

**A REGULAR MEETING OF THE PLAN COMMISSION  
OF THE VILLAGE OF BOLINGBROOK  
May 16, 2012**

**CALL TO ORDER**

Chairman Cawthon called the meeting to order at 8:03p.m., Wednesday, May 16, 2012.

**ROLL CALL**

Present: Commissioners Talat Rashid, Lon Schank, J.D. Rhoades, Calvin Wright, Rick Campos, Vice Chair Mary Rennels

Absent: Commissioners Greg Jacobs, Libby Runge

Staff: Director of Community Development, Dennis Kowalczyk; Planning & Zoning Administrator, Nicole Knapp; Planner, Matt Eastman; Village Engineer, Tom Pawlowicz

Press: None

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**APPROVAL OF MINUTES**

Motion Rhoades, second Vice Chair Rennels to approve Minutes of the April 18, 2012, meeting of the Plan Commission.

Voice Vote: Unanimous  
Motion carried.

**PUBLIC HEARING**

**AMENDMENT TO A SPECIAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT WITH VARIANCES. RR DONNELLEY, 1000 WINDHAM PARKWAY. APPLICANT: MELISSA LYONS, NAI HIFFMAN. PROJECT NO.: 449.03**

Motion Wright, second Schank to open the public hearing.

AYES: Commissioners Campos, Wright, Schank, Rhoades, Rashid, Vice Chair Rennels, Chairman Cawthon

NAYS: None

ABSENT: Commissioners Jacobs, Runge

Motion carried, public hearing opened at 8:04 p.m.

Motion Rhoades, second Rashid to continue the public hearing to the June 6, 2012, Plan Commission meeting.

AYES: Commissioners Campos, Wright, Schank, Rhoades, Rashid, Vice Chair Rennels, Chairman Cawthon

NAYS: None

ABSENT: Commissioners Jacobs, Runge

Motion carried, public hearing continued at 8:05 p.m.

**SPECIAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT TO ALLOW A DENTAL OFFICE. SHINING SMILES LLC, 303 N. BOLINGBROOK DRIVE. APPLICANT: NIMA NOURAHMADI, SHINING SMILES LLC. PROJECT NO.: 410.12**

Motion Vice Chair Rennels, second Wright to open the public hearing.

AYES: Commissioners Campos, Wright, Schank, Rhoades, Rashid, Vice Chair Rennels, Chairman Cawthon

NAYS: None

ABSENT: Commissioners Jacobs, Runge

Motion carried, public hearing opened at 8:06 p.m.

Planner Matt Eastman presented the request. The applicant, Shining Smiles, is requesting approval of a Special Use Permit for a Planned Unit Development in order to allow a dentist office at 303 N. Bolingbrook Drive. The subject property comprises approximately one and seventy-two hundredths (1.72) acres and is currently zoned B-3 Highway Commercial with existing eighteen thousand seven hundred eighty-four (18,784) square foot retail building. Access to the subject property is off of Bolingbrook Drive to the east in addition to a cross access point from Brook Court to the south. The shopping center has adequate parking for the proposed use. Per the Zoning Ordinance, a medical office is not permitted within the B-3 Zoning District. As such the applicant is requesting a Special Use Permit to allow a dentist office. Per the applicant, hours of operation would be Monday through Friday from 9 a.m. until 9 p.m., Saturday and Sunday from 10 a.m. until 6 p.m. Per the applicant, there would be approximately fifteen (15) to thirty (30) employees.

**RECOMMENDATION**

Staff recommends approval of a Special Use Permit for a Planned Unit Development to allow a dentist office at 303 N. Bolingbrook Drive.

**DISCUSSION**

None

Motion Rhoades, second Schank to close the public hearing.

AYES: Commissioners Rashid, Rhoades, Schank, Wright, Campos, Vice Chair Rennels, Chairman Cawthon

NAYS: None

ABSENT: Commissioners Jacobs, Runge

Motion carried, public hearing closed 8:08 p.m.

Motion Vice Chair Rennels, second Wright to accept the recommendation of Planning Staff.

AYES: Commissioners Campos, Wright, Schank, Rhoades, Rashid, Vice Chair Rennels, Chairman Cawthon

NAYS: None

ABSENT: Commissioners Jacobs, Runge

Motion carried.

