

City Council Introduction: **Monday**, September 26, 2005

Public Hearing: **Monday**, October 3, 2005, at **1:30 p.m.**

Bill No. 05R-235

## **FACTSHEET**

**TITLE: SPECIAL PERMIT NO. 05043**, requested by Brian D. Carstens and Associates on behalf of Shady Creek, LLC, for authority to operate an early childhood care facility for up to 120 children, with associated waiver requests, on property located at 5521 Shady Creek Court.

**STAFF RECOMMENDATION:** Conditional Approval.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: Consent Agenda: 08/31/05  
Administrative Action: 08/31/05

**RECOMMENDATION:** Conditional Approval (8-0: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Bills-Strand, and Taylor voting 'yes'; Sunderman declared a conflict of interest on the Consent Agenda).

### **FINDINGS:**

1. Approval of this special permit allows an early childhood care facility for up to 120 children and 19 staff members on the largest shift at 5521 Shady Creek Court.
2. The applicant has also requested the following waivers:
  - The requirement to submit building plans and elevations; and
  - The requirement to be located on and take access to an arterial street.
3. The staff recommendation of conditional approval is based upon the "*Analysis*" as set forth on p.3-4, concluding that the requested waivers are justified. If the waivers are granted, this request conforms to the requirements of the Zoning Ordinance, provided the minor revisions as noted in the conditions of approval are made.
4. On August 31, 2005, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
4. On August 31, 2005, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend conditional approval, as set forth on p.4-5.
5. The Site Specific conditions of approval required to be completed prior to scheduling this application on the City Council agenda have been satisfied.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** September 19, 2005

**REVIEWED BY:** \_\_\_\_\_

**DATE:** September 19, 2005

**REFERENCE NUMBER:** FS\CC\2005\SP.05043

**LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT**

**for August 31, 2005 PLANNING COMMISSION MEETING**

- P.A.S.:** Special Permit #05043  
Early Childhood Care Facility
- PROPOSAL:** Permit an early childhood care facility up to 120 children.
- LOCATION:** 5521 Shady Creek Court
- WAIVER REQUESTS:** 1. Requirement to submit building plans and elevations.  
2. Requirement to be located on and take access to an arterial street.
- LAND AREA:** 29,150 square feet, more or less.
- CONCLUSION:** The requested waivers are justified and it is appropriate that they be granted. If they are granted, this request conforms to the requirements of the zoning ordinance provided the minor revisions as noted in the conditions of approval are made.

<b>RECOMMENDATION:</b>	Conditional Approval
Waivers:	
1. Requirement to submit building plans and elevations.	Approval
2. Requirement to be located on and take access to an arterial street.	Approval

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** Lot 1, Quail Valley 2<sup>nd</sup> Addition.

**EXISTING ZONING:** O-2 Suburban Office

**EXISTING LAND USE:** Office

**SURROUNDING LAND USE AND ZONING:**

North:	Multiple-family dwellings	R-1
South:	Commercial	B-1
East:	Office	O-2
West:	Multiple-family dwellings	R-1

**HISTORY:**

June 1979 CZ#1685 was approved changing the zoning from R-1 to O-2.

**COMPREHENSIVE PLAN SPECIFICATIONS:** The 2025 Future Land Use Plan shows this area as commercial. (F 25)

**TRAFFIC ANALYSIS:** The site is accessed off Shady Creek Court, which is classified as a local street both now and in the future. Local streets serve as connectors between abutting properties and higher order streets. In this case, Shady Creek Court connects with South 56<sup>th</sup> Street which is classified as a principal arterial street.

