

VILLAGE OF DOWNERS GROVE
FINANCE AND ADMINISTRATIVE COMMITTEE MEETING
PUBLIC HEARING
MAY 11, 2011, 5:00 P.M.

Staff: Dave Fieldman, Village Manager; Stan Balicki, Asst. Director Public Works; Jeff O'Brien, Planning Manager; Tom Dabareiner, Director of Community Development; Janene Cerulli, Public Relations Specialist; Mary Van Milligen, Management Intern

Commissioners: Marilyn Schnell, Sean Durkin, William Waldack

Commissioner Durkin called the meeting to order at 5:10.

Commissioner Schnell welcomed attendees.

Dave Fieldman presented the staff's recommendation for annexations and asked council for any questions and comments.

Commissioner Schnell: Will the NW area be put into the stormwater master plan and prioritized that way?

Dave Fieldman: At this point, staff does not believe there is an issue of a high priority level that would need to be included in the stormwater master plan.

Commissioner Schnell: Whether or not staff includes these properties in the stormwater master plan may set the tone for annexations in the future. Commissioner Schnell says the Village should have an all or nothing policy. If the streets are being prioritized in the roadway maintenance plan, stormwater should also be prioritized in a similar manner.

Commissioner Schnell: Village Square properties have private roads, etc. What happens if these properties want their private roads etc. to be part of the Village?

Dave Fieldman: Believes the Village current policy is to not accept private properties. If this became an issue, staff would provide council with the policy option of accepting private properties.

Commissioner Schnell: Is this meeting intended to get a policy recommendation from Council?

Resident: Lives on 39th and Glendenning and the cattails are growing higher than the cars; resident called but the cattails were only trimmed, not eliminated. Doesn't the Village know there is a product that can be sprayed on the cattails to eliminate them?

Commissioner Durkin: Please, this meeting will address Council questions first.

Commissioner Waldack: At this time, Commissioner Schnell has addressed his concerns.

Commissioner Durkin: Addresses whole audience - who is from which area?

NW Area – no questions

63rd and Springfield – no questions

Condos – no questions

Fairview (south of 63rd Street) – no questions

Commissioner Schnell: Concerning 39th and Glendenning, this area floods, upon annexation would maintenance needs be addressed? If maintenance needs exist outside DG jurisdiction what happens?

Dave Fieldman: If the issue lies outside Village jurisdiction, the Village would work to partner with areas outside Downers Grove to address the maintenance issue. Staff would look to Council to direct staff towards policy decision such as intergovernmental agreements.

Resident: Why hasn't Downers Grove taken care of the drainage problem on 39th?

Staff: A culvert was installed to address the problem last week.

Resident: How were the properties on 39th and Glendenning chosen for annexation?

Staff: The properties are eligible for involuntary annexation because they are wholly surrounded by the Village and less than 60 acres.

Resident: Are the properties on School St. being included in the annexation.

Staff: No.

Resident: Lives at 3848 Glendenning which is a property that is included in the involuntary annexation plan. Her property has drainage/flooding issues that a contractor has estimated at \$25,000 and renders half of her property useless. This problem area is made worse because the Village named the property next to hers a wetland area and it cannot be fixed.

Dave Fieldman: Could be a localized floodplain; staff will look at your issue and speak to you after the meeting about the specifics.

Resident: Is the committee aware of the agreement the Fairview Homeowners Association has made with the Downers Grove Park District? Will the properties be double taxed?

Dave Fieldman: The Park District is an independent autonomous organization. Annexation should not affect the agreement with the Park District but we cannot speak for or make policies for the park district.

Resident: Fairview Home Owners Association would like more historical information about how these properties came to be eligible for annexation. They are concerned the annexation of these five properties is going to allow the Village to envelope their area.

Commissioner Schnell: Remember these properties are being annexed because they are wholly surrounded by the Village.

Dave Fieldman: This process is based on a fair and transparent process. The Fairview Fire Protection District cannot be annexed at this time due to state law; the properties are not wholly surrounded by the Village or under 60 acres. Rather, the Village wants to work with people in the residents of this area to ensure payment for fire services.

Resident: My home isn't being annexed, am I going to receive a letter to say we're not going to be annexed?

Commissioner Durkin: No letter regarding annexation will be distributed to properties that are not being considered for annexation.

Resident: The North Fairview Area is presenting a petition with 200 signatures opposing annexation. We are satisfied with current services.

Commissioner Durkin: This process is open and transparent. The only issue at this time with the Fairview Fire Protection District is the outstanding bill. Bad economic times have led the Village to need to collect on outstanding bills.

Resident: Why didn't the Village of Downers Grove do due diligence in the beginning a collect on their bills?

Dave Fieldman: The issue of the Fairview Fire Protection District will be discussed with them during a separate meeting where all parties can be in attendance. He indicated the existing agreement was made prior to the State's adoption of property tax caps.

Resident: What if the residents of the homes being annexed do not receive the letter because they don't reside there or are gone?

Dave Fieldman: Letter will be sent out May 18.

Resident: What about pre-annexation agreements that people sign in my area if they hook up to Village water system?

Dave Fieldman: Even with a pre-annexation agreement, homes can only be annexed if they meet the criteria – wholly surrounded by the Village and under 60 acres.

Resident: Where can I find the criteria for annexation?

Dave Fieldman: In the report provided here at the meeting and on the Village website.

Durkin: Commissioner Durkin asked if any attendees had further questions. Thank you for coming we hope your questions have been answered and staff will be happy to talk to you on an individual basis.

**DOWNERS GROVE LIQUOR COMMISSION
VILLAGE HALL BLUE ROOM
801 BURLINGTON AVENUE**

Thursday, March 1, 2011

I. CALL TO ORDER

Ms. Kuchynka stated that there was a room scheduling conflict and the meeting had been relocated to the Blue Room within Village Hall.

Staff called the March 1, 2012 Liquor Commission meeting to order at 6:30 p.m.

II ROLL CALL

PRESENT: Mr. Austin (6:50), Mr. Clary, Ms. Fregeau, Ms. King, Mr. Krusenoski, Ms. Strelau

ABSENT: Chairman McInerney

STAFF: Liaison to the Liquor Commission Carol Kuchynka, Staff Attorney Dawn Didier, Village Attorney Enza Petrarca

OTHERS: John Alberts, Irene Bahr, Amor Quijano, Michael Ohlinger, Tina Karagiannis, Vaius Karagiannis, Court Reporter

III. APPOINTMENT OF CHAIRMAN PRO TEM

In the absence of Chairman McInerney, staff requested a motion to appoint a Chairman Pro Tem for the meeting.

MS. KING MOVED TO APPOINT ALICE STRELAU TO ACT AS CHAIRMAN PRO TEM FOR THE MARCH 1, 2012 MEETING OF THE LIQUOR COMMISSION. MR. CLARY SECONDED.

VOTE: **Aye:** Ms. King, Mr. Clary, Ms. Fregeau, Mr. Krusenoski, Ms. Strelau

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The motion carried.

IV APPROVAL OF MINUTES

Chairman Pro Tem Strelau asked for approval of the minutes October 6, 2011 Liquor Commission meeting and asked members if there were any corrections, changes or additions.

Hearing no changes, corrections or additions, the October 6, 2011 minutes of the Liquor Commission meeting were approved as written.

Chairman Pro Tem Strelau reminded those present that this evening's meeting was being recorded on Village-owned equipment. Staff was present to keep minutes for the record and a court reporter was present taking the minutes verbatim.

V. DISCIPLINARY HEARING FOR ALLEGED VIOLATIONS

Chairman Pro Tem Strelau made the following statements:

"Section 3-40 of the Downers Grove Municipal Code provides that the Local Liquor Commissioner may revoke or suspend any license issued if the Commissioner determines that the licensee has violated any of the provisions of this chapter or any State law pertaining to the sale of alcohol. Both under the Section cited above, and under Chapter 235, Section 5/7-5, Illinois Compiled Statutes, the Local Liquor Commissioner is required to hold a public hearing after notice to the licensee, in which the licensee is afforded an opportunity to appear and defend. Pursuant to Section 3-5 of the Downers Grove Municipal Code, this hearing is being conducted by the Local Liquor Commission at the request of the Local Liquor Commissioner."

"The Commissioner has the power to temporarily suspend a license without a hearing if there is reason to believe that continued operation of the licensed business would immediately threaten the welfare of this community. Such was not done in this case. The licensee may be represented by counsel, although he need not be for the purposes of this hearing."

Chairman Pro Tem Strelau asked if there was a signed stipulation in this case. Ms. Didier replied yes.

Chairman Pro Tem Strelau made the following statements:

"In view of the stipulations, the order of this hearing will be substantially as follows:"

- A. Prosecution will read the signed stipulation into the record with the opportunity for the licensee to register its concurrence or non concurrence for the record.
- B. Prosecution may present any additional evidence in this case with the right of the licensee to cross-examine.
- C. Licensee may present any defense or mitigating evidence with right of prosecution to cross-examine.
- D. Summary of case by prosecution and defense."

"The prosecution should establish that timely notice of this hearing has been provided to the licensee."

"Witnesses shall be sworn."

"Strict rules of evidence will need not be adhered to although the Commission expects to exercise control over the hearing to ensure that irrelevant or repetitive testimony does not unduly prolong the hearing."

"A court reporter is present and will take the proceedings verbatim. Staff is also present for the purpose of summarizing the proceedings."

"The Commission will submit the findings and recommendations to the Local Liquor Commissioner regarding the existence and nature of any violation and the appropriate penalty, if any."

"Upon receipt of the recommendation of the Commission, the Commissioner will render a decision and the licensee will be notified in writing."

Bond Drug Company of Illinois, LLC d/b/a Walgreens

Chairman Pro Tem Strelau stated that the first order of business was to conduct a disciplinary hearing for Bond Drug Company of Illinois, LLC d/b/a Walgreens located at 1000 Ogden Avenue. She stated that the licensee has been charged with a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance.

Chairman Pro Tem Strelau asked that any individual(s) representing the licensee step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. John Alberts was sworn in by the court reporter. Ms. Irene Bahr introduced herself as the attorney representing Walgreens. Mr. Alberts introduced himself as the site manager of Walgreens.

Chairman Pro Tem Strelau asked the prosecuting attorney to present her case.

Ms. Didier stated that the parties to this hearing before the Liquor Commission of the Village of Downers Grove by and through their attorneys, if any, hereby stipulate as follows:

1. Bond Drug Company of Illinois, LLC d/b/a Walgreens #04636, 1000 Ogden Avenue, Downers Grove, Illinois, is the holder of a Class P-2 Liquor License #LQ-000128, issued by the Village of Downers Grove. That said Licensee has held a liquor license for this location from the Village of Downers Grove since March 26, 2010.
2. Notice of this hearing was served upon the Licensee by certified mail to its registered agent and by personal delivery to the manager of the licensed premises.
3. At approximately 5:19 p.m. on Wednesday, January 25, 2012, Downers Grove Police Officer Edwards and Downers Grove Police Officer Glaser observed H.F., a special employee of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is April 6, 1994 (making her 17 years old), enter Walgreens #04636 located at 1000 Ogden Avenue, Downers Grove.
4. The special employee went to the liquor department, picked up a six pack of Big Flats beer and proceeded to the check out counter where cashier, Jason K. Richards was working as a cashier.
5. That cashier Jason K. Richards, whose date of birth is July 25, 1988, then asked the special employee for identification.
6. That the special agent produced her valid Illinois driver's license to cashier, Jason K. Richards, indicating her date of birth as 04/06/1994, and reading "Under 21 until 04/06/2015" on the face of the license.
7. That Jason K. Richards viewed the special agent's driver's license and then returned the driver's license to the special employee.
8. That Jason K. Richards then rang up the purchase of the beer.

