

**CITY OF LA VISTA  
PLANNING DIVISION**

**RECOMMENDATION REPORT**

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CASE NUMBER:

FOR HEARING OF: August 16, 2007  
Report Prepared on August 6, 2007

**I. GENERAL INFORMATION**

- A. **APPLICANT:** Brad Underwood
- B. **PROPERTY OWNER:** Southport Investors LLC
- C. **LOCATION:** NW Intersection of Port Grace Blvd and Eastport Parkway
- D. **LEGAL DESCRIPTION:** Lot 1, Southport East Replat Ten (not yet recorded)
- E. **REQUESTED ACTION(S):** Conditional Use Permit Review
- F. **EXISTING ZONING AND LAND USE:**  
C-3, Highway Commercial / Office Park District and Gateway Corridor District. The site is undeveloped.
- G. **PURPOSE OF REQUEST:** The proposal is build a childcare center inside of a newly constructed office/retail building.
- H. **SIZE OF SITE:** Approx 6,500 sq. feet proposed for the childcare center. The lot is approximately two acres.

**II. BACKGROUND INFORMATION**

- A. **EXISTING CONDITION OF SITE:** Vacant
- B. **GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:**
  - 1. **North:** C-3, Southport East Replat Six / Commercial Use
  - 2. **East:** TA / Sod Farm
  - 3. **South:** C-3, Southport East Replat Five / Commercial Use
  - 4. **West:** C-3, Southport East Replat Four / Commercial Use
- C. **RELEVANT CASE HISTORY:** Southport East Replat Ten
- D. **APPLICABLE REGULATIONS:**
  - 1. Section 5.12, Zoning Ordinance, regarding C-3 Zoning District
  - 2. Section 5.17, Zoning Ordinance, regarding Gateway Corridor Dist.
  - 3. Section 6.05, Zoning Ordinance, CUP Standards for Approval
  - 4. Southport Architectural and Site Design Guidelines

This required parking will overflow into the adjacent tenant's parking area. Employees alone would nearly fill the parking spaces on the east side of the parking lot (in front of the childcare center).

2. The new childcare center is proposed to operate from 6:30a.m. to 6:00 p.m., Monday – Friday (no weekends). Lunch would be catered during days of operation.
3. Both the Fire Chief and the Police Chief have reviewed the proposal and have no concerns at this time. Additional review will be done at the time of building permit review.
4. Proposed fencing is following the example of the approved Education Express project, also located in the Gateway Corridor District. Two gates are proposed; however, the gate on the North side of the building raises security and safety concerns for children.
5. Building design review is currently in progress by the City's Design Review Architect.
6. Southport East Replat Ten also shall be recorded prior to City Council approval of this conditional use permit.

**V. STAFF RECOMMENDATION:**

Approval of the Conditional Use Permit to allow a childcare center in the C-3 Zoning District with the following conditions:

1. The applicant shall demonstrate they can provide the necessary number of parking spaces for the childcare center without negatively impacting the parking required for future tenants on this lot.
2. Southport East Replat Ten shall be recorded prior to City Council's approval of the Conditional Use Permit.

**VI. ATTACHMENTS TO REPORT:**

1. Grading Plan/ Site Development Plan
2. Landscaping Plan
3. Landscaping Features (i.e. fencing and dumpster screening)
4. Draft CUP
5. City Engineer's comments

**VII. COPIES OF REPORT SENT TO:**

1. Brad Underwood, Applicant
2. Todd Ommen, Meyer and Associates



Prepared by:

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Community Development Director

Date

**City of La Vista  
Conditional Use Permit**

**Conditional Use Permit for a Childcare Center**

This Conditional Use Permit issued this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to, Learning with Love, Inc. ("Owner"), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Owner wishes to construct and operate a childcare center upon the following described tract of land within the City of La Vista zoning jurisdiction:

Lot 1, Southport East Replat Ten located in the NE ¼ Section 18 and the NW ¼ Section 17, Township 14 North, Range 12 East of the 6th P.M. Sarpy County, Nebraska.

WHEREAS, Owner has applied for a conditional use permit for the purpose of locating and operating a childcare center; and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the issuance of a conditional use permit to the owner for such purposes, subject to certain conditions and agreements as hereinafter provided.

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this conditional use permit is issued to the owner to use the area designated on Exhibit "A" hereto for a childcare center, said use hereinafter being referred to as "Permitted Use or Use".