**ALTERNATIVE USES:** This property could be used for any use allowed in the O-2 Suburban Office district.

**ANALYSIS:**

1. This is a request to permit an early childhood care facility for up to 120 children with 19 staff members.
2. Lincoln Municipal Code §27.63.070 allows a special permit for a childcare facility within the O-2 district, under the following conditions:

- (a) **The application shall be accompanied by the [required] information.**

The application materials submitted provide most of the required information, except that the building plans and elevations were not provided. The site plan showing the location and arrangement of parking, traffic circulation, play area, and entrances/exits to the facility is adequate. The building plans and elevations relate to the conversion plan which is required by the Design Standards to ensure that day care centers located in residential districts are designed so they can revert to an allowed use in a compatible manner. In this case however, the building was constructed as an office building, and can easily be converted for other allowed uses in the O-2. The building plans and elevations for a conversion plan are not necessary.

- (b) **Prior to occupancy, such facilities shall comply with all applicable state and local early childhood care and building requirements.**

This is a condition of approval.

- ©) **Facilities with twenty-one to thirty children shall be located on collector or arterial streets. Facilities with thirty-one or more children shall be located on an arterial street. The location of such facilities on such streets shall comply with the design standards for early childhood care facilities.**

The intent of this requirement is to ensure that the traffic generated by the day care facility does not pass through residential neighborhoods to get to it. This facility takes direct access off Shady Creek Court, a local street. Shady Creek Court terminates just west of this facility, and provides access to two other office/commercially-zoned properties to the east of this one, and to the Quail Valley Apartment Complex to the north. Customers can access the facility without causing any significant impact upon the residential area to the north. The applicant has requested a waiver to the requirement to be located on a collector or arterial street, and it is appropriate that it be granted.

- (d) **The site plan and play area for such facilities shall comply with the design standards for early childhood care facilities.**

The site plan complies with the Design Standards for a facility of this size with one exception. The play area must be screened, but it is not shown on the site plan. The site plan must be revised to show either a 6' tall fence or landscape screen surrounding the outdoor play area.

- (e) **The parking and loading/unloading area for such facilities shall comply with the provisions of Chapter 27.67 of the Lincoln Municipal Code. In residential districts, such parking and loading/unloading area shall comply with the design standards for early childhood care facilities.**

Based upon 120 children and 19 staff members, this facility is required to provide 31 parking spaces. 31 spaces are shown on the site plan.

- (f) **If the proposed facility is located in an industrial district, the applicant shall submit to the Health Department, for its review and recommendation, information on the storage and use of hazardous chemicals in the vicinity, evacuation plans and internal air quality control.**

This request is located in the O-2 district which is not an industrial district.

- (g) **The City Council may modify these conditions, except for condition (b).**

The applicant has requested waivers to conditions (a) and ©).

## **CONDITIONS:**

### Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:
  - 1.1 Revise the site plan to show:
    - 1.1.1 Either fence or landscape screen which provides a 6' high, 100% screen surrounding all outdoor play areas.
2. This approval permits an early childhood care facility for up to 120 children and 19 staff members on the largest shift, along with waivers to not require building plans and elevations, and to allow access from a local street.

### General:

3. Before receiving building permits:
  - 3.1 The permittee shall submit 5 copies of the approved plans to the Planning Department.
  - 3.2 The construction plans shall comply with the approved plans.

- 3.3 The operation and the premises are to meet appropriate local and state licensing requirements, including compliance with health codes.

Standard:

4. The following conditions are applicable to all requests:
  - 4.1 Before occupying this early childhood care facility, all development and construction is to comply with the approved plans.
  - 4.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
  - 4.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 4.4 The permittee shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Prepared by

Brian Will  
441-6362, [bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)  
August 16, 2005

**APPLICANT/**

**OWNER:** Shady Creek, LLC  
1320 P Street Ste 200  
Lincoln, NE 68508

**CONTACT:** Brian Carstens  
601 Old Cheney Road  
Lincoln, NE 68512  
402.434.2424

# SPECIAL PERMIT NO. 05043

## CONSENT AGENDA

### PUBLIC HEARING & ADMINISTRATIVE ACTION

#### BEFORE PLANNING COMMISSION:

August 31, 2005

Members present: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Bills-Strand, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **COUNTY CHANGE OF ZONE NO. 05058, CHANGE OF ZONE NO. 05059, PRE-EXISTING SPECIAL PERMIT NO. 23F, PRE-EXISTING SPECIAL PERMIT NO. 33A, SPECIAL PERMIT NO. 1629F, SPECIAL PERMIT NO. 05042 and SPECIAL PERMIT NO. 05043.**

Ex Parte Communications: None.