9. That the special agent handed Jason K. Richards a twenty dollar bill.
10. That Jason K. Richards returned change from the purchase to the special agent.
11. Officers Edwards and Glazer who witnessed the events in the foregoing paragraphs, identified themselves and advised Jason K. Richards that the sale of an alcoholic beverage had been made to a minor.
12. Jason K. Richards was issued a Village ordinance administrative citation for selling alcohol to a minor in violation of Section 3-25(a) of the Downers Grove Municipal Code.
13. The Officers advised manager, Nancy D. Hickey that notice of further action would be forthcoming from the Downers Grove Liquor Commission.

Chairman Pro Tem Strelau accepted the signed stipulation as Village Exhibit #1.

Chairman Pro Tem Strelau asked the licensee to present its case.

Ms. Bahr apologized for the violation. She stated that they agreed with the facts contained in the stipulation. She advised that they have policies in place that were violated.

Ms. Bahr asked staff if they would prefer Mr. Alberts providing a narrative or if she should ask questions. Staff preferred a narrative. Ms. Bahr stated that Mr. Alberts will discuss policies, training, violation of policy by the employee and what he has done since the incident to prevent this from happening again.

Mr. Alberts advised that Walgreens has various forms of training. He explained that employees are required to attend BASSETT training and view training videos. He stated that employees viewed the People Plus Learning videos which are specific to the selling of alcohol, review of the Walgreen policy manual and review of the Guide to Selling Alcohol Responsibly. Mr. Alberts advised that Jason had taken all of the appropriate training.

Mr. Alberts stated that is store policy to card anyone who appears under the age of 40. He stated that when liquor purchases are rung up, the register prompts the employee "does the customer appear under the age of 40". He stated employees will need to hit yes, then request identification and key in the date of birth. He stated that the employee bypassed the system. He stated that if the employee were to key in the date of birth, it would have kicked back and would indicate that the person was not old enough to buy the product.

Ms. Bahr asked Mr. Alberts if the employee asked for and was shown the identification . Mr. Alberts replied yes. Ms. Bahr asked if he followed the policy to enter in the date of birth. Mr. Alberts replied no. He stated that the employee did ask for identification, but bypassed the system and did not follow Walgreens policy of keying in the date of birth on the sale.

Mr. Alberts stated that the employee was fined. He stated that the employee was also terminated for violating store policy.

Mr. Alberts stated that since the incident he has re-trained employees, placed counter mats at the check out registers to act as a visual reminder to card and posted signage at the time clock to ensure that employees do not accept the vertical identification.

Mr. Alberts stated that all employees were required to re-read the training guide and has had additional training concerning sales to minors. He stated that he trained employees both regularly in their store, as well as pharmacists and technicians who fill in and employees borrowed from other stores.

Mr. Alberts stated that he has had his employees review the video training program "A Time To Care" preventing alcohol sales to minors. He stated he has copies of employee acknowledgments that they have recently completed the training.

Mr. Alberts stated that he has Jason's records indicating completion of the Walgreens training in May of 2010, along with a copy of his BASSETT certification card.

Ms. Bahr asked Mr. Alberts if they discussed this situation with the employees. Mr. Alberts replied that he verbally discussed the violation with every employee as well as reviewing store policy and has reinforced proper carding procedures.

Ms. Bahr asked Mr. Alberts how long Jason was employed. Mr. Alberts replied he was a full time employee working 30+ hours per week and was employed with Walgreens for 4 years.

Ms. Bahr asked Mr. Alberts to explain their daily liquor sales totals. Mr. Alberts replied that they average \$200-\$250 per day. Ms. Bahr asked how much was profit. Mr. Alberts replied approximately 20% which equates to \$40-\$50 gross profit on alcohol per day.

Ms. Bahr noted that Walgreens has successfully passed two control buy attempts and asked that the Commission take those into consideration.

Ms. Didier asked how many employees participated in the training. Mr. Alberts replied 25-30. He normally would assign the training for those employees regularly assigned to the payroll, but added those who fill in and those called in from other stores.

Ms. Bahr asked that the Commission accept Defendant's Exhibit #1, Jason Richards' Acknowledgment Form for Responsible Alcohol Service and BASSETT Certification Card; Defendant's Exhibit #2, People Plus Learning Video Training: Preventing Alcohol Sales to Minors, reviewed by all employees; Defendant's Exhibit #3, Acknowledgment Forms for Responsible Alcohol Service for all store employees.

Chairman Pro Tem Strelau accepted Defendant's Exhibit #1, Exhibit #2 and Exhibit #3 into the record.

Ms. Didier asked Mr. Alberts if he discussed the incident with Jason. Mr. Alberts stated that he had a conversation with Jason about the incident which Jason replied that he was not thinking properly. He stated that Jason had things going on outside of work that were occupying his mind. He stated that Jason was very sorry for the violation and begged to keep his job. Mr. Alberts advised they terminated Jason for violation of store policy.

Ms. King stated that Mr. Alberts did a good job summarizing the incident. She asked if there were tools in place before the incident or if a perpetual calendar was at the register. Mr. Alberts replied no. He stated that the register itself prompts for a date of birth to be entered and does the calculating automatically. He stated that since the incident there is signage posted on the employee bulletin boards and they placed counter mats at the registers about the under 21 identifications.

Ms. Bahr noted that employees may not pay attention to signage at the register which is why Walgreens invested in the register prompting system. She stated that when the alcohol is scanned, the register locks and the employee has to answer "does the customer appear to be under 40", if the answer is yes, they are to card the individual and enter the date of birth. She noted that there is an override to the system if the customer is over 40. She stated that Jason thought the agent looked under 40, as he carded her. She stated that the employees never seem to have a good excuse, despite all the policies and technology they have in place.

Mr. Krusenoski asked if they specifically forbid the vertical license. Mr. Alberts replied yes. Mr. Krusenoski understood all the checks and balances with the register but noted the system is irrelevant if they do not accept the vertical identification. He noted that all the safeguards were in place and there was no excuse that makes sense as to why the sale was made.

Mr. Clary asked if the software system can be over ridden. Mr. Alberts replied yes and the employee would hit clear if the customer is over 40. He stated that another prompt then appears "is customer over the age of 40" where the employee will hit yes and it is a two step process to bypass. Mr. Clary stated that this is a multiple mistake, by accepting the vertical, by not following policy and bypassing the system.

Ms. Fregeau asked Mr. Alberts if he was the store liquor manager. Mr. Alberts replied yes. She noted that management sets the tone and tenor of the establishment in regards to liquor sales. She found this incident disappointing and upsetting especially to have the employee fail with so many safeguards in place.

Ms. Fregeau asked how often they meet with employees to discuss liquor issues. Mr. Alberts replied that they have "huddles" a few times per week and talk about various topics. He stated that carding procedures and liquor issues are more a part of recent discussions.

Ms. Fregeau asked how many employees the store has. Mr. Alberts replied 27-30 on his payroll. He stated that they may borrow employees from other stores to fill in a shift. Ms. Fregeau asked Mr. Alberts if he is at this store full time. Mr. Alberts replied yes.

Ms. Fregeau cautioned Mr. Alberts about use of fake identifications.

Chairman Pro Tem Strelau asked Mr. Alberts if he was present at the time of the incident. Mr. Alberts replied no. Chairman Pro Tem Strelau asked what store manager, Nancy Hickey, had to say about the incident. Mr. Alberts replied that she was as shocked as he was. He stated that she was called up to the register after the transaction was completed. Chairman Pro Tem Strelau asked if she was near the register. Mr. Alberts stated that Jason was the only one at the register at the time.

Chairman Pro Tem Strelau stated that there are many policies and procedures in place however, the violation still occurred. She understood that liquor is not the vast majority of sales, however, it is important. She stated they have been in operation for less than two years and it was unusual for violations in this short term. She noted that the buy took place at 5:16 in the evening. She stated that the Commission is left with concerns and doubts stemming from this incident as to if any other sales to minor have been occurring and if their policies are followed through.

Chairman Pro Tem Strelau stated that it is incumbent upon management to make sure employees follow policies and procedures. She stated that they need to be on guard and noted it is clearly unacceptable to sell liquor to a 17 year old minor.

Mr. Austin asked if their training program included scenarios to discourage underage sales by impressionable employees to male/female counterparts. He stated that when dealing with young employees, there may be a prospect for a clerk who might want to impress a patron. Mr. Alberts replied no but he could certainly address the issue with employees and pass it along to corporate to include in the training.

Ms. Didier summarized by stating that Bond Drug Company of Illinois, LLC d/b/a Walgreens located at 1000 Ogden Avenue, stipulated to a violation of Section 3-25 (a) of the Downers Grove Liquor Control Ordinance which prohibits the sale of alcohol to a minor. She stated that this is the licensee's first violation in the past two years, however, there was an aggravating circumstances in this case where the under 21 license was shown. She recommend that the license be suspended for 1 to 3 days with an additional day of suspension for the aggravating circumstance. She recommend that the licensee be required to pay a fine up to \$1,000.00 and that they pay an administrative fee of \$1,000.00 to cover the costs of conducting this hearing.

Chairman Pro Tem Strelau asked if the defense had any further testimony.

Ms. Bahr stated that Walgreens is a national company and that they take this incident very seriously and apologized for the violation. She stated they do not like to put the community at risk. She understood that they were liable for the offense but one license in jeopardy, jeopardizes the company. She understood that the Village should not have to bear the cost of hearing and they are responsible for the actions of their employees.

Ms. Bahr asked that the Commission take into consideration the passed control buys. She asked that the Commission take into consideration the expense they have incurred to invest in the register technology to prevent sales to minors.

Ms. Bahr asked that the amount of sales be taken into consideration when considering the penalty. She stated that a \$1,000 fine would equate to a 20 suspension when considering the amount of their liquor sales percentages. She asked that the fine be equitable to the \$500 fine that was charged to the employee. She stated this was their first offense and that corporate would prefer to pay an equitable fine and costs in lieu of suspension.

Upon hearing the evidence presented in this case, Chairman Pro Tem Strelau requested a motion as to whether the licensee be found guilty or not guilty of a violation of Section 3-25(a) of the Downers Grove Municipal Code.

MS. FREGEAU MOVED TO FIND BOND DRUG COMPANY OF ILLINOIS, LLC D/B/A WALGREENS LOCATED AT 1000 OGDEN AVENUE, GUILTY OF VIOLATING SECTION 3-25(A) OF THE DOWNERS GROVE LIQUOR CONTROL ORDINANCE. MR. AUSTIN SECONDED.