**SPECIAL USE PERMIT FOR A PLANNED COMMERCIAL DEVELOPMENT WITH VARIANCECS AND FINAL DEVELOPMENT PLAN TO ALLOW A DAYCARE CENTER. CHILDREN OF AMERICA, 570 W. BOUGHTON ROAD. APPLICANT: ANDRZEJ BEDNARCZYK, BARON'S HOLDINGS, INC. PROJECT NO.: 406.12**

Motion Rhoades, second Schank to open the public hearing.

AYES: Commissioners Rashid, Rhoades, Schank, Wright, Campos, Vice Chair Rennels, Chairman Cawthon

NAYS: None

ABSENT: Commissioners Jacobs, Runge

Motion carried, public hearing opened at 8:09 p.m.

Community Development Director Dennis Kowalczyk stated that Staff had made their presentation and recommendation at the previous public hearing and he suggested that the applicant speak first.

Mark Daniel, Elmhurst, IL. Mr. Daniel stated he was the attorney for Baron's Holdings, has represented them for a long time, and has been involved for around six (6) months. He said at the last meeting he presented two (2) witnesses, one was Erica Koegel from Children of America who was going to give testimony again from some additional work that she had done. He said there were some contested issues at the previous hearing and he wanted to touch on those. He stated all the members had received correspondence from him and from Keating. He said the issue is broken down more easily by taking the question on the Zoning authority. Daniel said it was very clear under the Zoning Ordinance that the Commission does have the authority to approve this Special Use. He said there are very clear Planning Development provisions and regarding daycare centers, which is a use that is not listed anywhere in the Industrial Uses that Keating was addressing in the last meeting. He said Staff had made an appropriate recommendation for approval in this case based on their review on the Zoning Ordinance. He said one of the reasons would be the security; another reason that would come up is site safety. He said they have provided a revised site plan that captured the reserved parking in the first row north of Children of America and once you get beyond the playground you would have the planters. The Police Department specifically asked for bollards on an offset of forty-eight (48) inches and these bollard posts would be three (3) feet high, so you will not have a car barricading through those. You would also have a sufficiently wide drive aisle with one-way traffic shown and angled parking, so we have taken care of what I had informed you of at the previous hearing with the revised site plan. He said there is a bit of a legal constitutional issue which still remains. He said a lot of times first comers in the community or those that are here earlier sometimes feel that there is a certain entitlement. Keating is not denying that that is the issue. One question here is how the economic is and competition issues played in the Commissioners decision. He said in this particular case he stated in the last hearing that there was nothing in the site plan that posed economic disadvantage to Kiddie Academy. He said nothing in the design of the property, nothing in what is being constructed there would cause any economic disadvantage. While the opposition at the last hearing suggested that kids might see each other across the way, but that way is three hundred (300) feet across first of all from door to door, second of all you have got landscaping, third and perhaps most importantly you have got another

building standing in the way. You will not have kids doing that assuming that they are not controlled by a parent adding those controls and typical parental guidance that we all engage in. There is constant supervision. When you talk about economic disadvantage, I had a matter in Berwyn or Cicero involving a billboard on Cermak, a Variance granted to increase the height of their neighboring billboard caused economic disadvantage a conditional use for that billboard caused economic disadvantage, because the Zoning entitlement granted by the municipality allowed that billboard to rise up and cover a portion of the neighboring billboard. That is the type of economic disadvantage that he believed the code speaks to, he said in this instance again only focusing on this instance not sure where the city council or commission have been on other applications. He said is there anything in the proposed site plan that causes you economic disadvantage and the answer was no. And there you have your sworn answer and testimony on the economic disadvantage issue. He said now let's take it to the next level in Keating's letter and in the testimony you heard that Kiddie Academy is a new entity that there was a certain return on investment that was expected over time. They wanted to be profiting within a certain period of time and that this competition might affect that. He said he did not believe that was the appropriate Zoning analysis that the commission should adopt in this case. He said as an attorney he can tell you legally do not look at that, he said I ask that you do not consider that type of economic harm analysis. He said that is a legalistic answer and maybe what should be done is addressing the issue. He said if it were an issue of competition in the area let's say the supply far exceeded demand like it does in Bloomington, Illinois in the daycare field you would not have somebody apply because the demand is not there. This is not the case in Bolingbrook. He said he would go over some numbers from the August 2011 data he received from a professor of sociology at the University of Illinois in Chicago. It studies any municipality over thirty thousand (30,000) in size and every municipality in the Chicago metro area.