Taylor moved to approve the Consent Agenda, seconded by Bills-Strand and carried 8-0: Carlson, Carroll, Esseks, Krieser, Larson, Pearson, Bills-Strand, and Taylor voting 'yes'; Sunderman declared a conflict of interest.

Note: This is final action on Pre-Existing Special Permit No. 23F, Pre-Existing Special Permit No. 33A and Special Permit No. 05042, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days.



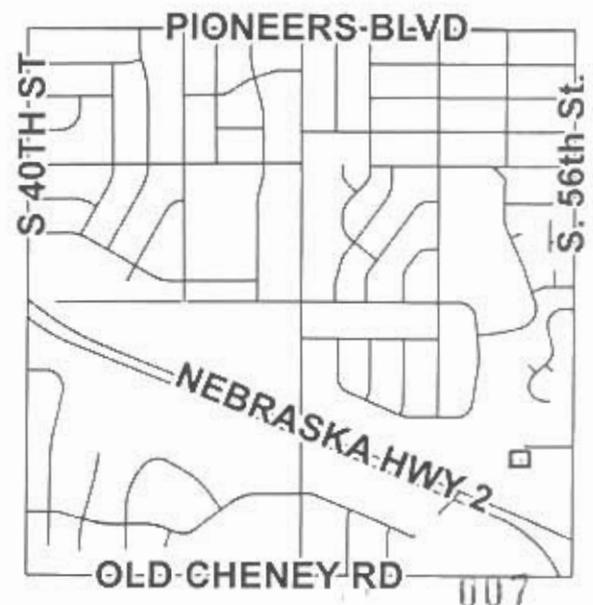
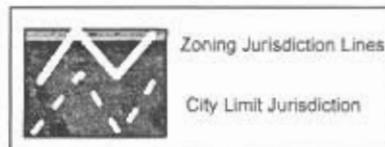
2005 aerial