**Conditions of Permit**

The conditions to which the granting of this permit is subject are:

1. The rights granted by this permit are transferable and any variation or breach of any terms hereof shall cause permit to expire and terminate without the prior written consent of the City (amendment to permit) or unless exempted herein.
2. In respect to the proposed Use:
  - a. A site plan showing the property boundaries of the tract of land and easements, proposed structures, parking, access points, and drives shall be provided to the City and attached to the permit as Exhibit "B".
  - b. Hours of operation for the use will be from 6:30 a.m. – 6:00 p.m. Monday – Friday (no weekends).
  - c. There will be seventeen employees working at all times in the childcare center.
  - d. The use will be comprised of 6,574 sq. feet of building space, plus an outdoor, fenced play area.
  - e. Adequate parking shall be provided to accommodate the maximum number of children in attendance at any one time between the hours of operation.
  - f. Adequate parking shall be provided to accommodate the maximum number of employees in attendance at any one time between the hours of operation.
  - g. The premises shall be developed and maintained in accordance with the site plan (Exhibit "B") as approved by the City and incorporated herein by this reference. Any modifications must be submitted to the Chief Building Official for approval.

sidewalk area on the south side of the building.

ii. The fencing shall be of approved fencing material (Exhibit “\_”), and shall be maintained and in excellent repair during hours of operations.

5. The applicant’s right to maintain the use as approved pursuant to these provisions shall be based on the following:

a. An annual inspection to determine compliance with the conditions of approval. The conditional use permit may be revoked upon a finding by the City that there is a violation of the terms of approval.

b. The use authorized by the conditional use permit must be initiated within one (1) year of approval and shall become void two (2) years after the date of approval unless the applicant has fully complied with the terms of approval.

c. All obsolete or unused structures, accessory facilities or materials with an environmental or safety hazard shall be abated and/or removed at owner’s expense within twelve (12) months of cessation of the conditional use.

6. Notwithstanding any other provision herein to the contrary, this permit, and all rights granted hereby, shall expire and terminate as to a permitted use hereunder upon the first of the following to occur:

a. Owner’s abandonment of the permitted use. Non-use thereof for a period of twelve (12) months shall constitute a presumption of abandonment.

b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use.

c. Owner’s construction or placement of a storage tank, structure or other improvement on the premises not specified in this permit.

d. Owner’s breach of any other terms hereof and his failure to correct such breach within ten (10) days of City’s giving notice thereof.

7. If the permitted use is not commenced within one (1) year from \_\_\_\_\_, 2007, this Permit shall be null and void and all rights hereunder shall lapse, without prejudice to owner’s right to file for an extension of time pursuant to the La Vista Zoning Ordinance.

8. In the event of the owner’s failure to promptly remove any safety or environmental hazard from the premises, or the expiration or termination of this permit and the owner’s failure to promptly remove any permitted materials or any remaining environmental or safety hazard, the City may, at its option (but without any obligation to the owner or any third party to exercise said option) cause the same to be removed at owner’s cost (including, but not limited to, the cost of any excavation and earthwork that is necessary or advisable) and the owner shall reimburse the City the costs incurred to remove the same. Owner hereby irrevocably grants the City, its agents and employees the right to enter the premises and to take whatever action as is necessary or appropriate to remove the structures or any environmental or safety hazards in accordance with the terms of this permit, and the right of the City to enter the premises as necessary or appropriate to carry out any other provision of this permit.

9. If any provision, or any portion thereof, contained in this agreement is held to be unconstitutional, invalid, or unenforceable, the remaining provisions hereof, or portions thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

## **Miscellaneous**

The conditions and terms of this permit shall be binding upon owner, his successors and assigns.

1. Delay of City to terminate this permit on account of breach of owner of any of the terms hereof shall not constitute a waiver of City’s right to terminate, unless it shall have expressly waived said breach and a

July 12, 2007

Dear LaVista Planning Board:

My name is Leslie Brown and I am writing this letter to help further inform you of what my corporation is all about. We are applying for a conditional use permit to operate our daycare in Southport.

“Learning With Love” is a licensed daycare in Nebraska. This will be the second daycare we will be operating. The first one was opened on October 14<sup>th</sup>, 2005 at 6901 N. 102<sup>nd</sup> Circle in Omaha, Nebraska. We currently have 90 children enrolled with a space capacity of 140 children.

Our program is different than the average daycare centers, with our main focus being on the education and love of the child, not just the care of the child. We also have certified teachers that teach the children. Our program consist of sign language, Spanish, math, phonics, physical education, songs, dance, plus so much more.

We keep track of the children’s progress by doing report cards and providing portfolio’s for each of the children. Our main goal is to have all children ready for kindergarten by age five with **NO CHILD LEFT BEHIND** as our motto.

