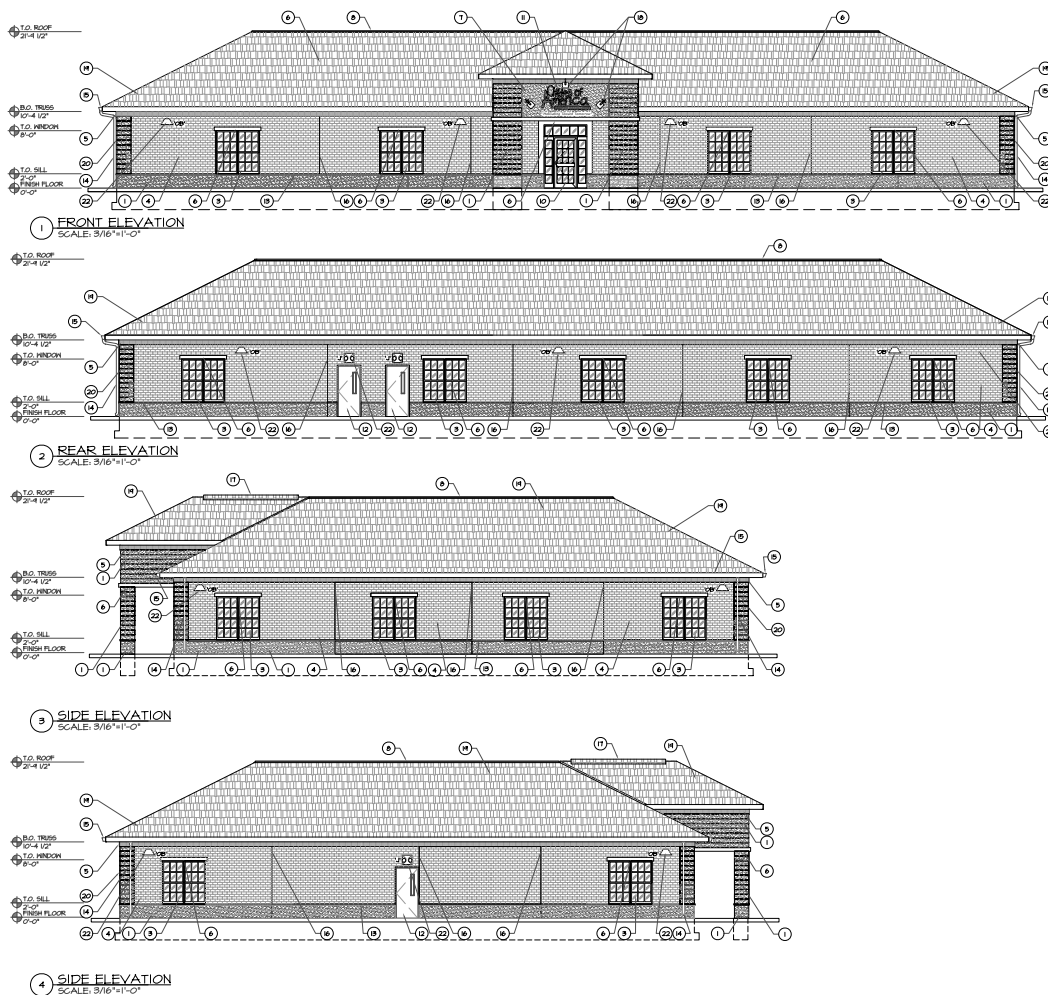
DETECTABLE WARNINGS



TRUNCATED DOME



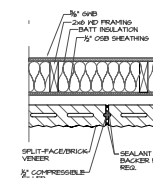




ELEVATION KEYNOTES	
1	SPLIT FACE BRICK VENEER
2	NOT USED
3	BLENDED HENDON DIVISION GLAZING
4	BRICK VENEER
5	BRICK SOLDIER COURSE
6	PREFCAST TRIM
7	TEXTURED STUCCO FINISH (CONTROL JOINTS AS NOTED)
8	PREFINISHED METAL COPING
9	COLONIAL VINYL RAISED PANEL SHUTTERS, 15"x11"
10	ANODIZED ALUMINUM STOREFRONT SYSTEM
11	SIGNAGE (BY LANDLORD) (V) (S) SPOT DOWNLIGHTS
12	GALVANIZED HX1 DOOR AND FRAME
13	4" PREFCAST SILL, ROOFED 2", TAPERED INTO EACH DOOR FRAME
14	PREFINISHED ALUMINUM DOWNPOUT
15	MASONRY CONTROL JOINT (SEE DETAIL 20/A4.2)
16	HOUSE VENT
17	LIGHTING (SEE A2.1)
18	DIMENSIONAL ASPHALT SHINGLES
19	PREFCAST GLAZING
20	F.R.P. TUSCAN COLUMN COVER, EDON ARCHITECTURAL
21	PERMANENT RESIDUAL 12" STRAIGHT
22	EXTERIOR LIGHT FIXTURE (SEE SHEET A2.1)

GENERAL NOTES:  
1. SEE A4.2 FOR EXTERIOR FINISH SCHEDULE  
2. ALL EXHAUST FAN VENTING TO BE THRU ROOF AND VENTING ALLOWED OUT SIDES OF BUILDING THROUGH THE FRONT REAR AND SIDE WALLS OF BUILDING  
3. BUILDING MATERIALS TO MATCH BUILDING MATERIALS USED ON OFFICE BUILDING

□ DENOTES SPANDREL GLAZING



**TYP. MASONRY CONTROL JOINT**  
SCALE: 1/8"=1'-0"

PROPOSED DAYCARE:  
**CHILDREN OF AMERICA**  
TYLER STREET  
ST. CHARLES, IL 60174

LIMA ARCHITECTS, LLC  
RAFFAEL FRANCO GRECO  
ARCHITECT REG. # 001-021132  
2631 E. CHANDLER AVE. SUITE 110  
FT. LAUDERDALE, FL 33306  
954-548-1159

CONNECTION NO. 147-010  
ISSUE DATE: 10-25-10  
DRAWN BY: STAFF  
Elevations  
SHEET NO.  
**A4.1**

LAW OFFICES OF  
**GORSKI & GOOD, LLP**

GERALD M. GORSKI  
THOMAS W. GOOD  
ROBIN N. JONES

211 SOUTH WHEATON AVENUE  