## Special Permit #05043 S. 55th & Shady Creek Ct.

### Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile  
Sec. 8 T9N R7E



# 5521 SHADY CREEK COURT LINCOLN, NEBRASKA

LANDSCAPE ARCHITECTURE  
101 S. GARDEN VALLEY AND 900 N. 20th



**BRIAND,  
CARSTENSEN  
& ASSOCIATES**

LANDSCAPE ARCHITECTS  
COMMERCIAL  
RESIDENTIAL  
PARKS AND RECREATION

101 S. GARDEN VALLEY AND 900 N. 20th  
LINCOLN, NE 68502  
PHONE: (402) 441-2000  
FAX: (402) 441-2000  
WWW.BCA-NE.COM

**4921 SHADY  
CREEK CT.**

S.P.A.  
BABY  
CHILDHOOD  
CARE FACILITY

S. STEPHEN ST. &  
SHADY CREEK CT.  
LINCOLN, NE

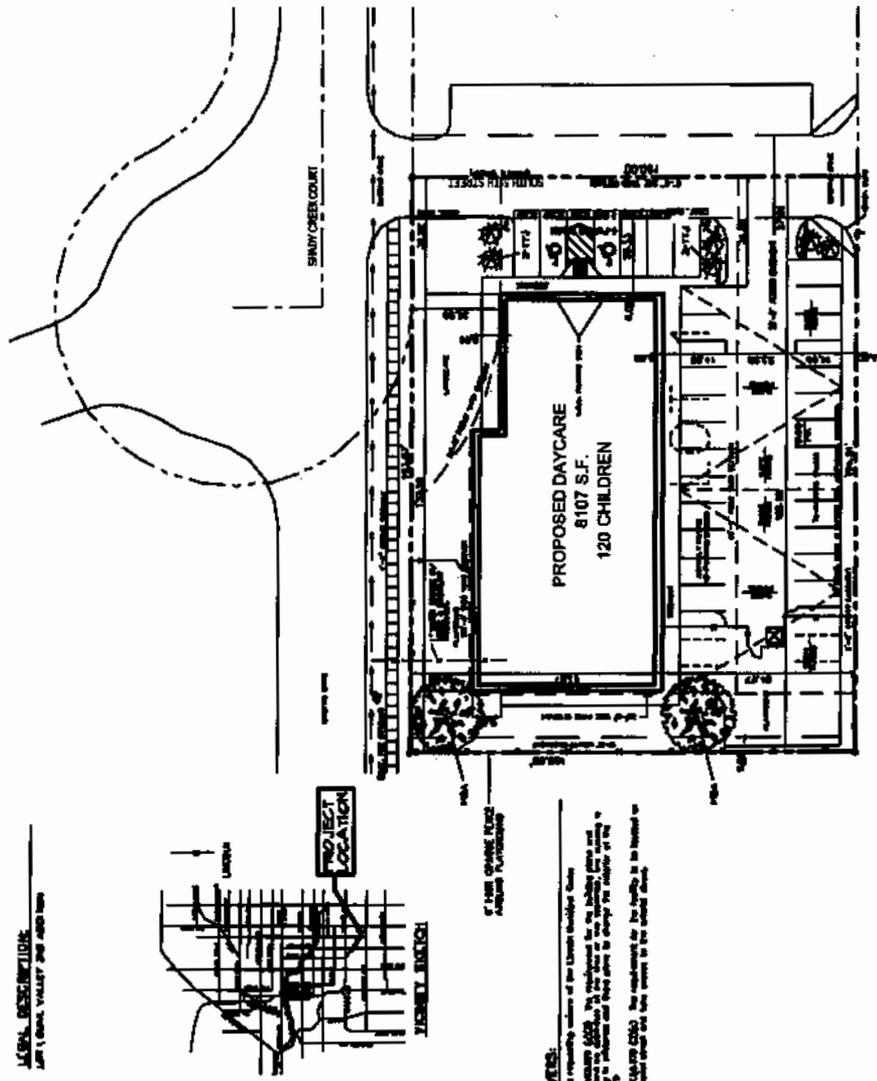
**SITE  
PLAN**



SCALE 1" = 20'



1 OF 1



PARKING LOT MATRIX

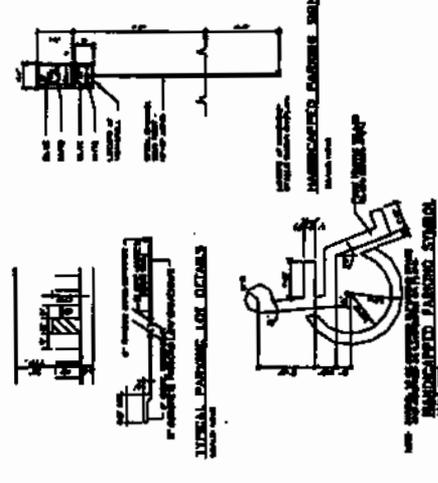
NUMBER OF COLUMNS	NUMBER OF SPACES		TOTAL SPACES
	STANDARD	COMPACT	
1	1	1	2
2	2	2	4
3	3	3	6
4	4	4	8
5	5	5	10
6	6	6	12
7	7	7	14
8	8	8	16
9	9	9	18
10	10	10	20
11	11	11	22
12	12	12	24
13	13	13	26
14	14	14	28
15	15	15	30
16	16	16	32
17	17	17	34
18	18	18	36
19	19	19	38
20	20	20	40

