



# CITY OF SUNNYVALE REPORT ZONING ADMINISTRATOR HEARING

May 11, 2011

**File Number:** 2011-7196

**Permit Type:** Use Permit

**Location:** 853 Gary Ave. (near S. Wolfe Rd.) (APN: 211-11-001)

**Applicant/Owner:** Liat and Greg Duerr / Nina and Thomas Carine Trustee

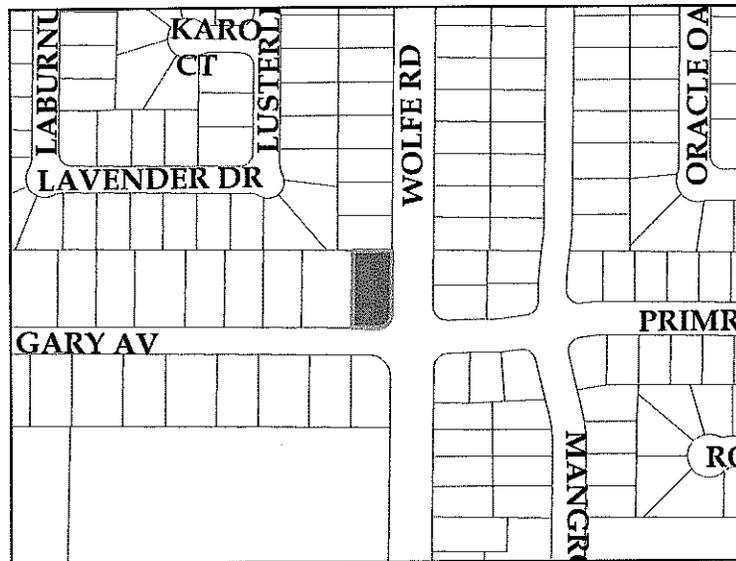
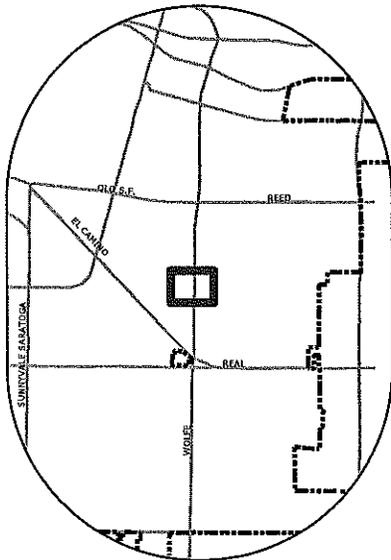
**Staff Contact:** Ryan Kuchenig, Associate Planner, (408) 730-7431

**Project Description:** To allow a commercial daycare use in a single family home.

**Reason for Permit:** A Use Permit is required for commercial day care uses within the R-1 Zoning District.

**Issues:** Compatibility of Use

**Recommendation:** Approve with Conditions



500

Feet

**PROJECT DESCRIPTION**

	<b>Existing</b>	<b>Proposed</b>
General Plan:	Residential Low Density	Same
Zoning District:	R-1	Same
Total Sq. Ft. on Site:	Approx. 1,774	Same
Parking:	6	6

<b>Previous Planning Projects related to Subject Application.</b> A commercial day care was originally approved at the site in 1967. Modifications to the building were approved in 1983 which expanded the overall size of the facility but did not increase the capacity. The Use Permit for the facility has expired as the site has been vacant for several years	<b>Yes</b>
<b>Neighborhood Preservation Complaints.</b> There are no active code enforcement cases related to the site. There have been complaints regarding landscaping and general maintenance of the property in previous years.	<b>No</b>

**Use Description:** The proposed Use Permit is to allow a commercial day care use within a single family home. The site had been previously occupied by a commercial day care/pre-school in the past. The use has expired and the site appears to have been vacant for approximately three years.

**Hours of Operation:** The applicant notes that the business would be open weekdays (Monday through Friday) between 8:00 a.m. and 5:30 p.m.

**Expected Number of Children / Employees:** The capacity of the proposed commercial day care is 24 children and three employees (during max. shift).

**Site Layout and Floor Plan:** The property is located on a corner lot at the intersection of Gary Avenue and S. Wolfe Avenue. The home faces Gary Avenue with a fence that runs along a portion of the Wolfe Road frontage enclosing the rear yard.