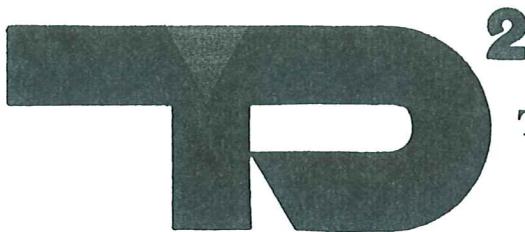
The new daycare will operate from 6:30 a.m. – 6:00 p.m. Monday – Friday, no weekends, with a total capacity of 140 children. We expect to employ around seventeen employees. We have our lunches catered through Swansons who delivers the lunches daily for us daily.

We look forward to providing “Quality Service” to the LaVista community.

Sincerely,



Leslie Brown  
Learning With Love, Owner



THOMPSON, DREESSEN & DORNER, INC.  
Consulting Engineers & Land Surveyors

July 26, 2007

Mr. Marcus Baker  
City Planner  
City of La Vista  
8116 Park View Boulevard  
La Vista, NE 68128

ROBERT E. DREESSEN, P.E.  
NELSON J. HYMANS, P.E.  
JAMES D. WARNER, L.S.  
CHARLES B. RIGGS, P.E.  
KA "KIP" P. SQUIRE III, P.E., S.E.  
JOHN M. KOTTMANN, P.E.  
ARTHUR D. BECCARD, P.E.  
JOSEPH G. KOSINOVSKY, P.E.  
DOUGLAS S. DREESSEN, P.E.  
DEAN A. JAEGER, P.E.  
RICHARD M. BROYLES, L.S.  
DAVID H. NEEF, L.S.  
RONALD M. KOENIG, L.S.  
CHRIS E. DORNER, L.S.

TIMOTHY T. PAPSTEIN, P.E.  
MICHAEL J. SMITH, L.S.  
TROY J. NISSEN, P.E., S.E.  
DOUGLAS E. KELLNER, P.E.  
KEVIN L. TRUE, L.S.  
GARY A. NORTON, P.E.  
BRIAN L. LODES, P.E.  
KURTIS L. ROHN, P.E.  
JEFFREY L. THOMPSON, P.E.  
DAREN A. KONDA, P.E.  
MICHAEL T. CANIGLIA, L.S.  
JEREMY T. STEENHOEK, P.E.  
JOSHUA J. STORM, P.E.

RE: Rezoning & Conditional Use Permit Reviews 2007  
Lot 1, Southport East Replat Ten  
Proposed Conditional Use Permit for Child Care  
TD<sup>2</sup> File No. 171-345.9

Marcus:

I have reviewed the Site Plans that you provided to me on July 12, 2007 for a proposed conditional use permit for a childcare facility on the above-referenced site. I offer the following comments:

1. Based on parking requirements in the Zoning Regulations, the required parking is 1 stall per 4 persons of licensed occupancy of childcare plus 1 stall per employee. Based on the information in the application, it appears the licensed capacity will be 140 children and that there will be 17 employees. Based on this, there would be 31 stalls required for the childcare portion of the building. The site plans indicate in a data table that half of the building or about 6,000 square feet will be available for retail uses, which have a parking requirement of 5 stalls per 1,000 square feet or 30 stalls. The total requirement is 61 stalls and the site layout plan shows 50 stalls. The site plan needs to be revised to provide adequate parking or the proposed use of the facility reduced to match the provided parking. The requirement for ADA stalls based on 61 required stalls is 3 and has been met. The site plan does show a secondary connection for access to the Southport East Replat Four property. However, it shows two proposed islands being painted and 1.5 feet in width. These are not adequate to provide safe turning movements. One more stall needs to be removed so that these islands can be 6 feet wide. }
2. The Fire Department and the Fire Marshall should review the plans.
3. The noise of children playing is not expected to be a concern to surrounding properties given the location of the outdoor play area. However, adjacent bays in the proposed building may be subject to noise, but that is an impact upon the applicant who is obviously aware of the potential.
4. The plans will need to be reviewed for compliance with the Southport East Design Guidelines when a building permit application is made.
5. The portion of the building that will be used for childcare should be delineated on the site plan.
6. The applicant should be required to provide a copy of the State approval for the day care operation and the licensed capacity. *- provided for existing site on 6901 N 102nd Circle*

Mr. Marcus Baker

July 26, 2007

Page 2

I recommend that these items be addressed prior to approving this Conditional Use Permit.

Submitted by,

THOMPSON, DREESSEN & DORNER, INC.