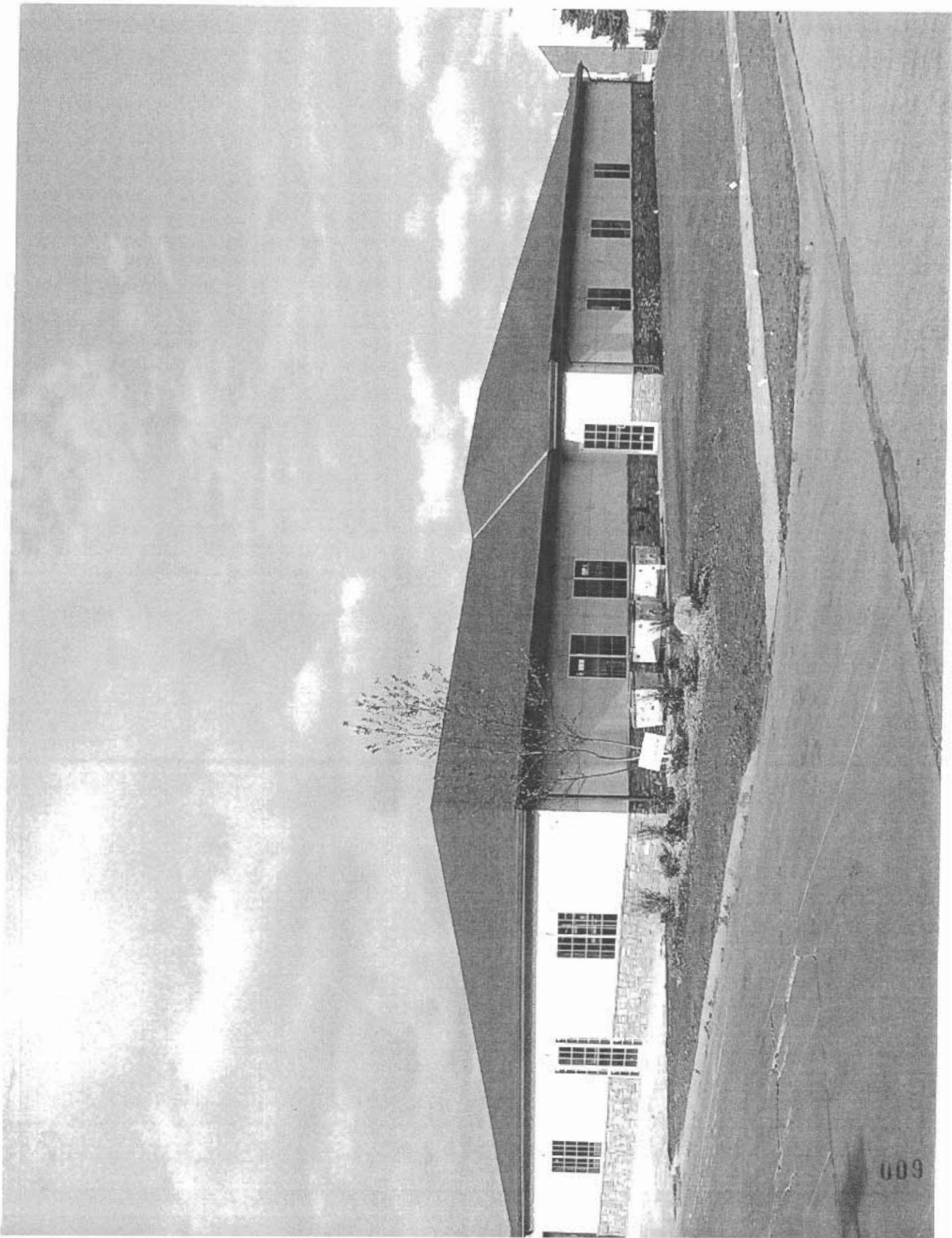
DEVELOPER & DEVELOPER'S REPRESENTATIVE:  
S. STEPHEN ST. & SHADY CREEK CT.  
LINCOLN, NE 68502  
PHONE: (402) 441-2000  
FAX: (402) 441-2000  
WWW.BCA-NE.COM