VOTE:

Aye: Ms. Fregeau, Mr. Austin, Mr. Clary, Ms. King, Mr. Krusenoski, Chairman Pro Tem Strelau

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

The Motion carried.

Chairman Pro Tem Strelau requested a recommendation be made as to the fine and/or suspension for the violation. She asked for discussion from the commission.

Mr. Austin noted that the Commission has been willing to offer a licensee a fine in lieu of suspension. He stated that the circumstances of this case warrant an additional day as the under 21 license was shown. He believed that one day suspension typically equates to \$1,000 in fines and this violation warrants more than a one day suspension.

Chairman Pro Tem Strelau stated that the Commission has tried to accommodate the request of a licensee if they preferred fines in lieu of suspension and is in line with what has been done in the past.

Ms. King recommended a fine of \$2,500-\$5,000 with zero days of suspension.

Ms. Fregeau stated that the Commission discussed suspension guidelines in the past. She noted that circumstances of each case needs to be taken into consideration. She stated penalties are not in line with profits, but need to be consistent in sending a message to licensees. She was glad to hear that the employee was terminated. She stated that this will set the tone and tenor to their employees about the consequences of selling to a minor. She stated that she would be comfortable with a higher fine in lieu of suspension.

Mr. Krusenoski stated that he was indifferent to a suspension versus a fine. He stated that it has been past practice to accommodate licensee's requests. He wanted to into account their re-training efforts, the termination of the employee and their response to the incident. He felt that Ms. King's suggested fine seemed high.

Mr. Clary agreed. He stated that the revenue loss is not great. He would be agreeable with a \$1,000 fine and \$1,000 costs with no suspension. Mr. Clary stated that their alcohol revenues are less than 10% and a suspension would not impact the licensee as much. He did not believe that because it is a bigger company that they should be fined higher. Ms. Fregeau felt the fine should be higher than \$1,000.

Mr. Krusenoski stated that suspending the license would result in a cheaper monetary loss. He wondered if there was a stigma attached to a suspension on the record. Ms. Bahr replied yes. She stated that there may be further consequences down the road when applying for future licenses or issues with the State Liquor Commissions. She noted it is bad for public relations. She stated in some instances suspension can impact employees hours and work schedules.

Chairman Pro Tem Strelau was not concerned if they sold \$5 or \$5,000 of liquor. She stated that licensees have the same responsibility to not sell to minors. She did not want to mitigate their fine based on the fact that they only have \$200 in daily sales. She stated that the license is valuable in and of itself. She was unconcerned with profits and felt that the infraction is at issue. She stated that an under 21 individual showed a vertical license.

Chairman Pro Tem Strelau preferred that the Commission follow past practice. She did not recommend a fine over \$2,500, as it seemed high, but did not believe that \$1,000 was sufficient.

Mr. Austin felt that Ms. King's initial \$2,500-\$5,000 fine was appropriate. He stated that they are not looking to place a monetary hardship on any licensee. He felt the fine appropriate if there were zero days of suspension.

MS. KING RECOMMENDED THAT THE LICENSE OF BOND DRUG COMPANY OF ILLINOIS, LLC D/B/A WALGREENS LOCATED AT 1000 OGDEN AVENUE, BE FINED IN AN AMOUNT NOT LESS THAN \$2,500 NOR MORE THAN \$5,000 AND THAT THE LICENSEE PAY \$1,000 TO COVER ADMINISTRATIVE COSTS TO CONDUCT THIS HEARING. MR. AUSTIN SECONDED.

VOTE:

Aye: Ms. King, Mr. Austin, Ms. Fregeau, Mr. Krusenoski

Nay: Mr. Clary, Chairman Pro Tem Strelau

Abstain: None

MOTION CARRIED: 4:2:0

The Motion carried.

Staff advised that the Commission's findings will be forwarded to the Liquor Commissioner who will make a final decision concerning the penalty.

VI. APPLICATION FOR LIQUOR LICENSE

Chairman Pro Tem Strelau made the following statements:

"The next order of business is to conduct a public hearing for a liquor license application. For the benefit of all present, I would like to state that this Commission does not determine the granting or denial of the issuance of any license. We may at the end of each hearing, make a finding or recommendation with respect to the application. If necessary, the Commission may adjourn a hearing to a later date in order to have benefit of further information."

"At the conclusion of the hearing, the Commission will summarize its findings and determine any recommendations it wishes to make to the Liquor Commissioner"

"The Liquor Commissioner, who is the Mayor of Downers Grove, will, pursuant to Section 3-12 of the Ordinance, render decisions regarding issuance of available licenses within 60 days in order to consult the Plan Commission for its recommendations."

"Hearings by this Commission are held according to the following format: 1) reading of information pertinent to the application, 2) comments from the applicant, 3) comments from the public, 4) discussion by the Commission, and 5) motion and finding by the Commission."

Los Dos, LLC d/b/a Los Dos - 2251 Maple Avenue

Chairman Pro tem Strelau stated that the next order of business was an application hearing for Los Dos, LLC d/b/a Los Dos located at 2251 Maple Avenue. She stated that the applicant was seeking a Class "R-2", beer and wine only, on-premise consumption liquor license.

Chairman Pro tem Strelau asked that any individual(s) representing the applicant step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. Michael Ohlinger and Ms. Amor Quijano were sworn in by the court reporter. Mr. Ohlinger introduced himself as part owner of Los Dos. Ms. Quijano introduced herself as part owner and liquor manager for Los Dos.

Mr. Ohlinger stated that Los Dos will be an authentic Mexican restaurant with quick serve meals. He stated that lunch will be mostly in and out service. He stated that the location has 25 dining seats.

Ms. Quijano stated that she and Mr. Ohlinger are both chefs and have ten years of culinary experience. She stated that they will be serving a Yucatan style of Mexican cuisine.

Mr. Ohlinger stated that they hope to serve beer and wine which will compliment the food service. He stated that they will be open 10:30 am - 8 pm, six days a week. He stated the establishment will not be a bar setting or where people will sit for long periods of time. He anticipated that those who dine in may have 1-2 drinks at most.

Chairman Pro Tem Strelau asked if there were any comments from the Commission.

Mr. Austin asked what percentage of alcohol sales they anticipate. Mr. Ohlinger replied about 5%, with the primary focus being food service.

Mr. Austin asked about their experience in serving alcohol. Ms. Quijano replied that she has serving experience. Mr. Ohlinger added that they are both certified in liquor service.

Mr. Austin asked if they both will be on site. Mr. Ohlinger replied mostly, but at least one of them will be on the site at all times. He stated that they may hire one part time family member to help out. He stated that employees will go through training and will be certified in liquor handling. He stated if a minor was served, they will have a zero tolerance policy with instant termination.

Ms. Fregeau noted that they may have the best intentions, however, as they had heard from the previous disciplinary hearing, human error can jeopardize the license.

Ms. Fregeau noted that tools for training are important. She was pleased that they will card 35 and under. She encouraged them to include more information on the vertical identification in their manual.

Ms. Fregeau recalled that they will have a zero tolerance policy. She stated that they set the tone and tenor for the establishment.

Ms. Fregeau asked how often they plan to go over liquor service with employees. Ms. Quijano replied that they will review policies regularly. She stated that they plan to have pre-shift meetings where they will discuss daily dishes and will remind them about proper alcohol service.

Ms. Fregeau asked how many employees do they anticipate hiring. Mr. Ohlinger replied 1-2, depending on how busy the business gets.

Ms. Fregeau stated that the ILCC and staff has tools for them to use with help in their training.

Mr. Clary stated that they heard the prior disciplinary hearing. He believed it was good for them to experience it first hand and that liquor service is taken seriously.

Mr. Clary asked about liquor service and if it will be taken to the table or picked up from the counter. Mr. Ohlinger replied they will have counter service. He stated that there are five stools at the front counter and a register area. He stated that customers will pay as they go. Mr. Clary asked if the counter is a bar. Mr. Ohlinger replied no, but people will be able to sit there and eat.

Mr. Clary asked where and what type of liquor will be served. Ms. Quijano replied that beer and wine will be stored in a cooler that is not exposed to view. She stated that they will serve bottles of beer and wine by the glass.

Ms. Quijano explained that the counter area layout is set up so that customer will be able to see into the kitchen and watch meals being prepared.

Mr. Krusenoski asked if the restaurant was located in the strip mall area behind Family Video on Maple and Belmont. Mr. Ohlinger replied yes. Ms. King asked if it was the old Zander's Café. Mr. Ohlinger replied that it was the old Great Wok restaurant.

Mr. Krusenoski asked if they are currently open. Mr. Ohlinger replied no, but hoped to be within the next week.

Mr. Krusenoski was pleased that they were present to hear the disciplinary action. He stated it was important for them to realize that the Village takes liquor laws very seriously. Ms. Kuchynka stated that she invited them to attend so that they could experience a disciplinary hearing first hand.

Ms. King asked if they learned anything from the disciplinary hearing. Mr. Ohlinger replied it was interesting. He stated it would be good to explain to employees that it is important not to impress male/female counterparts with liquor service.

Chairman Pro Tem Strelau stated that they do not have a physical bar and wondered how they intend to serve food and drinks. Mr. Ohlinger replied that they will give numbers as customers order and there will be an area next to the counter for pickup. Ms. Quijano noted if they are not busy, they may bring out the food themselves. She stated that they do not want to have servers and would like to keep it more casual, but stated that may change depending on the success of the restaurant.

Chairman Pro Tem Strelau wondered if customers will be given drinks without food or if they will be served with the meal. Ms. Quijano replied that most often the meal and drinks will be given together. However, patrons could have a beer with chips and salsa while they are waiting.

Chairman Pro Tem Strelau cautioned, as it is just the two of them, that the establishment could get busy. She stated that they will have to be cognizant of who has liquor in the eating area. She stated that it is evident they are serving beer and wine to compliment the menu. She noted that establishments with higher volume sales may have a better monitoring system as opposed to the smaller establishments where alcohol is not the main focus.

Ms. Kuchynka advised that issuance of the license remains contingent upon a Certificate of Occupancy, receipt of insurance, satisfactory background checks, annual fee and finalized menu.

Chairman Pro Tem Strelau asked if there were any comments from the public pertinent to the application. There were none.

Hearing the testimony given in this case, Chairman Pro Tem Strelau asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to the Class "R-2" liquor license application.

MR. KRUSENOSKI MOVED TO FIND LOS DOS, LLC D/B/A LOS DOS LOCATED AT 2251 MAPLE AVENUE, QUALIFIED FOR A CLASS "R-2", BEER AND WINE ONLY, ON-PREMISE CONSUMPTION LIQUOR LICENSE. MS. KING SECONDED.

VOTE: **Aye:** Mr. Krusenoski, Ms. King, Mr. Austin, Mr. Clary, Ms. Fregeau, Chairman Pro Tem Strelau

Nay: None

Abstain: None

MOTION CARRIED: 6:0:0

The motion carried.

VII. OLD BUSINESS

Chairman Pro Tem Strelau asked if there was any discussion, update from staff or comments from the Commission regarding any old business.