SUITE 305  
P.O. BOX 611  
WHEATON, ILLINOIS 60187-0611  
(630) 665-7500  
FAX (630) 665-8670

December 1, 2011

Ms. Rita Tungare  
Director of Community Development  
City of St. Charles  
2 East Main Street  
St. Charles, IL 60174

Re: Special Use Application/Children of America Daycare Center

Dear Rita:

As you know, I was in attendance at the Planning & Development Committee (the "Committee") meeting on November 14, 2011 for the discussion regarding the proposed rental licensing ordinance. Also on the agenda that night was an application for a special use for a Children of America daycare center to be located on a portion of Lot 2 of the Tyler and Rt. 64 Planned Unit Development (the "PUD"). During the public comment portion of the meeting, some individuals spoke in opposition to the application. One individual, the owner of another day care center located in St. Charles, submitted information to the Committee (for the purpose of this letter I will assume the information is accurate) which included reports from the Department of Children & Family Services ("DCFS"), the state agency that licenses day care centers. The reports list various site visits to Children of America (the "Company") locations in South Elgin, Flossmoor, North Aurora, Oswego and Yorkville and include a list of rules violations at each location with the notation of "substantiated" or "corrected", as well as date of corrective plans. These reports were provided to the Committee, so I will not go in to detail regarding the various rules violations, but it does not appear that any of the locations failed to comply with the corrective plans, or had their licenses suspended or terminated.