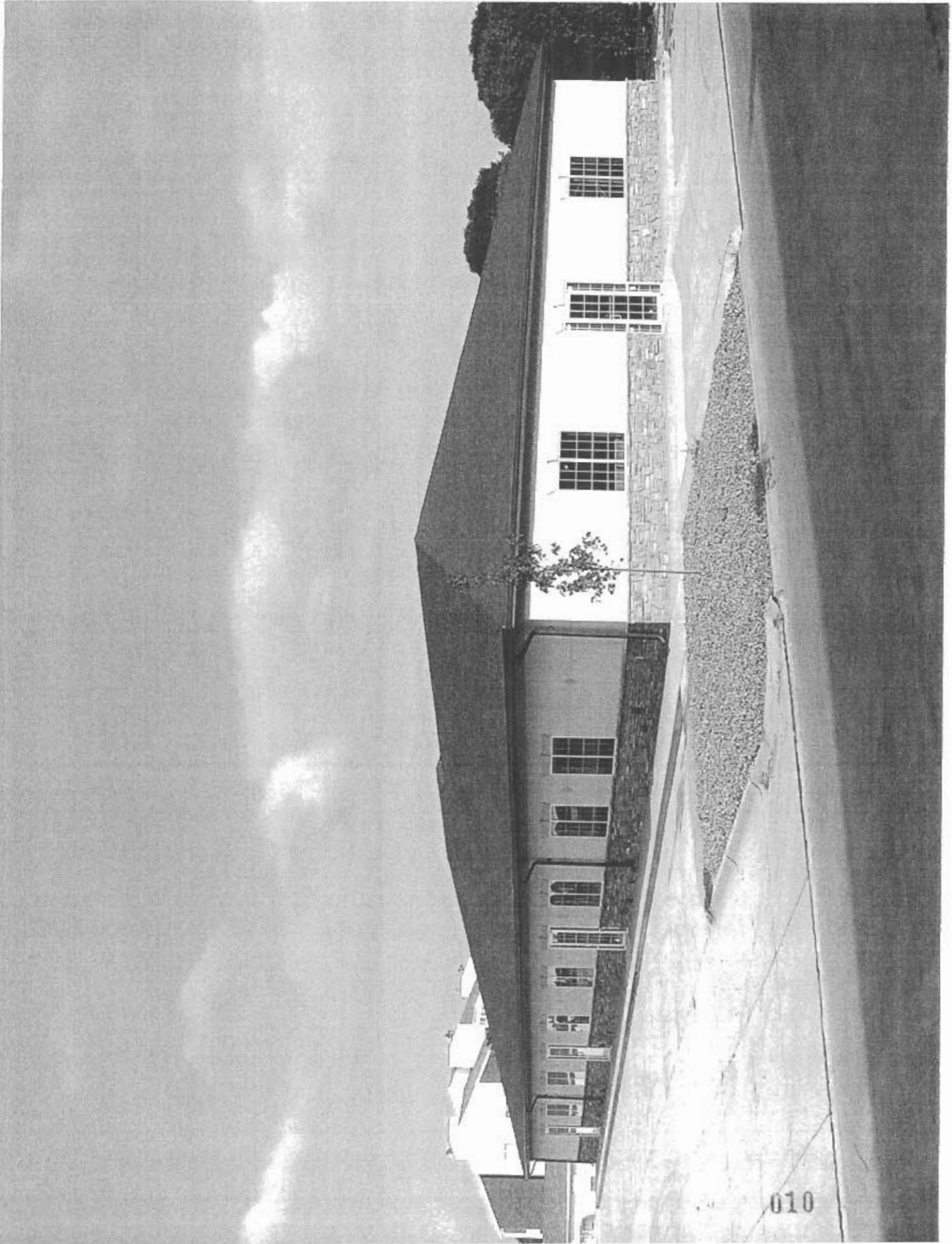
- GENERAL NOTES:**
1. THE PROPOSED FACILITY IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE 2009 INTERNATIONAL BUILDING CODE (IBC) AND THE 2009 INTERNATIONAL PLUMBING AND MECHANICAL CODE (IMC).
  2. THE PROPOSED FACILITY IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE 2009 INTERNATIONAL FIRE CODE (IFC).
  3. THE PROPOSED FACILITY IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE 2009 INTERNATIONAL ENERGY CONSERVATION CODE (IECC).
  4. THE PROPOSED FACILITY IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE 2009 INTERNATIONAL GREENING CODE (IGBC).
  5. THE PROPOSED FACILITY IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE 2009 INTERNATIONAL SUSTAINABLE DESIGN AND CONSTRUCTION (LEED) CODE.
  6. THE PROPOSED FACILITY IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE 2009 INTERNATIONAL WELL-BEING AND PRODUCTIVITY (IWBP) CODE.
  7. THE PROPOSED FACILITY IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE 2009 INTERNATIONAL WELL-BEING AND PRODUCTIVITY (IWBP) CODE.
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  15. THE PROPOSED FACILITY IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE 2009 INTERNATIONAL WELL-BEING AND PRODUCTIVITY (IWBP) CODE.