Cawthon said he cited Bloomington as supply exceeding demand, he asked what that was based on. Daniel stated that was based on a study on all state licensed in-home care providers, licensed center providers, and other agency providers that are regulated by the state. He said the gap that they did not count is the in-home provider situation that is not regulated by the state.

Cawthon asked how the demand is determined. He said he knew that daycare is an option and can be very expensive and Bloomington's employment has not been stellar. Daniel stated that that was correct. He said that demand is based on a handful of issues. First of all, they take a look at demand by population, and then by age group segments within that population. So this particular study is called the Early Care and Education in Illinois Study. The top ten counties and municipalities in the Chicago community areas in need of care, and Bolingbrook is number ten (10) for municipalities. He said he wanted to highlight some information in how Bolingbrook would come in to play.

Cawthon stated that was exactly what he was looking for at the last meeting. Daniel said at the time he was speaking to the people of Children of America making sure that they had assessed their need in the area and that it was a decision made with your traditional business geographic and considerations.

Cawthon asked if Kiddie Academy also had the study. Daniel said yes they do. He said the study was performed by Moira O'Donovan for the IFF Public Policy and Research Center. He said it is the most recent one that has been made available. It is from August 2011, so you will have seats from Kiddie Academy that would not be counted unless their license was something the state knew about as of August 2011. But, you will soon hear that issue does not matter because the gap between necessary seats and seats available at the existing centers is so big. He said he would give some references within the study.

Cawthon said it would be really hard when the data is not in front of them because all they can do is listen. Daniel said he understood that, but there were two (2) options. One was to present a study that was prepared by an expert retained or to prepare an independent study that we had no control or input over. He said he apologized for not having copies of the study.

Campos said that what he was highlighting was need versus demand and he wanted to know what timeline that happened within. He said the need was greater at one point and then we created an answer for it and then that answer was too much. He asked when that changed.

Cawthon said that is from August 2011 and that data could change by the week. Daniel said there are a few key points he said they do speak to counties, sixty-four (64) municipalities, and the City of Chicago in its identifiable neighborhoods. The study is much thicker than a handful of pages that were relevant to Bolingbrook data appears. He said statewide the average all income care services level is sixty-two and a half percent (62.5%) that means that it is somebody at any income level. This means that if you have a demand of one hundred (100) seats in a municipality there is only sixty-two and five tenths (62.5) available. In evaluating the counties and municipalities they rank the counties one through one hundred two (1-102), worst situation being number one (1) best situation being number one hundred two (102). Will County is ranked number three (#3), so the third worst scenario in the state of Illinois for counties is Will County.

Cawthon asked what the percentage was. Daniel said the percentage in the general care category age birth to five (5) years Will County is at fifty-six and one tenth percent (56.1%).

Cawthon said daycare is not just for the people in Bolingbrook it is also for people that work here that will drop their kids off and may live somewhere else.

Daniel said the state of Illinois average in the general care birth to five (5) years category is sixty-two and a half percent (62.5%). He stated that Bolingbrook has a demand of three thousand two hundred ninety-six (3,296) seats and the total slots available were two thousand seventy-four (2,074) which is sixty-two and nine tenths percent (62.9%).

Cawthon asked if that meant it was better or worse than will county. Daniel said it is better than Will County. He said taking a look at the service level rank among the

sixty-four (64) municipalities Bolingbrook is twenty-eighth (28<sup>th</sup>). When it comes to slot gaps, which are the vacant seats, Bolingbrook is ranked twenty (20).

Daniel said in the age three through five (3-5) years category, fifty-six percent (56%) is the service level in Bolingbrook. The state average for that range is sixty-eight and a half percent (68.5%). The service level ranks among the sixty-four (64) municipalities, Bolingbrook as twenty-two (22). The gap ranking, the number of slots Bolingbrook is ranked fourteenth (14<sup>th</sup>) among the sixty-four (64) when you are going from worst to best. It has been identified as an area of need in this survey.

Cawthon said it is actually an area of opportunity. Daniel said that Bolingbrook in the birth to two (2) years category the state service level falls to thirty-four percent (34%) and Bolingbrook is at twenty-five and three tenths percent (25.3%) it puts it at nineteen (19) for the service level rank. When it comes to slot gaps, Bolingbrook ranks nine (9) and this is for general care. He said there are other issues in which he was not going to address, he said Bolingbrook is the worst in certain categories but he could not talk about grant services to at risk kids or to pre-school for all kids. He said that is speculative.