A basic floor plan has been provided within the site layout. The plan indicates four open rooms, three bathrooms, a small office area and a loft (See Attachment B for more detail.) The applicant is aware that several interior modifications to the building may be necessary in order to meet the latest Building and Fire Code requirements. Per Conditions of Approval, such improvements are required to be constructed prior to operation of the facility.

**Exterior Changes:** There are no proposed modifications to the exterior of the building. The applicant plans to replace property line fencing that has deteriorated. A shed located in the rear yard towards the northwest corner of the property is planned to be removed. An ADA ramp may be required to be built at the front and rear of the home to bring the structure to Building Code standards.

**Parking:** The proposed site plan indicates a total of six parking spaces to be provided in front of the home. A total of five spaces are required per Sunnyvale Municipal Code 19.46 requirements which states that two spaces for 24 children and one space per employee (three during max shift) are required.

Conditions of Approval require the parking area to be clearly striped. Since there is a surplus of parking, staff is requiring that additional landscaping replace the surplus parking space. Condition of Approval #PS-1a requires that landscaping replace paved area that is currently indicated as a sixth space on the proposed site plan. This area is located towards the southeast corner of the property. One of the five spaces will be required to be designed and striped for handicap accessible parking per Building Code requirements, as noted in Condition of Approval #PS-1b.

**Public Contact:** A total of 12 notices were sent to surrounding property owners and residents adjacent to subject site in addition to standard noticing practice. Staff has not received any letters or written comments.

**Environmental Determination:** A Categorical Exemption Class 1 (minor changes in use) relieves this project from CEQA provisions.

## **FINDINGS**

In order to approve the Use Permit the following findings must be made:

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale. *(Finding Met)*

### **Land Use and Transportation Element**

**Policy N1.1** - *Protect the integrity of the City's neighborhoods; whether residential, industrial or commercial.*

**Action Statement N1.1.1** - *Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.*

*Discuss!*

Staff was able to make the findings as the proposed use meets the guidelines described above. The proposal is occupying a site formerly approved and utilized as a day care facility. The proposed use could be considered less intensive to previous day care uses as the maximum

capacity has been reduced from 35 to 24 children. The site is appropriately located at the edge of a residential neighborhood on a corner lot which enables access from a secondary street with less vehicular traffic than the busier arterial (Wolfe Road).

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair the orderly development of, or the existing uses being made of, adjacent properties. (*Finding Met*)

The project is expected to have minimal impacts on surrounding properties. Improvements to the site, proposed and conditioned, will enhance the visual appearance of the property to the surrounding area.

### **ALTERNATIVES:**

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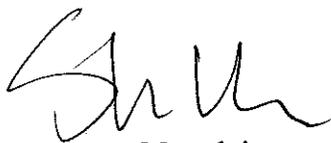
1. Approve the Use Permit with recommended Conditions in Attachment A.
2. Approve the Use Permit with modifications.
3. Deny the Use Permit.

### **RECOMMENDATION**

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Alternative 1. Approve the Use Permit with recommended Conditions in Attachment A.

Reviewed by:



Shaunn Mendrin  
Senior Planner

Prepared By: Ryan Kuchenig, Associate Planner

Attachments:

- A. Standard Requirements and Recommended Conditions of Approval
- B. Site and Floor Plans
- C. Project Description from the Applicant

**RECOMMENDED  
CONDITIONS OF APPROVAL AND  
STANDARD DEVELOPMENT REQUIREMENTS  
May 11, 2011**

**Planning Application 2011-7196  
853 Gary Avenue**

Use Permit to allow a commercial day care within a single family home

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

**GC: THE FOLLOWING GENERAL CONDITIONS OF APPROVAL AND  
STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE  
APPROVED PROJECT.**

**GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:**

All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing.  
[COA] [PLANNING]

**GC-2. USE EXPIRATION:**

The approved use Permit for the use shall expire if the use is discontinued for a period of one year or more. [SDR] (PLANNING)

GC-3. PERMIT EXPIRATION:

The permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date and is approved by the Director of Community Development. [SDR] (PLANNING)

GC-4. SIGNS:

All new signs require a separate permit and shall be in conformance with Title 19 of the Sunnyvale Municipal Code. [PLANNING] [COA]

GC-5 CAPACITY: The maximum capacity for the day care center shall be limited to 24 children and three (3) employees. Any proposed expansion of the use requires approval through a Zoning Administrator Hearing.