You have requested an opinion as to whether or not this information should be considered by the City Council in its determination regarding the special use application.

It is my understanding that day care centers are a permitted use in the underlying zoning district where this site is located; however, due to the provisions of the 2004 ordinance that approved the PUD, day care centers are treated as a special use at this site (the zoning classification of the property at that time listed day care centers as a special use). The Plan Commission has held the required public hearing and has recommended approval of the application.



In a letter to you dated May 20, 2008, Tom Good provided an extensive discussion of the nature of special uses and the proper procedures to be followed. I will not repeat all of that information here, but simply recount that case law has held that a special use is a type of use that is expressly permitted by a zoning ordinance, subject only to the criteria set forth in the zoning ordinance, and conditions consistent therewith. When a special use is provided for in a zoning district it constitutes a legislative determination that the use is consistent with the public health, welfare and safety. That concept is particularly reinforced in this case by the fact that under the current zoning classification applicable to the site, day care centers are a permitted use—meaning that under normal circumstances, the City Council would not even be called upon to approve an application. It is only due to the provisions of the 2004 PUD ordinance that such approval is now required.

The granting or denial of a special use, since it has already been legislatively determined to be a use expressly permitted within a particular zoning district and otherwise compatible with the surrounding uses otherwise permitted in the particular zoning district, must be judged solely against the criteria set forth in the City's zoning ordinance. *City of Chicago Heights v. Living Word Outreach Full Gospel Church and Ministries, Inc.*, 196 Ill. 2d 1, 749 N.E. 2d 916, 255 Ill. Dec. 434 (2001). See also, *Hawthorne v. Village of Olympia Fields*, 204 Ill.2d 243, 790 N.E. 2d 832, 274 Ill. Dec. 59 (2003).

The relevant criteria from the City's zoning ordinance are found in Section 17.04.330.C.2, which states as follows:

“2. Findings of Fact and Recommendations

On the basis of the evidence presented at the public hearing, the Plan Commission shall record its reasons for recommending approval or denial of the petition (findings of fact) in accordance with the following standards:

- a. Public Convenience: The Special Use will serve the public convenience at the proposed location;
- b. Sufficient Infrastructure: That adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided;
- c. Effect on Nearby Property: That the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish or impair property values within the neighborhood;
- d. Effect on Development of Surrounding Property: That the establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

- e. Effect on General Welfare: That the establishment, maintenance or operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort or general welfare.
  - f. Conformance with Codes: That the proposed Special Use conforms to all existing Federal, State and local legislation and regulation and meets or exceeds all applicable provisions of this Title, except as may be varied pursuant to a Special Use for Planned Unit Development.
- ..."

In the *Hawthorn* case, the Illinois Supreme Court addressed a municipality's ability to utilize its zoning powers to prevent the operation of a day care home that was duly licensed by DCFS. In that case, the applicant applied for a zoning variance to allow a day care home, even though the proposed use did not meet the definition of "home occupation" under the Village's zoning ordinance. The application was denied.

In its opinion, the Court noted that the operation of child care facilities in Illinois is regulated by the state under the Child Care Act of 1969, which authorizes DCFS to prescribe minimum standards for licensing. Pursuant to that authority, DCFS has promulgated a comprehensive set of regulations regarding day care facilities, and those standards apply uniformly throughout the state. The Court held that when the legislature has enacted a comprehensive system of regulation and licensure, as in day care facilities, the legislature implies by that system that there is no room for regulation by local governmental units. 204 Ill.2d at 261, citing *Pesticide Public Policy Foundation v. Village of Wauconda*, 117 Ill.2d 107, 109 Ill. Dec. 790, 510 N.E.2d 858 (1987). Thus, the Court held that Olympia Fields was prohibited from regulating day-care homes under its zoning ordinance in a manner that conflicted in any way with the Child Care Act of 1969 or the DCFS regulations and that the plaintiff was entitled to operate a day care home pursuant to the terms of her DCFS license.