Cawthon said before he departed from the data he wanted to ask the commissioners if they had any questions on the data. He said that is exactly what they were looking for in the previous meeting. He expressed disappointment that unfortunately they asked for it a month ago and they hear it the day of.

Daniel said DCFS had certain reports that were available, but those were at least five (5) years old and he did not get the data he was reading until that afternoon. He said that was from the IFF (Illinois Fund Foundation). He said when you talk about the state average the reason why IFF did this was because the state was underperforming. He said the purpose of the study as stated by IFF was to identify how supply and demand are compared statewide because they do not want Illinois to fall into a perpetual welfare system.

Cawthon asked if it was possible that this study could have been prepared to attract businesses to invest.

Daniel stated that could have been part of it but that there is also a State and Federal grant program that went toward the study so it is also making people aware of the grant programs for the spectrum that he was not going to talk about. He said that step two (2) in the IFF study is to assist municipalities and counties in the planning process by identifying the need and evaluating where they can allow opportunities for these centers to operate. He said after this study comes out identifying a need it makes all the daycare centers conditional or Special Use. So, it is interesting how you see people react to certain things. He stated that when you talk about Bolingbrook and where it ranks you have to look at the study and understand that the state is underperforming to a level and the comparison. He said you do not want to compare it to the state level because the state in general is in bad shape when it comes to daycare providers and daycare opportunities. He said that was one reason why the study was conducted. He said it does not help that the state is not paying its supporters that it has committed to a

lot of daycares providers for some of their students that are on state funds, but the fact of the matter is that sixty-five and a half percent (62.5%) statewide average for service level is underperforming in general, except in a few areas like Bloomington and some others. He said when you look at Bolingbrook there are a couple of issues that come into play one of them is if you are going to evaluate supply and demand the question is what is the comparison of services. He said you can assume that there is a lot of crossover between the two (2) businesses, but if a provider arrives in town and they have better technology, a more secure environment for the kids in their view, the neighbor could say they are better but the fact of the matter is that it does not matter who is better here because they are planning. He said if you are going to look at competition and look at the next best thing.

Cawthon said if it did not matter why that point was brought up. Daniel said he was trying to hit on the points, because there is still some concern that that economic impact assessment could trickle over into evaluating competition.

Campos said he appreciated where he was coming from and that what he brought up was interesting. He said you bring up the point that one provider may offer up some kind of additional services that is not available in the other one thus that is an availability for anyone whether that be Bolingbrook, Naperville, or any residents looking for a daycare center, but what it also does is split your data because then your data becomes a question of whether everyone is looking for that specific service or not.

Daniel said you have to consider the largest part of the population. He said the largest part of the population that has their kids at either of these centers will be coming from within the radii that you heard about last time, which is the three to five (3-5) mile radius. He said that is just a fact that is just the way they plan that is the way both sides have looked at they have talked about this overlapping radius. He said the majority of the people are going to come back into that radius.

Campos said that one of the things he likes to do when he analyses things is what is called reverse engineering and he looks at it upside down. He said he would like to ask Daniel just out of curiosity if the data had not shown that there was a market, does he in his opinion think that the commission should deny the request.

Daniel said no that the market should determine that. He said the data was brought to the meeting because there have been some concerns expressed to that. He said he still does not think that would be a proper consideration.

Cathleen Keating from Law offices of Martin, Craig, Chester, & Sonnenschein LLP., Oak Brook, IL. Keating said she had some cross examination. She asked Daniel if he was familiar with what the organization that he referred to as IFF is.

Daniel said it is a non-profit agency that serves to improve benefits for generally those that are in need. For example, housing IFF has a program to go out and find cooperative financing to help develop opportunities in any municipality for affordable housing. IFF is actively involved in that aspect of it, but as part of IFF's work here two thirds (2/3) of the report is focused on at risk kids and preschool for all kids who would

fall within IFF's goals, but they had to do an overall evaluation of the need in the area for birth to five (5) years in the general category.

Keating said she understood, but asked if it was true that IFF was a non-profit lending institution and real estate consultant dedicated to strengthening non-profits throughout the state of Illinois and the communities that they serve.

Daniel said yes that is one of their objectives.