John M. Kottmann, P.E.

JMK/jlf

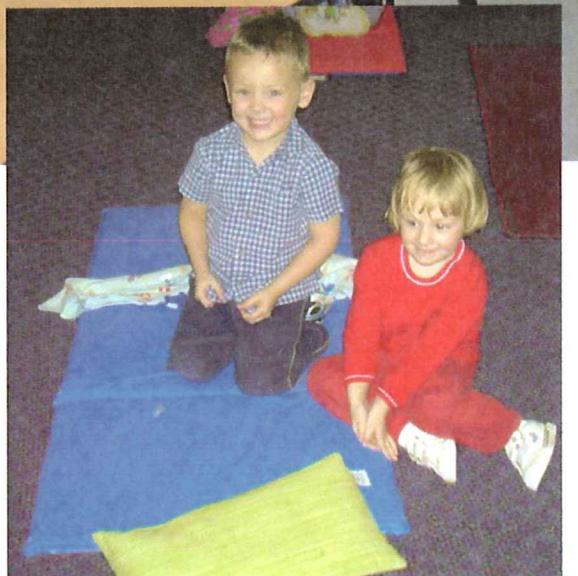
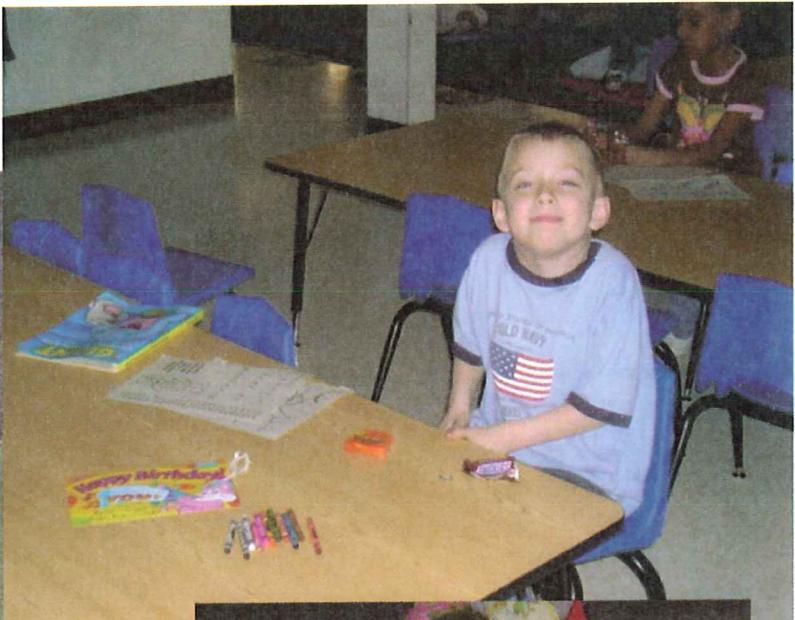
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# Learning With Love, Inc.

Please visit our website to learn about our company:  
[www.learningwithlovecenter.com](http://www.learningwithlovecenter.com)



# Learning With Love, Inc.



# State of Nebraska

Department of Health and Human Services  
Regulation and Licensure

## LEARNING WITH LOVE INC

Is hereby authorized in compliance with laws of the State of Nebraska to establish and conduct an  
Operating Child Care Center

located at: 6901 NORTH 102 CR Omaha NE 68122

A maximum of 140 children in ages 6 WKS to 13 YRS may be in attendance at any one time during the  
hours of 0630 to 1800 on MTWTF

LEARNING WITH LOVE INC is hereby issued License No. CCC8823 which is  
effective on 10/17/2006

Given under the name and Seal of the Department  
of Health and Human Services Regulation and  
Licensure of the State of Nebraska at Lincoln on  
10/17/2006.

*[Signature]*  
John Shaffer, MD, Chief Medical Officer, Director  
Department of Health & Human Services Regulation & Licensure





## NEBRASKA STATE FIRE MARSHAL

# DAY CARE CERTIFICATE

Name of Facility Learning With Love, Inc. - Child Care Center

Location 6901 North 102 Circle - Omaha NE 68134

Date Issued October 24, 2005 Certificate No. 2005-332

Maximum Occupancy - 162 - Persons

Inspected By: *Capt. Neil Chaudhury*  
Omaha Fire Prevention Bureau  
Delegated Authority

Approved By: *Joe Patahan*  
State Fire Marshal  
Delegated Authority

## POST IN PROMINENT PLACE



Yellow Copy - To Be Presented To The State Licensing Agency If Necessary