In its opinion, the Court noted that Olympia Field was a non-home rule unit of government, which was the basis for its holding that the comprehensive state-wide system of regulation pre-empted the village's zoning ordinance. Therefore, it is appropriate to inquire whether or not the home-rule status of St. Charles provides it with any additional authority that Olympia Fields did not have. The basis of home rule authority is found in Article VII, Section 6 of the 1970 Constitution, which states, in part: "Except as limited by this Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt..."

There is a substantial body of case law regarding what pertains to a municipality's government and affairs, but it does not appear that the issue of regulating day care facilities has been specifically addressed. However, there are cases indicating that where a matter is subject to comprehensive state regulation, the authority of home rule units is limited. See, e.g., *People ex rel. Bernardi v. City of Highland Park*, 121 Ill. 2d 1, 520 N.E. 2d 316, 117 Ill. Dec. 155 (1988) (home rule city must comply with Prevailing Wage Act); *People ex rel.*

*Ryan v. Village of Hanover Park*, 311 Ill. App. 3d 515, 724 N.E. 2d 132, 243 Ill. Dec. 823 (1<sup>st</sup> Dist., 1999) (neither non-home rule or home rule municipalities had authority to establish a fine-only ordinance enforcement system for violations of the Illinois Vehicle Code which otherwise would have been reportable to the Illinois Secretary of State).

Even in situations where a court has held that home rule authority still exists despite the presence of uniform, state-wide regulations, that home rule authority must be exercised consistently with the state authority. In *County of Cook v. John Sexton Contractors Company*, 75 Ill.2d 494, 389 N.E.2d 553, 27 Ill. Dec. 489 (1979) (which was later superseded by a change in the applicable state law), a case dealing with environmental regulations, the Illinois Supreme Court held that although zoning for sanitary landfills is a function “pertaining to its government and affairs”, a home rule unit is limited to adopting standards established by the Environmental Protection Agency pursuant to legislative authority. 75 Ill. 2d at 515.

Under the facts of the instant situation, it is not necessary to decide whether a home rule unit is precluded from regulating day care facilities at all, due to the comprehensive, state-wide nature of the DCFS regulatory program, or whether it has the ability to regulate, but only using the same standards that DCFS has adopted. If the City was determined to have no authority, the information provided at the Committee meeting would not provide a basis for denying the zoning application. On the other hand, if it does have the authority to regulate, but only consistent with DCFS regulations, the information provided does not indicate that DCFS has refused to license, or suspended or revoked the license of any of the facilities (and, in fact, it is entirely possible that the owner/operator of the facility in St. Charles would be someone entirely different from those who own the other facilities).

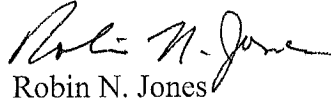
The DCFS regulations that are in place, when considered in conjunction with the special use standards that the Plan Commission and City Council are bound by, arguably relate to the standard set forth in 17.04.330.C.2.c, “That the establishment, maintenance or operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort or general welfare.” But keep in mind the general principle set forth at the beginning of this letter—that when a special use is provided for in a zoning district it constitutes a legislative determination that the use is consistent with the public health, welfare and safety. Essentially, the concern raised regarding the Company is a licensing issue, not a land use issue. Whoever ultimately wants to operate a day care facility on that site will have to obtain a license from DCFS. It is at that point that DCFS will make a determination as to whether or not its standards have been met. To the extent that anyone has concerns about the quality of the operator of the day care facility, the licensing process by DCFS would seem to be the appropriate forum for presenting those concerns.

Therefore, based upon the comprehensive nature of the DCFS regulations and the case law discussed above, it does not appear that the information provided to the Committee regarding DCFS rules violations should be taken in to consideration when the City Council makes a determination as to whether or not to grant the special use application.

Rita Tungare  
December 1, 2011  
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Should you have any further questions, please do not hesitate to contact me.

Very truly yours,

  
Robin N. Jones