Keating said in the executive summary found on page five (5) of the report, which she received at 7:55 p.m., the point in time at which the data was collected is 2010 capacity data. Keating said that on page six (6) which is the executive recommendation from the report, does it not say that this report to begin this process the state of Illinois should initiate a dialog among ECE stake holders that is Early Childhood Education stake holders to determine how to better coordinate combined state and federal Early Childhood Education programs required to expand this category of care.

Daniel said that is one of the recommendations.

Keating asked if Children of America a non-profit daycare provider. Daniel said no they are for profit, but they still would fall within the category of daycare providers evaluated and counted in the study. He said there seats are also eventually going to be counted in the study we hope down the road.

Keating said she would like to keep this hearing open so she has an ability to review the sixty (60) page study and properly cross examine Daniel.

Daniel said he would object to that. He said Keating (he assumed) would have a witness from her perspective to talk about gaps in their analysis. Whether they hired somebody or went to a third party site, and then she can present her case.

Cawthon said he agreed with Keating. He said the data was interesting and appeared to be supportive.

Daniel said they are doing this on a basis that is not relevant to the Commissions concern. He said if the board thinks that is relevant to consider competition. He said he could have just come in and said do not consider it because you are not entitled to know and consider it during this case and disregarded the questions.

Cawthon said well you presented it. Daniel said when you look at a construction schedule and a forthcoming school year that opens up in August, the question is now do we have somebody who wants to push construction beyond the start of the school year simply because of competition reasons.

Cawthon said that is not what this hearing is about; he said the construction schedule is not the commissions concern.

Daniel said the applicant has a right to have the application process in review. Cawthon said that they had not heard everything yet.



Daniel said he would like to continue that discussion with the Plan Commission before the conclusion of the meeting. He said a continuance would be highly prejudicial.

Cawthon said he never said they were going to continue the meeting.

Erica Koegel, Children of America, North Aurora, IL. Koegel stated she wanted to discuss why they chose the site in Bolingbrook. She said they chose the site because they saw that there was a need for quality childcare based on the research they had from the 2012 Neilson Company. She stated it was prepared for them in May 4, 2012. Licensed childcare facilities are usually licensed from six (6) weeks to twelve (12) years old. Centers offer childcare for before and after school, summer camp programs, pre-school only programs, and private kindergarten programs. She said not all centers do the same type of programs, but they are in the capacity of doing that. She said she wanted to talk about the birth to nine (9) years age group. Within three (3) miles of the proposed site for Children of America there are eleven thousand seven hundred thirty (11,730) students that are in the three (3) mile radius. She said Kiddie Academy at 540 W. Boughton Road, Kindercare at 530 Seneca Lane, and Kindercare at 130 Barber's Corner are the daycares that are currently operating and licensed through DCFS.

Cawthon said she was missing a daycare center that was located at south of Lily Cache Lane and west of Walgreens, he said it is a privately held center.

Koegel asked if it was licensed through DCFS. Cawthon said that it was licensed and that it was a full daycare. Koegel asked the name of the center. Cawthon said he could not remember the name, but that it was right to the east of Harris Bank.

Koegel went on by saying that the Kindercare on Seneca Lane has a capacity of eighty-eight (88) children, Kindercare on Barber's Corner has capacity of one hundred forty-two (142) children, and Kiddie Academy has the capacity of one hundred sixty-two (162) children. This is full capacity for them to be at one hundred percent (100%), at the proposed Children of America it would be one hundred forty-five (145), this is without including the other center that was mentioned by Cawthon, and this would have a total of five hundred thirty-seven (537) seats which would be openings in the licensed childcare centers. She said considering that all four (4) centers would only be four and six tenths percent (4.6%) of those children. She said they could assume that more parents in that area are working, but four and six tenths percent (4.6%) is all that could be accommodated for. Allowing Children of America to open would only take up one and two tenths percent (1.2%) of that population. She said that she wanted to talk about safety and security. She said there was concern regarding the playground. She stated they have another site that is opening up and the structure was built on concrete and that the way their playgrounds are built is with synthetic rubberized surface for the outdoor play area for extra safety measures all perimeters of the playground are locked. She said there is an alarm panel that would sound if it was to open. She said those are just some security measures they take and that there are also protocols the teachers need to follow when coming in and going out. Management has to constantly count and make sure all children are accounted for, they provide video surveillance on the playground at all times, and other safety needs are followed. Koegel also stated that

Children of America decided to go forth and build a child care facility at this location because they feel there is enough child care facilities in the general area to accommodate four and six tenths percent (4.6%) of the population between the years of birth to nine (9) years of age. As a result, they feel there are plenty of children to support this area. Having addition child care facilities will give families choices that best suits their needs. Most child care centers have the same services, but offer different curriculum, have different philosophies, and different features within their facility.