Ms. Kuchynka advised that the Commission has not met for the past several months, but she has been sending the month end reports for their review. She stated that there was nothing unusual to report and it was exceptionally quiet in the way of no applications received or control buys failed.

Ms. Kuchynka stated that the Police Department is now conducting control buys on a regular basis and noted those licensees who passed were included in the month end report information.

Ms. Kuchynka anticipated an April meeting. She stated that there has been an increase in requests from CVS and Walgreens to obtain liquor licenses for the company across the state.

Chairman Pro Tem Strelau was surprised that Walgreens only sells \$200 worth of liquor per day. Ms. Kuchynka believed sales are primarily a convenience for customers.

Chairman Pro Tem Strelau stated that Walgreens has a drive-up for their pharmacy. She stated that customers can get other items from the drive-up. Ms. Kuchynka advised that there is an ordinance that prohibits sale of liquor from a drive-through window. Chairman Pro Tem Strelau asked if the Village ever checks that for violations. Ms. Kuchynka replied she does not believe that they have attempted such purchases at the drive-through.

VIII. NEW BUSINESS

Chairman Pro Tem Strelau asked the Commission if there was any new business.

Ms. Fregeau asked staff about the status of the Liquor Suspension Guidelines. Ms. Petrarca stated that the last she spoke with the Mayor about the guidelines, he wanted to take some time to consider them and

planned to meet with the Mayor and discuss them further. Ms. Fregeau looked back on some of the Commission recommendations which may not have been in line with what the Mayor wanted. Ms. Petrarca replied that the Mayor wants to have discretion on a case by case basis. Ms. Fregeau stated that without a guideline, there is no cohesiveness.

Mr. Clary stated that he has been on the Commission for four years, and in that time, no Mayor has been present any meeting. He felt that there is a lot of pressure on them to make decisions against local business owners. He stated that the Commission is often out of touch with the Mayor.

Ms. Fregeau stated that she would be more comfortable if the Council were to determine some things. Ms. Petrarca suggested that the Commission be limited to making a finding of guilty or not guilty and leave the penalty portion of the disciplinary action entirely up to the Mayor. Chairman Pro Tem Strelau agreed. Mr. Clary preferred to put that burden on the Mayor. Chairman Pro Tem Strelau noted that the Commission can discuss with the licensee at the hearing if they would prefer fines in lieu of suspension.

Ms. Petrarca stated that the Mayor reviews the discussion of the Commission. Ms. Kuchynka stated that the most difficult task for the Commission seems to be the motion regarding fines and suspension. Mr. Clary understood that they are only a recommending body and felt that they struggle in determining a fair penalty. Chairman Pro Tem Strelau agreed and noted their recommendation is often not even close to what is ordered by the Mayor. She noted this was not only the case with Mayor Tully, but has been an issue with past mayors as well. Ms. Petrarca noted that LaMex was Mayor Tully's first dealing with a disciplinary action and had asked to be given time to familiarize his role as Liquor Commissioner. Ms. Petrarca restated that it might be better that the Commission not recommend a fine or penalty and be limited to finding the establishment guilty or not guilty of the offense.

Ms. Petrarca stated that Downers Grove is one of the few communities that has a Liquor Commission and that many hearings are conducted solely by the Mayor. Chairman Pro Tem Strelau stated that they do not want to be giving recommendations that are out of the ballpark. The Commission agreed that they want to be fair across the board.

Ms. Fregeau asked staff when the next newsletter will go out. Ms. Kuchynka replied that she has been compiling articles and expects to send the next newsletter out shortly. She stated that there have been some issues with Groupon and certain drink special advertisements which may be illegal and noted that discounts cannot be made strictly for liquor. Ms. Kuchynka recalled a promotion by a wine shop which individuals who shared a special "link" were offered liquor if three friends bought, theirs was free. She noted she has been researching the issue on the Internet and was going to contact the Chief Legal Counsel for the Illinois Liquor Control Commission to get his position on the matter. Ms. Kuchynka added that she would address incidents in the news recently about bar fights and injuries.

Ms. Fregeau commented on the use of fake id's and asked that an article be put in the newsletter about what licensees may do by way of confiscating fake id's and asked if there could be a procedure for licensees to follow when licenses are confiscated. Ms. Petrarca stated that she would talk to Lt. Budds but believed there was a specific procedure licensees need to follow from the Secretary of State. Ms. Kuchynka asked the Commission if they read the article on The Keg in Evanston. Chairman Pro Tem Strelau stated that 111 underage were caught in there since 2005. Ms. Kuchynka noted that minors have to get caught while using the id, where they could face fines of \$750 for misrepresenting their age under the Village Code. Ms. Fregeau read that in some instances the individual using a fake identification may be subject to fines up to \$10,000. Chairman Pro Tem Strelau asked if those were State penalties. Ms. Fregeau replied yes.

Chairman Pro Tem Strelau asked if over service will be discussed in the Newsletter. Ms. Kuchynka replied yes. Chairman Pro Tem Strelau felt that one licensee has had four DUI notifications in the past two months which were double the legal limit. She felt that should be highlighted. Ms. Petrarca stated that Ms. Kuchynka has been in contact with a few licensees and will conduct on-site training seminars.

Ms. Kuchynka stated that in struggling economies, people tend to drink more. She noticed an increase in DUI Notifications and bar fights generally in the news. Ms. Kuchynka advised there were 36 DUI arrests in the month of January alone. She stated that the Commission only receives a portion of the arrest information as not all offenders indicate where they were drinking prior to the arrest.

Ms. Fregeau asked if over service has been an issue on Friday nights since the Village extended the hours of liquor service. Ms. Petrarca replied there has not been much impact with the additional hour of service per the Police Department. Ms. Fregeau asked if the Village is continuing to monitor licensees in the early morning hours. Ms. Petrarca replied yes and that rounds of checks are scheduled.

Ms. Fregeau stated that the Commission was clear on what they did not want to see happening at Rita's and recalled recent events such as pajama parties and hot legs contests. Chairman Pro Tem Strelau added that at application, they testified that they were open at 4 p.m for food service, however, now they are not open until 9 p.m. Ms. Fregeau was concerned that they are frequently advertising and promoting themselves as a club. She felt that they should operate in the way that was presented to the Commission and the Village should hold them to those guidelines. Chairman Pro Tem Strelau stated that their promotions may be an indication that they are not doing well and need to draw business by promoting questionable activities. Chairman Pro Tem Strelau stated that North Beach took the same route. She wondered if they continued fit their category of license.

Ms. Fregeau asked if altering a floor plan would violate the ordinance. Ms. Kuchynka replied yes, especially if a licensee alters the floor plan to accommodate more area for drinking and entertainment. She stated that all licensees must maintain minimum dining seat requirements listed under the class of the license issued. She stated that the Mayor must approve any changes to licensees floor plans.

Mr. Clary asked if licensees were up for renewal. Ms. Kuchynka replied yes. She stated that it is the Mayor's decision whether to grant or deny a renewal based on the operation of the establishment. She noted that renewals applications go out in mid-May.

Ms. Petrarca stated that the Liquor Commission has the opportunity to remove certain license classifications if there is a vacancy or no further need for that type of license. Ms. Kuchynka added that they would need to eliminate the number of licenses available and the class description itself.

Mr. Austin stated that the Village may dissolve any class of license. Ms. Kuchynka noted it is easier to dissolve if no establishment holds the license and would be a good time to address the issue. She stated that if anyone in the future wants to do similar activities, they would have the ability to create a license or comply with existing provisions of the Code.

Chairman Pro Tem Strelau stated that the Commission created the E license classifications which were specific to each applicant and noted their activities tend to evolve from what was presented to the Commission. She stated that most operations are not close to what was proposed and they turn into exactly what the Commission did not ask for. She stated that the Village should do better in keeping licensees in line with what was presented. Ms. Kuchynka stated that licensees have often argued that when completely new to the market, that they cannot predict how the establishment will evolve. She stated it is difficult to take a license away. Chairman Pro Tem Strelau stated that if certain licensees are

not adhering to the floor plan on file, the Village should be able to go in, issue citations and/or regulate it.

Ms. Fregeau stated that accountability should be a goal and if approved business plans are not being followed, they should be addressed by the Village. Ms. Petrarca stated that the Village can bring in any licensee, especially at renewal. Ms. Petrarca stated that concern can be addressed by the Mayor and staff. Mr. Clary stated that licensees should be advised that they are regularly monitored, especially website promotions. Ms. Petrarca stated that staff and the Police Department have discussed advertising issues with certain licensees. Ms. Fregeau asked that they operate as they presented, with floor plans maintained, hours of business and food service requirements.

Ms. Kuchynka asked the Commission for their thoughts on eliminating certain license classifications. The Commission agreed. Staff agreed to present a draft ordinance to them at the next meeting.

IX. COMMENTS FROM THE PUBLIC

There were none.

X. ADJOURNMENT

Concluding business for the evening, Chairman Pro Tem Strelau called for a motion to adjourn.

Mr. Krusenoski moved to adjourn the March 1, 2012 meeting. The meeting was adjourned by acclamation at 8:15 p.m.

APPROVED 5/7/12

VILLAGE OF DOWNERS GROVE
PLAN COMMISSION MEETING
PUBLIC HEARING

MARCH 26, 2012, 7:00 P.M.

Chairman Jirik called the March 26, 2012 meeting of the Plan Commission to order at 7:00 p.m. and asked for a roll call:

PRESENT: Chairman Jirik, Mr. Beggs, Mr. Cozzo, Mr. Hose, Mr. Waechtler, Mr. Webster (at 7:04pm)

ABSENT: Mr. Matejczyk, Mr. Quirk, Mrs. Rabatah

STAFF PRESENT: Jeff O'Brien, Damir Latinovic and Stan Popovich

VISITORS: Mr. Gordon Goodman, 5834 Middaugh, Downers Grove; Mr. and Mrs. Qani Osmani, 1018 Palmer St., Downers Grove; Dr. Kathleen Goepfinger, President, Midwestern University, 555 31st St., Downers Grove; Mr. Kevin McCormick, Midwestern University, 555 31st St, Downers Grove; Dwight Todd, DWL Architects, 2333 North Central Ave, Phoenix, AZ; Damienne Souter, 605 Prairie; and Mr. Jim Lavery, 1016 Palmer St., Downers Grove

Chairman Jirik led the Plan Commissioners in the recital of the Pledge of Allegiance and directed the public's attention to the available informational packets. (Mr. Webster arrives 7:04 p.m.)

APPROVAL OF THE MARCH 5, 2012 MINUTES

Mr. Hose, noted on page 7, fourth paragraph, final sentence, insert the word "not" between the words "did" and "affect". **MR. HOSE MADE A MOTION TO APPROVE THE MINUTES, AS CORRECTED. SECONDED BY MR. BEGGS.**

MOTION CARRIED BY VOICE VOTE OF 6-0.

Chairman Jirik reviewed the protocol for the public hearing.

PC-11-12 A petition seeking approval of a Final Planned Development designation and a 66-foot tall Auditorium and Office Building for Midwestern University. The property is located on the south side of 31st Street, approximately 1,281 feet west of Meyers Road, Downers Grove, IL commonly known as 555 31st Street, Downers Grove, IL (PIN 06-32-200-015, 06-32-400-026); Midwestern University, Petitioner and Owner.