GC-6. OBTAIN OTHER PERMITS AND LICENSES: The following additional permits and licenses are required prior to commencement of the approved use:

- a) Obtain all required permits or licenses to operate as a commercial daycare facility from State Department of Social Services.
- b) Obtain required permits from the City of Sunnyvale Department of Public Safety, Fire Services.
- c) Obtain a City of Sunnyvale business license. [COA] [PLANNING]

**PS: THE FOLLOWING SHALL BE MET PRIOR TO SUBMITTAL OF BUILDING PERMIT, AND/OR GRADING PERMIT.**

PS-1. REQUIRED REVISIONS TO PROJECT PLANS:

The plans shall be revised to include the following: [COA] [PLANNING]:

- a) The plans shall be revised to provide five spaces instead of six. The surplus parking space located toward the southeast corner of the site shall be replaced with landscaped area.
- b) As shown on the site plan, one space shall be designated and striped as handicap accessible.
- c) As necessary, indicate accessibility ramps on Building Permit plans.

**BP: THE FOLLOWING SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY DEMOLITION PERMIT, BUILDING PERMIT, GRADING PERMIT, AND/OR ENCROACHMENT PERMIT AND SHALL BE MET PRIOR TO THE ISSUANCE OF SAID PERMIT(S).**

**BP-1. CONDITIONS OF APPROVAL:**

Final plans shall include all Conditions of Approval included as part of the approved application starting on sheet 2 of the plans. [COA] [PLANNING]

**BP-2. LANDSCAPE PLAN:**

Landscape and irrigation plans are subject to review and approval by the Director of Community Development. The landscape plan shall include the following elements:

- a) All areas not required for parking, driveways or structures shall be landscaped.
- b) All landscaping shall be installed prior to final or occupancy.

**EP: THE FOLLOWING SHALL BE ADDRESSED AS PART OF AN ENCROACHMENT PERMIT APPLICATION.**

**EP-1. ENCROACHMENT PERMIT:**

Obtain Public Works Encroachment Permit for improvements within the public right-of-way if necessary, including but not limited to, driveway extension, water meter upgrade due to possible fire sprinkler requirements, etc. [COA] (ENGINEERING)

**DC: THE FOLLOWING SHALL BE COMPLIED WITH AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT.**

**DC-1. BLUEPRINT FOR A CLEAN BAY:**

The project shall be in compliance with stormwater best management practices for general construction activity until the project is completed and either final occupancy has been granted. [SDR] [PLANNING]

**AT: THE FOLLOWING CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.**

AT-1. HOURS OF OPERATION:

The use permitted as part of this application shall comply with the following hours of operation at all times:

- a) The hours of operation are limited to 7:00 a.m. to 7:00p.m daily.  
[COA] [PLANNING]

AT-2. RECYCLING AND SOLID WASTE:

All exterior recycling and solid waste shall be confined to approved receptacles and enclosures. [COA] [PLANNING]

AT-3. LOUDSPEAKERS PROHIBITED:

Out-of-door loudspeakers shall be prohibited at all times. [COA] [PLANNING]

AT-4. LANDSCAPE MAINTENANCE:

All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition. Trees shall be allowed to grow to the full genetic height and habit (trees shall not be topped). Trees shall be maintained using standard arboriculture practices. [COA] [PLANNING]

AT-5. PARKING LOT MAINTENANCE:

The parking lot shall be maintained in accordance with the approved plans. [COA] [PLANNING]