Wright questioned all the daycares in their surrounding area and their current capacities and enrollment.

Koegel said she spoke to the Director at KinderCare located at Barbers Corners, which has a capacity of one hundred forty-two (142) kids, and they are currently at a ninety percent (90%) capacity. Capacity is based on each classroom because certain age groups have a particular child/teacher ratio to follow. Even though this is an approved site per DCFS, licensing still has to visit the proposed site and determine the number of children permitted in each classroom. There are also part-time students, which mean partial openings. These openings are harder to fill because they may be available on days that parents do not need child care.

Wright questioned the capacity of the KinderCare on Seneca Lane. Koegel stated she did not have their enrollment figures, but that their capacity is eighty-eight (88) children.

Campos stated the child care facility on Brookside Court is Creative Children's Center.

Cawthon stated he went on Craig's List, which said there were approximately eleven thousand (11,000) children in the area, which is what the data provided by Children of America stated. Cawthon said that per the data there are approximately two thousand eight hundred fifty-one (2,851) boys between the ages of birth to four (4) years old, three thousand one hundred thirty-one (3,131) boys between the ages of five (5) to nine (9) years, two thousand seven hundred fifty (2,750) girls between the ages of birth to four (4) years and two thousand nine hundred ninety-seven (2,997) girls between the ages of five (5) to nine (9) years.

Keating stated she had two (2) witnesses this evening and reserved the right to make a closing statement upon conclusion of the testimony.

Joshua Frick, Vice President of Real Estate for Kiddie Academy, Baltimore Maryland, sworn. Ms. Keating asked Frick about his education (response, Bachelor of Science in Marketing), time with Kiddie Academy (response, eleven (11) years in July) , job title (response, Vice President of Real Estate), capacity/job description (response, assist Franchisee with identifying and selecting locations, number of site selection to date (response, over 150 locations), involvement in site selection specifically with Kiddie Academy in Bolingbrook (response, yes), what they looked at when selecting the Kiddie Academy site in Bolingbrook (response, analysis visibility, accessibility, demographics, psychographics for the market)

Cawthon questions psychographics. Frisk responded that it was consumer behavior and lifestyle characteristic traits. Kiddie Academy believes in looking at more than just the number of children, income or population of a market. They look at markets that exhibit buying characteristics because not everyone that has children and money will be a customer of Kiddie of Academy. They look for certain households that have a higher propensity of becoming a customer of Kiddie Academy.

Keating asked Frick if he visited the Kiddie Academy site in Bolingbrook (response, yes), his opinion of the site (response, site was safe because it is set back from road, had adequate parking, accessibility, two (2) means of egress and cross access), if he has researched competing centers (response, yes within approximately five (5) miles), do they count home daycares in population/demand figures (response, no because they are not consider to be competition), what Kiddie Academy of Bolingbrook's enrollment rate is (response, as of May 5<sup>th</sup> they had approximately fourteen (14) full-time equivalent children), familiarity with Ms. Moore's projection after one (1) month (response, twenty (20) full-time students which is thirty percent (30%) below estimated enrollment), estimation to break even prior to opening (response, approximately ten (10) months), and estimation to break even based on actual figures of enrollment today (response, thirteen (13) months).

Cawthon questioned if there were other variable factors that affect enrollment rates. Frick responded that demand, pricing, quality of center, and Staff could be other factors.

Cawthon summarized that it is not just the presence of competition that is the only factor and that the ability to attract can affect fill rate.

Campos asked if day care centers are coming into peak season for summer hours and children who will be out of school and looking for summer child care providers.

Keating asked if Frick reviewed enrollment projections with Ms. Moore and he stated they reviewed expenses, but that he cannot provide her with enrollment projections. Keating asked Frick's opinion of the center as build-out today and he stated it is the newest location, with top quality state of art equipment and offerings of a Kiddie Academy Franchisee.

Cawthon questioned other Illinois locations that Frick was involved in and Frick responded Streamwood, Batavia, Carpenters, Plainfield and Crystal Lake.