Chairman Jirik swore in those individuals who would be speaking on the above matter.

Mr. Jeff O'Brien, summarized Midwestern University's (the "University") petition. He noted they were requesting two items: 1) to establish a planned development for the University's main campus at 555 31st Street, and 2) to approve a new auditorium and classroom building. He presented an

aerial photograph highlighting the campus and the location of the new auditorium. He provided a brief history of the University's uses and improvements to the campus. Mr. O'Brien pointed out that staff recommended that the University establish a planned development in 2010. He noted large developments, such as the University, have multiple uses and do not fit neatly into the Village's existing zoning categories. He indicated the proposed planned development also allowed the University flexibility and the ability to gain faster approval and provided predictable parameters for future development on the property.

Mr. O'Brien discussed that the new two-story auditorium would include seating for up to 2,500 people. The building would have a total of 114,000 sq. feet and provide classrooms and office space in addition to the auditorium. Mr. O'Brien explained the auditorium (western) portion of the building would be 33 feet in height while the eastern portion would be 66 feet in height. He discussed the Comprehensive Plan as it relates to Midwestern's property. He noted the property was designated Institutional/Public, which included operation of educational facilities. He stated the Plan recommended the Village support operational improvements to educational facilities as long as the improvements minimized the impacts to the surrounding neighbors.

Mr. O'Brien explained the proposed planned development supported the University's operations, but also provided more definitive development patter for the neighbors. He noted the neighboring residents would know where expect development. He presented the master site plan for the University.

Mr. O'Brien, noted the planned development contained four components:

- 1) The designation of permanent open space;
- 2) Established setbacks for the University. He explained the current setbacks versus the planned development's setbacks;
- 3) Established height maximums; and
- 4) Identified major and minor developments. Mr. O'Brien explained major developments, such as new buildings, development in flood plains, etc. require Plan Commission and Village Council review of buildings. He indicated developments such as building additions, new parking lots, etc. could be approved by staff.

Mr. O'Brien noted no future buildings were proposed. As such, the next new building proposed by the University would require Plan Commission and Village Council review and approval.

Mr. O'Brien reviewed the site plan for the proposed Auditorium and Classroom Building. He explained the building setback was 193 feet from the western property line (near Lyman Woods) and the taller portion of the building was set back 329 feet from the western property line. He noted the building would be over 300 feet from the nearest residential property (to the north). Mr. O'Brien explained 1,783 parking spaces were required for the campus based on previous traffic and parking studies. He noted the University has 2,753 spaces on site. He reviewed the bulk regulations for the development and indicated the proposal would meet the zoning ordinance.

Mr. O'Brien provided an overview of the traffic generation from the campus. He noted that traffic currently operates at an acceptable level of service except for the left turn movement out of the site on westbound 31st Street. He noted there would be an expected increase in traffic of about five over the next three years. Mr. O'Brien reported that all traffic movement would be moving at an

acceptable level of service except for the previous-mentioned left-turn movement. He noted that the signal warrants were met for the University. He stated the University is working with the Village and DuPage County DOT to design the intersection.

Mr. O'Brien briefly reviewed the stormwater and utilities the site. He noted the Fire Department reviewed the plans and could still provide emergency access to the buildings. He stated staff received one phone call from a resident concerned about the overall density, traffic generation and noise generation from the campus. He stated the Forest Preserve and Park District were provided an opportunity to review the plans and did not object to the request. He indicated the Forest Preserve District provided a letter stating such that was included in the Plan Commission's packet.

Mr. O'Brien explained staff found that all standards for approval were met for the planned development and the proposed auditorium/classroom building. He stated staff recommended the Plan Commission forward a positive recommendation to the Village Council with the conditions listed in the staff report.

Mr. Webster asked staff to confirm building's height. Mr. O'Brien stated the Village measured height only to the main roof surface, not including penthouses, parapet walls or mechanical units. He stated these items were not included to encourage screening of rooftop mechanical units.

Mr. Beggs asked why the presentation included the proposed buildings when the Commission was not being required to review the items.

Mr. O'Brien explained the buildings were in the presentation for illustrative purposes only. He noted staff was trying to demonstrate the proposed setbacks were more advantageous for the neighbors than the current zoning ordinance setbacks. He stated the Village preferred to see the development focus itself in the current core campus area. He indicated staff would like to get an idea of what uses would occur in the future. Mr. O'Brien felt the plan was well balanced between the needs of the University and the needs of the surrounding residents. He further explained the planned development would allow University to build faster – without a public hearing – for some smaller buildings.

Mr. Waechtler's asked if the Village's traffic engineer reviewed the traffic study.

Mr. O'Brien stated the traffic engineer did not review the traffic study. He stated planning staff was trained to read the traffic impact study for sites such as Midwestern University. He indicated if significant changes were proposed to the public infrastructure, the study would be reviewed by the traffic engineer, planning staff and DuPage County. Mr. O'Brien explained that the development warranted a traffic signal and the petitioner was working with the County to determine on the intersection design.

Following on Mr. Beggs's questions, Mr. Hose inquired whether the Plan Commissioners would be reviewing a master plan of future multiple buildings.

Mr. O'Brien confirmed they would and pointed out the conditions on page 4 of the staff report that would be added to the planned development ordinance.

APPROVED 5/7/12

Chairman Jirik also clarified for Mr. Hose that anyone whom seeks a planned development basically was setting out the terms and conditions of the development of their own site, whether it was a subdivision, shopping center, etc.

Mr. Matejczyk asked if there was adequate stormwater detention capacity on site. Mr. O'Brien stated there was adequate capacity. He explained the basin under the Basic Science Building was sized to accommodate future campus developments.

Dr. Kathleen Goepfinger, President of Midwestern University, 555 31st Street, Downers Grove, was pleased to come before the Commission and explained the new building being added to the University campus. She reported the proposed auditorium will be able to be broken down into five separate lecture halls and accommodate larger events such as graduation ceremonies for the students. The office/classroom building will provide more office space for current staff.

Dr. Goepfinger stated she wrote a letter to the 300 neighbors with one inquiry received and that individual was satisfied with her concerns answered.

Mr. Beggs inquired about the relationship of the new Lacey Road building with the proposed improvements to the main campus.

Dr. Goepfinger explained that the Lacey Road building was for third and fourth-year students in dental medicine, while the first and second-year students attended class on-campus.

Mr. Waechtler inquired if the new auditorium would be available to other organizations while not in use.

Dr. Goepfinger explained it would be on a case-by-case basis for community events. She reminded the Commissioners that the University was a not-for-profit organization so charging for tickets would be a problem and would limit the use of the auditorium.

Mr. Waechtler asked if the proposed building would create any on-site traffic issues.

Dr. Goepfinger believed there would only be traffic issues during construction, and, after doing some studies, the traffic would be manageable.

Mr. Beggs asked if the University was pleased with the planned development proposal.

Dr. Goepfinger stated she believed the Village provided a good recommendation to the University and she was willing to work with the Village and its guidelines. At the same time, Dr. Goepfinger explained that the University would be returning to the Commission again and reaching out to her neighbors to ensure that they know what the University is doing.

As an aside, Mr. Waechtler commended the University for its thorough security process.

Chairman Jirik opened up the meeting to public comment.

Dr. Gordon Goodman, 5834 Middaugh, Downers Grove, was pleased to see the proposal for several reasons, including having a specific ordinance adopted by the Village Council stipulating the way

APPROVED 5/7/12

the University will develop; having a planned development; having continued access for Lyman Woods; supporting the University's concept of a "core" campus; and having a natural area in the planned development. He fully supported the new auditorium and was glad to hear the question about using the auditorium for additional community events, citing an upcoming musical association event, which will be free to the public.

Hearing no further comments, the Chairman closed the public comment portion of the hearing. Commissioners had no additional questions.

Dr. Goeppinger did not make a closing statement.

Chairman Jirik reported that staff's finding of fact, pursuant to the planned development approval request, was thorough, complete, competent and he concurred with the findings that the proposal was satisfactory in meeting those requirements. Mr. Waechtler agreed and believed that the University's detailed information and schematics were very helpful. He commended planning staff and its director Tom Dabareiner and the University for their work.

WITH RESPECT PC-11-12, MR. COZZO MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL ESTABLISHING A PLANNED DEVELOPMENT ON THE SUBJECT PROPERTY AND APPROVE THE AUDITORIUM AND CLASSROOM BUILDING, SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. THE FINAL PLANNED DEVELOPMENT SHALL SUBSTANTIALLY CONFORM TO THE STAFF REPORT DATED MARCH 26, 2012 AND WITH CAMPUS MASTER SITE PLAN AS PREPARED BY DWL ARCHITECTS & PLANNERS, INC. DATED JANUARY 25, 2012 EXCEPT SUCH PLANS MAY BE MODIFIED TO CONFORM TO VILLAGE CODES AND ORDINANCES.**
- 2. MINOR DEVELOPMENTS THAT REQUIRE ADMINISTRATIVE APPROVAL ONLY:**
 - A. PROPOSED DEVELOPMENT ON APPROVED BUILDING PADS IDENTIFIED IN THE PLANNED DEVELOPMENT CAMPUS MASTER PLAN WHERE THE OVERALL BUILDING HEIGHT IS NO MORE THAN 50 FEET.**
 - B. CHANGES TO SQUARE FOOTAGE OF PRE-APPROVED BUILDING PADS PROVIDED THE OVERALL DEVELOPMENT FLOOR AREA RATIO (FAR) AND BULK REQUIREMENTS ARE MET AS IDENTIFIED IN THE PLANNED DEVELOPMENT CAMPUS MASTER PLAN.**
 - C. ADDITIONS TO EXISTING BUILDING THAT MEET SETBACK AND HEIGHT RESTRICTIONS AS IDENTIFIED BY THE PLANNED DEVELOPMENT CAMPUS MASTER PLAN**
 - D. DEMOLITION OF EXISTING BUILDINGS.**
 - E. REMOVAL AND/OR EXPANSION OF EXISTING SURFACE PARKING LOTS WHICH MEET SETBACK AND HEIGHT RESTRICTIONS AS IDENTIFIED BY THE PLANNED DEVELOPMENT CAMPUS MASTER PLAN.**
- 3. MAJOR DEVELOPMENT THAT WOULD REQUIRE PLAN COMMISSION REVIEW AND VILLAGE COUNCIL APPROVAL:**