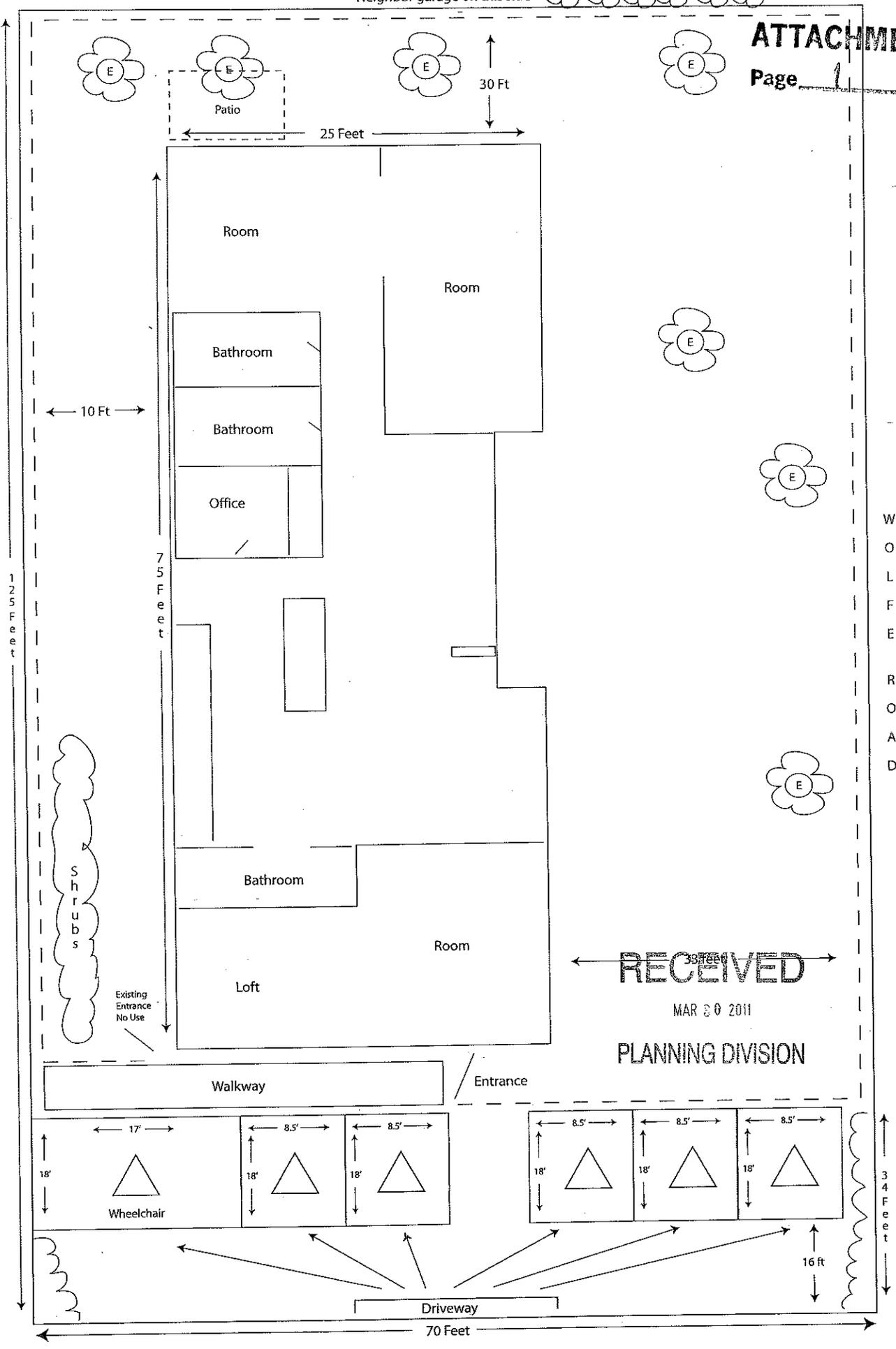
AT-6 FIRE PREVENTION: Provide required number of approved fire extinguishers (minimum size of 2A10BC) [COA] [PUBLIC SAFETY – FIRE PREVENTION]