Keating asked if Frick was familiar with Kiddie Academy of Bolingbrook's cost structure and if the pricing was comparable. Frick responded that Ms. Moore spent more than a typical franchisee in state of art equipment, licensing, furniture fixtures, equipment, etc. He also responded that Ms. Moore has matched her rates with major competitors in area. Keating asked Frick to define mature location (response, one that is been open for twenty-four (24) months), why that is that a key period of time (response, point of time the academy has leveled off in terms of increasing enrollment, when enrollment becomes steady and has no peaks and valleys of growing a business), and how market would affect pricing upon a mature location if a new building opened next door

(response, limited the impact because the mature location has exceeded the break-even point).

Cawthon stated there are a lot of variables that affect market pricing, so how is it relevant. Other factors that affect mature vs. immature facility would be jobs growth, more kids, and competitors closing, which pushes supply into other places.

Cawthon questioned if Kiddie Academy provided services to franchisees in order to assistance and accelerate the attract rate and Frick responded that they provide marketing tools and on-site visits.

Sam Silva, Bolingbrook, IL, raised concerns about traffic on Boughton Road with two (2) day cares next to each other and two (2) points of access from a particular site.

Pawlowicz explained that there is plenty of capacity on Boughton Road and the concerns with Kiddie Academy last year were regarding parents making a left hand turn onto Boughton Road when exiting the site. He further commented that signalized access to a sequence of small lots along Boughton Road means waiting a little bit when exiting the site. He is not aware of a concentration of accidents near this area.

Rhoades stated that we determined a year ago that there is enough spacing and timing between lights at Whitewater and Trout Farm Roads and that she does not see the traffic/safety concern.

Daniels questioned Silva about gaps in traffic, any traffic studies and the number of accidents he witnessed in front of the site and location as it pertained to direction. Silva responded negatively to both questions.

Daniels questioned Frick about the number of day care centers that opened in the same block, shopping center, etc. and Frick stated he was not aware.

Motion Rhoades, second Vice Chair Rennels to recess.

AYES: Commissioners Rashid, Rhoades, Schank, Wright, Campos, Vice Chair Rennels, Chairman Cawthon

NAYS: None

ABSENT: Commissioners Jacobs, Runge

Motion carried, recessed at 8:48 p.m.

Motion Wright, second Rashid to reconvene.

AYES: Commissioners Rashid, Rhoades, Schank, Wright, Campos, Vice Chair Rennels, Chairman Cawthon

NAYS: None

ABSENT: Commissioners Jacobs, Runge

Motion carried, recessed at 8:56 p.m.

Daniels questioned Frick about the volume of traffic along Boughton Road in respects to site selection of Kiddie of Academy and Frick responded that he believes it was thirty thousand (30,000) to thirty-five thousand (35,000) cars per day a year ago when they

selected their site. Daniels explained that Children of America would have two (2) points of access and asked Frick if that would change his view of accessibility of the Children of America access/site. Frick explained that he feels it is safer and more attractive for parents and children when a site is located near or at a signalized intersection. Daniels further asked what percentage of the one hundred fifty (150) Kiddie Academy sites are situated at signalized intersections and Frick said he had no knowledge of that information. Daniels asked if Kiddie Academy had a site characteristics list that they used when selecting a site and Frick responded positively and that restricted access (right in, right out) and the ability to turn out in both directions is important as well. Daniels asked what Kiddie of Academy Bolingbrook charges per week for infant child care and the number of "at risk students" Kiddie of Academy currently has enrolled. Frick responded approximately three hundred dollars (\$300) per week is charged for infants and that there are some children that come from homes with issues such as abuse and some children's tuition is subsidized.

Cawthon asked the relevance to the line of questioning and Daniels explained that the duration of break-even time that Kiddie Academy faces is perhaps self-imposed by business practice.

Daniels closed with comments about the importance of his applicant's request not be continued to a further public hearing, data and testimony provided from tables is not misleading, that the Plan Commission is charged with looking at the Zoning Ordinance and the merits of the site plan and judging this particular use at this location, if it is offensive and warrants it being denied, is it different than any other site in the B-2 zoning district, safety precautions from the Police Department have been made, parking is sufficient, and they have established a need in the community. He further stated that there is nothing in the site plan that offers hazards to kids or completion to anyone's ability to compete and asked the Plan Commission to consider if the authorization according to the Zoning Ordinance and Planning create a competitive disadvantage to anyone. Daniels summarized by stating that the State of Illinois has fallen behind on providing day care facilities and the Village of Bolingbrook is in adequately served, so giving addition opportunity is important to the public welfare and not to competition between businesses.