- A. **PROPOSED DEVELOPMENT ON APPROVED BUILDING PADS IDENTIFIED IN THE PLANNED DEVELOPMENT CAMPUS MASTER PLAN OR BUILDING ADDITIONS WHERE HEIGHT IS OVER 50 FEET.**
 - B. **PROPOSED DEVELOPMENT ON BUILDING PADS NOT IDENTIFIED ON THE PLANNED DEVELOPMENT CAMPUS MASTER PLAN**
 - C. **PROPOSED DEVELOPMENT ON AREAS IDENTIFIED AS PERMANENT OPEN GREEN SPACE.**
 - D. **PROPOSED DEVELOPMENT WITHIN SPECIAL MANAGEMENT AREAS INCLUDING FLOODWAYS, FLOOD PLAINS, WETLANDS AND LOCALIZED POOR DRAINAGE AREAS.**
 - E. **PROPOSED DEVELOPMENT THAT DOES NOT MEET THE SETBACK, HEIGHT OR OTHER BULK RESTRICTIONS IDENTIFIED ON THE PLANNED DEVELOPMENT CAMPUS MASTER PLAN.**
 - F. **ANY PROPOSED DEVELOPMENT DEEMED BY THE COMMUNITY DEVELOPMENT DIRECTOR THAT DOES NOT MEET THE SPIRIT AND INTENT OF THE PLANNED DEVELOPMENT CAMPUS MASTER PLAN.**
4. **THE AUDITORIUM AND CLASSROOM BUILDING SHALL SUBSTANTIALLY CONFORM TO THE STAFF REPORT DATED MARCH 26, 2012 AND WITH PRELIMINARY ENGINEERING PLANS AND STORMWATER REPORT PREPARED BY MACKIE CONSULTANTS, LLC DATED JANUARY 25, 2012, ARCHITECTURAL PLANS, ELEVATIONS AND SITE PLANS PREPARED BY DWL ARCHITECTS & PLANNERS, INC. DATED JANUARY 25, 2012 EXCEPT SUCH PLANS MAY BE MODIFIED TO CONFORM TO VILLAGE CODES AND ORDINANCES.**
 5. **THE PROPOSED AUDITORIUM AND CLASSROOM BUILDING SHALL HAVE A MANUAL AND AUTOMATIC DETECTION SYSTEM INSTALLED THROUGHOUT IN A MANNER ACCEPTABLE TO THE VILLAGE. ALL AREAS OF THE BUILDING SHALL BE PROTECTED.**
 6. **THE PROPOSED AUDITORIUM AND CLASSROOM BUILDING SHALL HAVE A COMPLETE AUTOMATIC SPRINKLER SYSTEM INSTALLED THROUGHOUT IN A MANNER ACCEPTABLE TO THE VILLAGE. ALL AREAS OF THE BUILDING SHALL BE PROTECTED.**

SECONDED BY MR. WAECHTLER. ROLL CALL:

**AYE: MR. COZZO, MR. WAECHTLER, MR. BEGGS, MR. HOSE, MR. WEBSTER,
CHAIRMAN JIRIK**

NAY: NONE

MOTION CARRIED. VOTE: 6-0

Chairman Jirik called to order the following:

PC-14-12 A petition seeking approval of a Final Plat of Subdivision to consolidate two existing parcels into one lot. The property is located on the north side of Palmer Street, approximately 230 feet west of Main Street, commonly known as 1018 Palmer Street, Downers Grove, IL (PIN 09-20-111-015); Qani Osmani, Petitioner; Qani and Vezire Osmani, Owners

APPROVED 5/7/12

Chairman Jirik swore in those individuals who would be speaking on this petition.

Planner, Mr. Damir Latinovic, reported the petition before them was due to changes made to the Village Ordinance that now required owners to consolidate their multiple lots prior to constructing any additions or doing new construction on their property. Currently the property was zoned R-4 Single-Family Residential with an improved single-family residence and detached garage and was located on two parcels: Lot 21 was 50 feet wide by 155 feet deep; the western parcel was 16.66 feet wide by 155 feet deep.

Petitioners were requesting to combine the two parcels into one lot in order to construct a new single-family home after demolishing the existing structures. The request was consistent with the Village's Comprehensive Plan and was also in character with surrounding lot sizes. The request met the Village's Subdivision Ordinance and no exceptions were being requested at this time. The two parcels, when combined, comprised of a lot 66 feet wide by 155 feet deep and exceeded the minimum lot area dimension requirements for the R-4 District. Per Mr. Latinovic, the new single-family home would also meet the Village's bulk requirements of the zoning ordinance.

Neighbors within 250 feet were notified by staff via individual notices, the newspaper notice and a posted sign on the property with only one person inquiring about the general nature of the project. Staff believed the proposal met the requirements of the Village and recommended that the Plan Commission forward a positive recommendation to the Village Council, subject to staff's one condition in its report.

Regarding the identification of the 16.66 feet, Mr. Latinovic stated it probably had to do with the previous owners acquiring the 16 feet from their neighbor. He confirmed the current owners did have possession of the 16 feet.

The Petitioner, Ms. Vezire Osmani, 5774 Eleanor Avenue, confirmed she was requesting to consolidate two parcels into one existing lot for a future single-family residential home. No questions followed from the commissioners.

Chairman Jirik opened up the meeting to public comment.

Mr. Jim Laverty, 1016 Palmer Street, asked how soon demolition would take place and he encouraged the Commission to move forward with the request as the current dwelling was uninhabitable and a safety risk. He asked the Commission to consider single-family homes for this block as the remainder of the block was of the same housing stock.

Chairman Jirik explained that the Commission currently was only considering consolidation of the two lots and not approving the demolition of the buildings or construction of a new house. He could not compel the petitioner to begin the demolition.

Ms. Osmani responded to Mr. Laverty that after receiving approval at the Plan Commission level, she would be applying for a demolition permit and expected to begin demolition soon.

Mr. Waechtler commented on the overall improvement to the neighborhood under discussion but added there was another home on the block that was in very poor condition.

APPROVED 5/7/12

Mr. Lavery concurred and proceeded to discuss his own home which was purchased new on Lot 22. He was excited to have more construction coming to the area.

Hearing no further comments, public comment was closed. Commissioners had no questions.

Ms. Osmani stated she and her husband specifically sought the neighborhood because they did not want to be in the typical subdivision and wanted to improve a neighborhood. They were excited to bring their children to the area.

WITH RESPECT TO FILE PC-14-12, MR. WAECHTLER MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL, SUBJECT TO THE FOLLOWING CONDITION:

- 1. THE FINAL PLAT OF SUBDIVISION SHALL SUBSTANTIALLY CONFORM TO OSMANI ESTATES SUBDIVISION PLAT PREPARED BY PROFESSIONAL LAND SURVEYING, INC., DATED MARCH 8, 2012 EXCEPT AS SUCH PLAT MAY BE MODIFIED TO CONFORM TO THE VILLAGE CODES AND ORDINANCES.**

SECONDED BY MR. HOSE . ROLL CALL:

**AYE: MR. WAECHTLER, MR. HOSE, MR. BEGGS, MR. COZZO, MR. WEBSTER,
CHAIRMAN JIRIK**

NAY: NONE

MOTION CARRIED. VOTE: 6-0

Mr. O'Brien announced that there were four agenda items on the April 2, 2012 agenda. He reminded the Commissioners to take their Open Meetings Act training. Mr. O'Brien said he was providing Commissioners with a welcome letter from the American Planners Association.

**THE MEETING WAS ADJOURNED AT 8:20 P.M. ON MOTION BY MR. COZZO,
SECONDED BY MR. WEBSTER MOTION CARRIED UNANIMOUSLY BY VOICE
VOTE OF 6-0.**

/s/ Celeste K. Weilandt
Celeste K. Weilandt
(As transcribed by MP-3 audio)

APPROVED 5/7/12

VILLAGE OF DOWNERS GROVE
PLAN COMMISSION MEETING
PUBLIC HEARING

APRIL 2, 2012, 7:00 P.M.

Chairman Jirik called the April 2, 2012 meeting of the Plan Commission to order at 7:00 p.m. and asked for a roll call:

PRESENT: Chairman Jirik, Mr. Beggs, Mr. Cozzo, Mr. Matejczyk, Mrs. Rabatah,
Mr. Waechtler, Mr. Webster

ABSENT: Mr. Hose, Mr. Quirk

STAFF PRESENT: Community Development Planning Manager Jeff O'Brien and Planner
Damir Latinovic

VISITORS: Mr. David Olsen, 5601 Dunham Road, Ms. Darlene Benson, 5400 Walnut;
Mr. Francis Bauer, 2800 Maple; Ms. Eugenia Gorski, 2800 Maple; Ms. Agnes
Cerhlak, 2800 Maple; Ms. Francis Wilke, 2800 Maple; Mr. Frank Burla,
2800 Maple; Mr. Robert Mitchell, 2800 Maple; Mr. Kevin Greyhill, 2435
Wisconsin/5230 Walnut; Ms. Marge Earl, 4720 Florence Ave; Mr. Gordon
Goodman, 5834 Middaugh; Attorney Dan McCormick, 5205 Washington, Downers
Grove

Chairman Jirik led the Plan Commissioners in the recital of the Pledge of Allegiance and directed the public's attention to the available informational packets.

Chairman Jirik reviewed the protocol for the public hearing.

PC-09-12 A petition seeking a text amendment to Article IX, Section 28.903, M-1 District Special Uses, of Chapter 28 of the Municipal Code. The purpose of the request is to add "vocational and trade schools" to the list of permitted special uses for the M-1, Light Manufacturing district. Christian Tyler, Petitioner; Trust Agreement dated 4/14/94, known as Trust #1, Owner.

Chairman Jirik swore in those individuals who would be speaking on the above petition.

Planning Manager, Mr. Jeff O'Brien, clarified that PC-09-12 and PC-10-12 were related items with the first petition being a request for a text amendment. The petitioner was requesting to add the use "vocational and trade schools" to the list of special uses in the M-1 Light Manufacturing zoning district. The petitioner owns a business Downers Grove - a spa training school at 340 Burlington Avenue. The applicant is proposing to relocate the business to Ellsworth Business Park at 5413 Walnut Street.

Mr. O'Brien indicated trade schools and vocational schools were permitted uses in B1, B2 and B3 business districts and special uses in the Downtown Business District. He indicated the proposed use was less intense than most other uses in the M-1 zoning district. Referring to the map on the

overhead, Mr. O'Brien pointed out the concentration of M-1 zoning districts on the map, noting the Ellsworth Business Park contained most of this classification. He stated the request is consistent with the Comprehensive Plan (the "Plan"). He pointed out the Plan recommended establishing vocational schools in the business park to assist with training. Mr. O'Brien noted the properties zoned M-1 are located near other business zoning districts, which allowed trade schools as of right. Mr. O'Brien believed that no major impact would occur to the surrounding uses by adding the special use to the zoning ordinance, stating it allowed the Village to have the ability to guide the locations of future vocational schools in the M-1 district.

In addition to the above petition, Mr. O'Brien stated the definition for a vocational/trade school would be added to the Zoning Ordinance. He recommended that the Plan Commission forward a positive recommendation to the Village Council with the addition of the definition stated on page 2 of staff's report.

Mr. Matejczyk asked what other types of vocational/trade schools the Village anticipated. Mr. O'Brien explained that many already existed in the community but for the Ellsworth Business Park, staff envisioned the industrial trade schools.

Mrs. Rabatah asked if the definition could include that "a school will provide someone with the skills that they can transfer to the workforce." Mr. O'Brien said the language could be added.

Mr. Beggs, however, stated he had a difficult time reconciling the land use map with the outline that was being presented by staff. Mr. O'Brien reported that the text amendment would affect everything currently zoned M-1 regardless of the future land use map. He indicated there are some discrepancies between the future land use map and the zoning map. He explained the future land use map only indicates desired future development, but that the zoning classification still governs land use.