**LANDSCAPE SCHEDULE**

ITEM	QUANTITY	UNIT	PRICE	TOTAL
1. ASPHALT DRIVEWAY	100	SQ. YD.	10.00	1000.00
2. ASPHALT DRIVEWAY	100	SQ. YD.	10.00	1000.00
3. ASPHALT DRIVEWAY	100	SQ. YD.	10.00	1000.00
4. ASPHALT DRIVEWAY	100	SQ. YD.	10.00	1000.00
5. ASPHALT DRIVEWAY	100	SQ. YD.	10.00	1000.00
6. ASPHALT DRIVEWAY	100	SQ. YD.	10.00	1000.00
7. ASPHALT DRIVEWAY	100	SQ. YD.	10.00	1000.00
8. ASPHALT DRIVEWAY	100	SQ. YD.	10.00	1000.00
9. ASPHALT DRIVEWAY	100	SQ. YD.	10.00	1000.00
10. ASPHALT DRIVEWAY	100	SQ. YD.	10.00	1000.00







010



011



**BRIAN D. CARSTENS AND ASSOCIATES**  
LAND USE PLANNING RESIDENTIAL & COMMERCIAL DESIGN  
601 Old Cheney Road, Suite C Lincoln, NE 68512 Phone: 402.434.2424

August 4, 2005

Mr. Marvin Krout, AICP  
Director of Planning  
City of Lincoln/ Lancaster County  
Lincoln, NE 68508

RE: SPECIAL PERMIT FOR EARLY CHILDHOOD CARE FACILITY  
5521 SHADY CREEK COURT

Dear Marvin,

On behalf of Shady Creek, L.L.C. we are submitting an application for a Special Permit for an Early Childhood Care Facility.

This Early Childhood Care Facility permit is for an newly constructed building that would be converted to a Early Childhood Care Facility. The number of children will not exceed 120. We are anticipating a maximum of 19 staff members on duty at any one time.

We are requesting waivers of the Lincoln Municipal Code:

27.63.070 (a)(2) The requirement for the building plans and elevations be submitted at the time of this submittal, this building is already in existence and there plans to change the exterior of the building. We have given you photographs of the building with this submittal. No floor plan as been developed to date. That information will come once a provider has entered into a lease agreement, and applies for a building permit. *ARE NO*

27.63.070 (3)(c) The requirement for the facility to be located on an arterial street and take access to the arterial street. The facility is located on the South side of Shady Creek Court. This street provides access to the Quail Valley Apartment Complex with 144 units. It also provides access to a bank, and The Fort, as well as an alternate access point to the Aiamo Center south of the proposed early childhood care facility. The intersection of South 56<sup>th</sup> and Shady Creek Court had a traffic signal. Therefore vehicular traffic entering South 56<sup>th</sup> Street is not a concern.

The 'conversion plan' for this facility could be the any of the following Permitted Conditional or Permitted Special Uses in the O-2 Zoning District.

Please contact me if you have any further questions.

Sincerely,

Brian D. Carstens

cc: Shady Creek, L.L.C.

ENCLOSURES: 16 Copies of Sheet 1 of 1  
Application for a Special Permit  
Certificate of Ownership  
Filing Fee \$250.00