Keating closed with comments stating this case is not about competition and that it is about substantial economic harm; specifically that evidence must be proven by the applicant which presents evidence to establish that the proposed use will not have an adverse effect on businesses within the vicinity. The applicant states there is a need in Bolingbrook for day care providers through a study and data, which in summary states the data, is to encourage non-profit day care centers, which Kiddie Academy and Children of America are not. Keating also feels that Koegel is not an expert, as she was not involved in the selection of this site. Keating states that Frick was the only expert and he testified that Kiddie Academy is a franchisor and that he has no economic benefit, but simply likes to see his sites succeed. Frick thought based on his experience that there would be a substantial economic effect on Kiddie Academy if the Village of Bolingbrook allowed Children of America to open. Keating closed by stating that the burden of proof falls to the applicant and the Plan Commission has two (2) possible courses of action; continue the Public Hearing in order to give the Plan Commission

Members and herself a chance to read the study and determine what it says, so she can affectively cross examine Mr. Daniels about the study, or secondly deny the request because the applicant has not met the burden of proof.

Motion Campos, second Rhoades to close the public hearing.

AYES: Commissioners Rashid, Rhoades, Schank, Wright, Campos, Vice Chair Rennels, Chairman Cawthon

NAYS: None

ABSENT: Commissioners Jacobs, Runge

Motion carried, public hearing closed 10:39 p.m.

Motion Vice Chair Rennels, second Wright to accept the recommendation of Planning Staff.

AYES: Commissioners Campos, Wright, Schank, Rhoades, Rashid, Vice Chair Rennels, Chairman Cawthon

NAYS: None

ABSENT: Commissioners Jacobs, Runge

Motion carried.

## **NEW BUSINESS**

### **FINAL PLAT OF SUBDIVISION. HERRINGTON ESTATES PHASE 1C. APPLICANT: RYLAND HOMES. PROJECT NO.: 406.05**

Planning and Zoning Administrator, Nicole Knapp, presented the request. The applicant, Ryland Homes, is requesting approval of a Final Plat of Subdivision for Phase 1C of Herrington Estates Subdivision in order to allow the development of twenty-six (26) homes as a continuation of the existing subdivision under construction. The subdivision is located on the South side of Hassert Boulevard, immediately West of Kings Road. The overall subdivision is zoned R-3 Single Family Residential and is eighty (80) acres in size.

In April of 2005 the Village Board of Trustees approved the Preliminary Development Plan for the overall subdivision to include two hundred four (204) single-family lots and in February of 2006 the Village Board of Trustees approved the Final Development Plan for the overall subdivision and the Final Plat of Subdivision for Phase 1A. The Final Plat of Subdivision for Phase 1B was approved in 2008.

Access to the subdivision is currently provided from Sonoma Pass and Jonathan Way via Hassert Boulevard and upon completion of the subdivision, access would also be provided from Kings Road. In addition, connecting access points with the properties located to the south and west would be provided as part of a future development. Along Hassert Boulevard and Kings Road extended, a thirty (30) foot wide outlot would be provided, which would include a four (4) foot high berm and landscape material.

## **RECOMMENDATION**

Staff recommends approval as requested.

**DISCUSSION**

None

Motion Rhoades, second Rashid to accept the recommendation of Planning Staff.

AYES: Commissioners Campos, Wright, Schank, Rhoades, Rashid, Vice Chair Rennels, Chairman Cawthon

NAYS: None

ABSENT: Commissioners Jacobs, Runge

Motion carried.

**OLD BUSINESS**

None

**APPROVAL OF PLAN COMMISSION REPORTS**

Motion Rhoades, second Campos to accept Plan Commission reports:

PC 12.13 Approval of a Special Use Permit to allow a Fitness Center with Extended Hours of Operation – XSport Fitness, 119 S. Weber Road. Applicant: Joe Whiteside, Capital Fitness, Inc. Project No.: 408.12

Voice Vote: Unanimous.

Motion carried.

**CITIZENS TO BE HEARD**

**CHAIR'S REPORT**

**COMMISSIONER'S REPORT**

**PLANNING DEPARTMENT REPORT**

**ADJOURNMENT**

Motion Vice Chair Rennels, second Wright to adjourn.

Voice Vote: Unanimous

Motion carried.

adjourned the meeting at 10:47 p.m.

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CHAIRMAN

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APPROVED

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SECRETARY