Mrs. Rabatah asked about the text amendment's verbiage as it related to transferring to a bachelor's degree. Mr. O'Brien explained that the text amendment was worded in a general manner.

Chairman Jirik recalled during the development of the Comprehensive Plan that the focus was to maintain a manufacturing base in the M-1 district. He could understand offering a facility that offered manufacturing/industrial training, and one could support the allowed uses in the M-1 district, but he did not see how this petition addressed that.

Mr. O'Brien responded staff was recommending adding the use as a special use versus a permitted use so the Village could have some control over the location of a particular use.

Chairman Jirik then proceeded to read text from the Comprehensive Plan and commented that the text amendment appeared to be a "second" deviation away, as it was not a manufacturing use and it did not support the use in the M-1 zoning, which was a concern.

Mr. O'Brien brought up the fact that within Ellsworth Business Park there were two land use classifications. He stated staff was updating the zoning ordinance based on the Village's Comprehensive Plan. This update may include new zoning districts within the business park. He mentioned there could appear some incompatibility. He indicated that adding vocational schools as a special use, it allowed the Village oversight.

Mr. Beggs agreed that trade/vocational schools were oriented toward manufacturing and producing goods-type activities. However, the Chairman did not feel a day spa would be appropriate in an M-1 zoning classification and he questioned whether the Commission wanted to move in that direction, i.e., non-manufacturing/non-support in the M-1 zoning.

Mr. O'Brien stated that by keeping the definitions as broad as possible provided flexibility, since uses change. He noted staff typically helps applicants draft language for text amendments. He stated staff developed a broader definition because a variety of schools already existed. Mr. O'Brien reminded the commissioners that the school in question would have adult training and, given the location, there would be minimal impacts with the specific proposal as compared to a facility centrally located within the business park.

Mr. Waechtler stated his concern was the Commission setting a precedent, even though there would be a special use attached to the proposal.

Mr. Dan McCormick, 5205 S. Washington Street, Downers Grove, on behalf of petitioner, Christian Tyler, addressed the commissioners and added that for purposes of this particular petition, to think of the request as not a request for a beauty school, but a vocational school. Additionally, given the current uses, Mr. McCormick stated a vocational school would be more consistent with an M-1 zoning as opposed to a bank use, and the Village had the ability to control a special use. He was open to answer questions.

Mr. Waechtler said he would not agree with the comparison of a bank to a spa academy. Mr. McCormick clarified he was referring that a bank was not really an industrial use and was more of a retail-related use.

As to the definition's specific wording, Chairman Jirik noted that it introduced the word "occupational" versus the words "trade and/or vocational training." He asked staff for clarification of the word "occupational." Wherein, Mr. O'Brien, referring to Mrs. Rabatah's earlier comment, explained that at this type of facility one received training and could enter directly into the workforce versus going to another post-secondary educational facility. He stated there was no specific purpose for the word "occupational" and did not object to revising the definition.

Chairman Jirik opened up the meeting to public comment.

Mr. Frank Burla, 2800 Walnut, Downers Grove, resides in the Cameo buildings, which has 108 residential units and 108 vehicles. He voiced concern about the definition of trade school and stated a beauty school/spa was not a training school, by definition. In addition, the fact that the school would offer beauty services to the public off the street to enhance the qualifications of the students did "not exactly make it a trade school."

Hearing no other comments, public comment was closed. No comments were received from the commissioners. Mr. McCormick stated he had no response to the public comments nor had a closing comment.

Mr. Waechtler asked if staff was aware of any vocational or trade schools that offered a transfer program to a bachelor's degree. Mr. O'Brien was not aware of one personally. Dialog followed

APPROVED 5/7/12

regarding the fact that the Commission was voting on the petitioner's text amendment, which was to add the use "Vocational and Trade Schools" to the Special Use list. Staff was recommending, as a condition of approval, to add the definition to the zoning ordinance.

WITH RESPECT TO FILE PC-09-12, MRS. RABATAH MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL, APPROVING THE TEXT AMENDMENT, BUT REVISING STAFF'S RECOMMENDED LANGUAGE TO READ AS FOLLOWS:

"VOCATIONAL AND TRADE SCHOOLS – SCHOOLS OFFERING VOCATIONAL AND TRADE TRAINING, THE COURSES OF WHICH ARE NOT GENERALLY TRANSFERABLE TOWARD A BACHELOR'S DEGREE BUT PROVIDE A SKILL TRANSFERABLE FOR USE IN THE WORK FORCE."

SECONDED BY MR. MATEJCZYK.

Mr. Beggs stated he had not heard any evidence to justify the further definition which staff was proposing and why it should lead to a bachelor's degree or not. He could not support the petition.

Mr. Webster suggested striking the words referring to the bachelor's degree.

Chairman Jirik offered that the words could also be revised as: "Vocational and trade Schools – Schools offering vocational and trade training, the courses of which would promote employment in a manufacturing or industrial setting."

Mr. Beggs supported that revision, as did other commissioners.

Mr. Webster pointed out that Mrs. Rabatah's intention was accurate in saying that the school leads to a workforce skill.

Chairman Jirik offered additional verbiage to replace the reference to the "not generally transferable" wording. He suggested adding, "which maintain the integrity of the M-1 use" and adding, "skills generally sought in the manufacturing or industrial workforce" to match the definition with the activities in the M-1 District even though the application was not an industrial use. Commissioners thought that suggestion was too narrow.

Mrs. Rabatah then amended the definition to read as follows, with Mr. Matejczyk agreeing with the change:

"VOCATIONAL AND TRADE SCHOOLS – SCHOOLS OFFERING VOCATIONAL AND TRADE TRAINING, THE COURSES OF WHICH ARE NOT NECESSARILY TRANSFERABLE TOWARD A BACHELOR'S DEGREE BUT PROVIDE A SKILL TRANSFERABLE FOR USE IN THE WORK FORCE."

ROLL CALL:

**AYE: MRS. RABATAH, MR. MATEJCZYK, MR. COZZO, MR. WAECHTLER,
MR. WEBSTER, CHAIRMAN JIRIK**

NAY: MR. BEGGS

MOTION CARRIED. VOTE: 6-1

Mr. Beggs stated he voted Nay because the definition, to him, seemed to be indefinite and speculatively and he did not hear the evidence to support it. However, he agreed to add the requested amendment in the text but did not agree with the definition.

PC-10-12 A petition seeking approval of a special use for a spa training academy (vocational school) in the existing building. The property is zoned M-1, Light Manufacturing district. The property is located on the east side of Walnut Avenue approximately 420 feet north of Maple Avenue and is commonly known as 5413 Walnut Avenue Downers Grove, Illinois (PINs 08-12-305-011 and 08-12-305-013). Christian Tyler, Petitioner; Trust Agreement dated 4/14/94, known as Trust #1, Owner.

Chairman Jirik swore in those individuals who would be speaking on this petition.

Mr. O'Brien explained that this was the second part of the request to locate the spa training facility in the existing building at 5413 Walnut on the east side of Walnut, north of Maple Avenue. The school would be teaching massage therapy, nail technology, and other aesthetic services. No major changes were planned for the exterior of the building or the site. The site was zoned M-1. He stated some walk-in traffic to the school was expected, along with ancillary services.

Mr. O'Brien explained the Comprehensive Plan designated the site for office/corporate campus and was part of the Ellsworth Key Focus Area Plan. He noted the area plan recommended establishing vocational schools in the business park. He noted staff believed the proposed location was compatible, given the current land use designation, the surrounding residential uses, and its location on the perimeter of the manufacturing area.

Mr. O'Brien stated the only change proposed for the property's exterior was the addition of a six-foot screened fence along the east property line, which is required by the Village's zoning ordinance. He presented photographs and survey of the property. He noted there are 34 parking spaces were on-site and the vocational school use required 12 parking spaces, based on the number of students. Mr. O'Brien explained there would be 15 full-time students and 10 part-time students. He compared the proposed site to the current business location. He indicated current location at Burlington and Fairview, had 39 parking spaces. Mr. O'Brien stated staff took several counts at the current site and the business used approximately 20 of those parking spaces. He noted staff expected the same use at the new location.

Mr. O'Brien stated proper notification about the request was published. He noted staff received phone calls from the residents regarding parking overflow into the Cameo parking lot. He also indicated there were general concerns about massage therapy in the derogatory sense. Another call concerned the impact on nearby salons and spas.

Mr. O'Brien stated the proposed use complied with the standards under Section 28.1902, the Comprehensive Plan's designation as Office and Corporate Campus, the recommendations of the Ellsworth Business Park for vocational schools. He stated there would be no negative impacts from the proposed use. Mr. O'Brien stated staff recommended that the plan commissioners forward a

positive recommendation to the Village Council subject to staff's conditions listed on Page 4 of its report.

Mr. Cozzo asked how many handicap spaces would be provided at the new location. Mr. O'Brien confirmed two spaces.

Mrs. Rabatah asked Mr. O'Brien to compare the traffic impacts between the proposed use and the previous occupant of the property. Mr. O'Brien stated the impact of the school would be very similar to that of an office. He noted that traffic might peak a little later in the morning and a little earlier in the evening for a school use versus an office use.

Mr. Beggs asked about the Comprehensive Plan's suggested designation for the area as being Office/Corporate Campus. He pointed out further in the plan Office/Corporate Campus had to do with large buildings – similar to the Esplanade Development or the Highland Landmark Development. He believed there would be momentum to change an area to a large office/corporate campus in the future. Because the special use would be located on the edge of the manufacturing district, he asked whether staff was looking at the district in today's terms.

Mr. O'Brien explained that the proposal had to be considered now and for the future. The Comprehensive Plan was recommending that there would be a single development to create and redevelop the area into an Esplanade-type development, which was the vision for the area, but whether it would happen was another question. Mr. O'Brien stated that staff was always looking at the recommendations of the Comprehensive Plan and Zoning Ordinance and to apply them to the zoning requests. He believed the proposed use was a balance between the two and would not affect future development of the office park.

Noting that the site was already zoned M-1, but that the Comprehensive Plan recommended the site for Office/Campus, Chairman Jirik interpreted that the Comprehensive Plan called for the continuation of Office/Campus over the manufacturing, given staff's above reasons. Additionally, per staff's introductory comments on this petition, Chairman Jirik voiced concern about the use becoming Commercial/Retail and saw no mechanism for administrative oversight on that concern.

On behalf of the petitioner, Attorney Dan McCormick, 5205 S. Washington, Downers Grove, introduced himself.

Mr. Waechtler voiced his concern about the petitioner not being present to answer questions and recommended in the future that the attorney's petitioners appear.

Mr. McCormick noted it and continued. Rather than repeat himself again given the above petition, Mr. McCormick explained that parking would not be an issue because at the peak there would be four or five spaces available, while the school's spring/summer session would have less spaces occupied. In the fall, approximately 25 to 30 spaces would be occupied. Any public visiting the property would be on an appointment-basis, which would be regulated by the students in attendance that day. To Mr. Beggs's earlier question, the school would teach manicures, pedicures, facials, massages, and other skin care treatments. Because ample parking was provided, Mr. McCormick stated that parking was not expected to overflow on the street. He stated that his client agreed with staff's recommendations for approval.