Neighbor garage on this side



# ATTACHMENT B

Page 1 of 1



WOLF ROAD

RECEIVED  
 MAR 30 2011  
 PLANNING DIVISION

Existing Entrance No Use

Shrubs

125 Feet

75 Feet

10 Ft

25 Feet

30 Ft

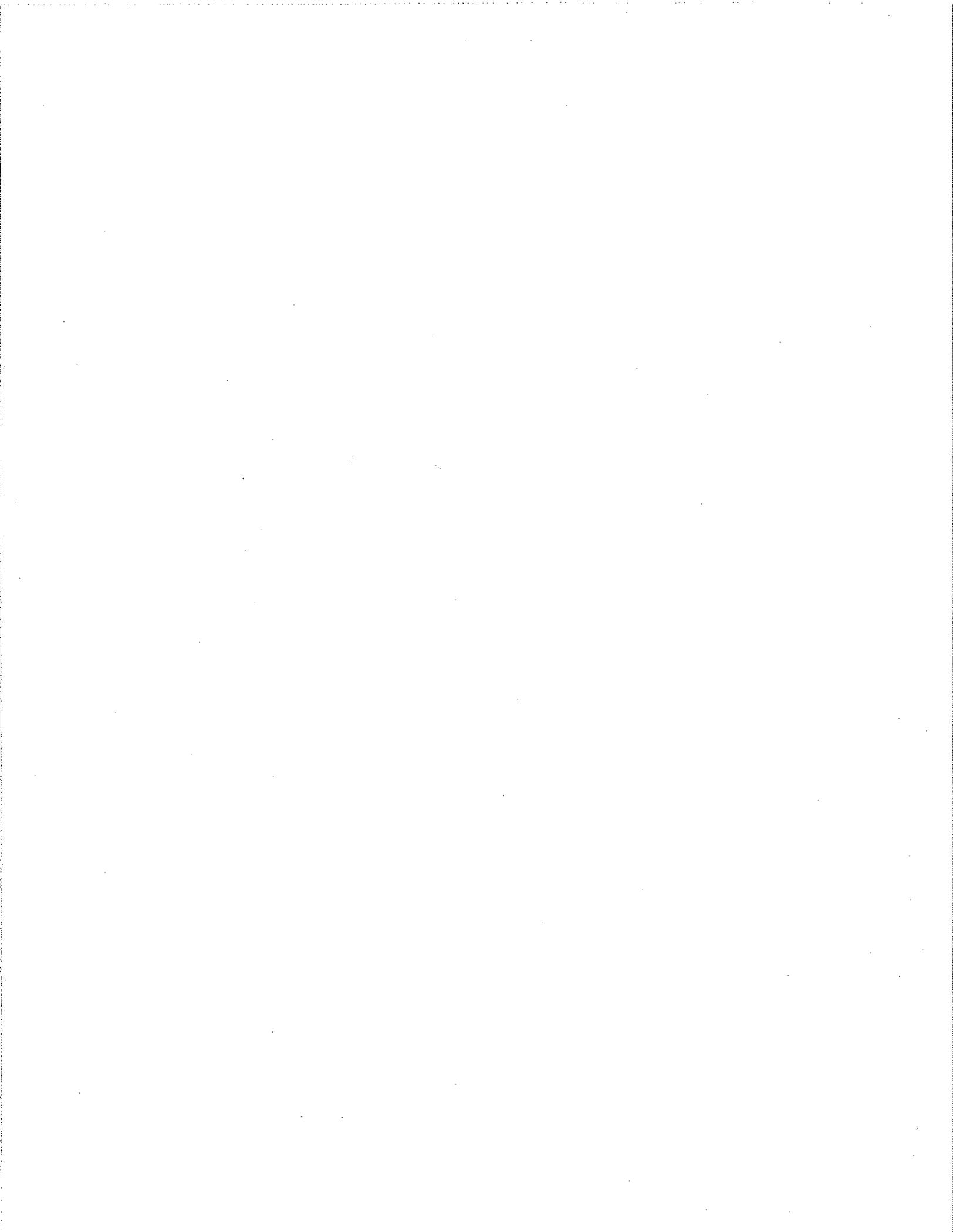
34 Feet

16 ft

Driveway

70 Feet

--- = Perimeter Fence



# 853 Project Description Letter

## I. Provide Childcare

1. 12 years experience
2. Not enough play based pre-schools in area
3. We believe in childhood
4. Quality Care

## II. General Plans

1. Procure SBA Loan
2. Bring space up to fire, handicap, licensing, code
3. Add bike path, sandbox, play structure outside
4. Open for business by September 2011
5. Enter only in center to reduce impact to neighbor on side
6. Raise fence in back to cut view to back neighbor

## III. Ideal Location

1. Corner Lot
2. Noise suppressed by being close to traffic
3. Already setup as preschool
4. Adjacent neighbor gave positive response

## IV. Hours & Specifics

1. Mon - Fri 8AM to 5:30PM
2. Up to 28 Children
3. 2 to 3 employees including director

## V. Personal

1. Growing Family
2. 12 years business has been in our house

## VI. Parking

1. Modify existing lot to accommodate spaces up to code
2. parent drop off will be staggered naturally
3. 1 wheelchair and 5 additional spaces
4. widen driveway to allow drop-off pickup
5. convince city to remove red curb
6. Drop-off and pickup is staggered due to part and full time clients