APPROVED 5/7/12

Addressing operating hours, Mr. McCormick discussed that the school will be open from 8:00 AM to approximately 7:30 PM. He explained his client currently renting and would like to own his building, which was why he was looking at this site.

Chairman Jirik asked if there would be a retail component.

Mr. McCormick stated he did not believe so, but would have to confirm with his client. He stated any retail would be purely ancillary.

Chairman Jirik pointed out that if the Commission approved no retail, the business could not sell any items.

Mr. McCormick confirmed there would be public services available for a fee to aid the educational process.

Chairman Jirik confirmed with Mr. McCormick that there was ample parking currently. He asked if the petitioner could provide additional parking if needed.

Mr. McCormick stated both he and his client would be open to exploring options for additional parking.

Mrs. Rabatah asked how many hours a student received training.

Mr. McCormick could not answer that, but would have his client available to answer it at the Village Council meeting.

Mr. Beggs asked if the services rendered to the public were at reduced rates because students were providing the services.

Mr. McCormick stated he did not know the rate structure.

Mr. Matejczyk asked if Universal was a nationally accredited and recognized school, and whether Mr. McCormick was familiar with the accreditation criteria.

Mr. McCormick stated the school was accredited, but he was not familiar with the specific criteria. He explained that his client told him it took a year to receive accreditation. He noted the accreditation process would have to take place prior to opening in the proposed location.

Mr. Waechtler asked if there were other University Spa Training Academies.

Mr. McCormick stated there were not and Universal was not a franchise. He noted Universal had been in business for five years.

Chairman Jirik opened up the meeting to public comment.

Mr. Francis Bauer, 2800 Maple, Downers Grove, said he surveyed the current Burlington Avenue training school on March 19th starting at 11:00AM, noting 30 cars were parked. At 2:30 PM, 32

APPROVED 5/7/12

cars were present; on March 20th, same AM time, 38 cars were present; on March 21st, 28 cars present; and on March 22nd, 35 cars were present. Today there were only 28 cars.

Mr. Robert Mitchell, 2800 Maple, Downers Grove, assumed that the owner was purchasing the property to increase his business. Considering that there were 34 parking spaces and 25 students, not including staff, he estimated that approximately nine people could come in for their appointments, maxing out the parking. Mr. Mitchell voiced concern about weekend hours and the owner adding more students to make more money. He voiced concern that eventually the owner will open earlier and close later. Other concerns included more traffic congestion on Walnut Avenue.

Ms. Frances Wilkes, 2800 Maple, voiced concern about increased parking congestion, especially with the ice rink operating. She stated she frequented similar types of academies for services where certain products could be purchased that the students used on a person's hair.

Ms. Darlene Benson, 5400 Walnut, resides in the Terrace and agreed with her fellow neighbors regarding parking, traffic congestion, and illegal turns. She voiced concern about the term "trade school" and was concerned that "chop shops" could operate there.

There being no further comments, Chairman Jirik closed public comment. No commissioner questions followed.

In response to the public comments, Mr. McCormick agreed with Ms. Wilkes and her comments about the parking for the ice rink, but noted that the proposed location was unoccupied. Mr. McCormick stated the prior engineering business had a number of engineers and surveyors working there so the same type of traffic would be moving in and out of the site. He did not believe his client's use of the building was going to increase the traffic anymore than what was there prior. As to the selling products, again, he stated they would be ancillary and he would have to confirm with his client.

Mrs. Rabatah asked how many employees worked for the previous engineering firm.

Mr. O'Brien said he did not know. He explained the Village's parking calculation for the new use (.33 spaces per student plus 1 space for each employee).

Chairman Jirik asked if the Commission could require a higher parking ratio for the proposal given the request was for a special use. He felt it would be appropriate to know the maximum number of students and staff that could be present, along with customers, because it was a worst-case scenario.

Mr. O'Brien stated the Commission could require a higher parking ration. He indicated that he was out at the current academy during the day and counted cars at two different times – once in the morning and once in the afternoon. He noted that there were 15 cars parked in the morning and 17 parked in the afternoon. He noted there were cars parked in the on-street spaces, but did not know whether they were at the academy or train-related parkers.

Mr. Cozzo questioned the Village's criteria for schools and wanted to see how the school operated to see whether the requirement worked or not.

APPROVED 5/7/12

Chairman Jirik also voiced concern about the formula, assuming one-third of a car per student, and that if the owner did not run shifts, then the formula was already deficient. He wanted to ensure that the special use had adequate parking and the fact that the public testimony received cast doubt on the viability of the standard method for the specific use.

Mr. Beggs raised the fact that if the use violated the requirement, then it was a problem the Village had to address. He noted the Village requires businesses to meet the parking standards, or, adopt some other program that expanded the parking so that the regulations could be met.

Mr. O'Brien proceeded to explain the Village's parking requirements came from the Institute of Traffic Engineers and the American Planning Association – two primary sources for parking requirements. He agreed with Mr. Beggs that if a use were in violation, the Village would take measures to enforce the zoning ordinance. As an example, he explained how the process would work for the use in question. He stated if the Village learns of violations that could be tied to the school; the Village would seek measures to reduce the number of students attending the school or require more parking to be constructed. Mr. O'Brien went on to indicate the final parking calculation would be determined when plans for the build-out are submitted. Staff would confirm the student and staff count based on the building's layout and occupancy.

Mr. Waechtler stated he could not make a decision tonight because the petitioner was not present to answer questions. He noted the concerns included hours of operation, retail sales and commercials sales, and parking issues. He recommended the Commission continue the petition to a date certain, citing that other petitioners had representatives to answer questions.

WITH RESPECT TO FILE PC-10-12, MR. MATEJCZYK MADE A MOTION THAT THE PLAN COMMISSION CONTINUE THE HEARING TO A DATE CERTAIN, THAT DATE BEING MAY 7, 2012, IN ORDER FOR THE PETITIONER TO BE PRESENT.

SECONDED BY MR. WAECHTLER.

Chairman Jirik noted for the petitioner's attorney that at the next meeting the hearing would be reopened with only new information being presented.

ROLL CALL:

**AYE: MR. MATEJCZYK, MR. WAECHTLER, MR. BEGGS, MR. COZZO,
MRS. RABATAH, MR. WEBSTER, CHAIRMAN JIRIK**

NAY: NONE

MOTION CARRIED. VOTE: 7-0

PC-12-12 A petition seeking approval of a Final Plat of Subdivision to consolidate two existing parcels into one lot. The property is located on the west side of Middaugh Avenue approximately 770 feet south of 55th Street, commonly known as 5612 Middaugh Avenue, Downers Grove, IL (PIN 09-18-202-034, -035); David M. Leder & Cindy J. Johnstone, Petitioners; Joseph and Marilyn McCormick, Owners.

Chairman Jirik swore in those individuals who would be speaking on this petition.

Damir Latinovic discussed the location of the R-4, single-family residence, noting it consisted of two adjacent lots (60 feet by 305 feet deep). The existing structure was to be razed following with construction of a new single-family home. The request was for a final plat of subdivision to consolidate the two lots into one lot, making the total lot size 120 feet by 305 feet deep which exceeded the minimum lot dimension requirements for the R-4 District. The proposed lot would also meet the requirements of the Subdivision Ordinance. New utility easements (five feet wide) were proposed along the side property lines as well as a 10-foot wide public utility easement along the rear property line.

Mr. Latinovic indicated the proposal was consistent with the Comprehensive Plan and was consistent with the lot sizes in the area. He stated the proper notification was provided to residents within 250 feet of the site and proper signage was placed on the property. To date, no calls were received on this proposal. He stated staff recommended that the Plan Commission forward a positive recommendation to the Village Council, subject to the one condition in its staff's report.

Mr. Waechtler commended Public Works staff for positioning the proper signage on the property.

On behalf of the petitioners, Mr. Dan McCormick, 5205 S. Washington Street, Downers Grove, was present and explained that his clients were the contract purchasers for the lot. For the record, he stated he is not related to the current owners. He stated his clients loved the area but the current house was in disrepair. He indicated they were proposing to raze the house and construct new.

Chairman Jirik opened up the meeting to public comment.

Mr. David Olsen, 5601 Dunham Road, Downers Grove, stated he resides behind the proposed property and had concerns about drainage in the rear of the property due to the terrain sloping down to his family's property.

Chairman Jirik explained the proposal before the Commission was to consolidate two lots into one and the permitting process, which included drainage, would address the drainage issues and grading issues to ensure those activities would not have detrimental effects.

Mr. Latinovic added that the Village has not received the plans for a new home yet and the next step for the petitioners was to apply for a building permit and submit engineering plans identifying grading. He explained the plans would have to meet Village codes, included the stormwater ordinance, which required that surrounding properties not be negatively affected any more than what currently existed. Per a question, Mr. Latinovic stated that when the permit application is submitted plans could be reviewed at the Community Development Department. He noted the contractor was also required to notify surrounding property owners prior to construction.

Mr. Gordon Goodman, 5834 Middaugh, appreciated the signage on the property and did speak to Mr. O'Brien about the petition prior. He supported the consolidation of the lots, which were more appropriate to construct in the neighborhood. He appreciated the generous size of the lot and that it offered more space between the neighbors. Mr. Goodman added that the flooding in the same block used to be very severe to the north and the Village previously addressed many of the issues that occurred there. He asked to see more attention on how the Village upgraded the neighborhoods that

APPROVED 5/7/12

have been zoned R-4 and specifically asked that the Plan Commission and the Village review the zoning on the south side of 55th Street, south of Blanchard up to 59th Street, calling attention to the fact that the current development reflects R-3 but the zoning was R-4. He did not want to see people combining three lots and dividing them into four lots in the R-4 zoning.

Hearing no further public comment, public comment was closed. Commissioners had no questions on the commentary. Mr. Dan McCormick had no responses to the public comment and waived his right to a closing statement. Commissioners did not deliberate any further.

WITH RESPECT TO FILE PC 12-12, MR. WAECHTLER MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL, INCLUDING STAFF'S FOLLOWING CONDITION:

- 1. THE FINAL PLAT SHALL SUBSTANTIALLY CONFORM TO FINAL PLAT OF SUBDIVISION OF LEDER JOHNSTONE SUBDIVISION PLAT PREPARED BY INTECH CONSULTANTS, INC., DATED FEBRUARY 29, 2012 EXCEPT AS SUCH PLAT MAY BE MODIFIED TO CONFORM TO THE VILLAGE CODES AND ORDINANCES.**

SECONDED BY MRS. RABATAH. ROLL CALL:

**AYE: MR. WAECHTLER, MRS. RABATAH, MR. BEGGS, MR. COZZO,
MR. MATEJCZYK, MR. WEBSTER, CHAIRMAN JIRIK**

NAY: NONE

MOTION CARRIED. VOTE: 7-0

(The commissioners took a short break at 9:14 p.m.; reconvened at 9:20 p.m.)

PC-13-12 A petition seeking approval of a Special Use to allow the construction of three principal buildings on a single parcel. The property is located on the north side of Wisconsin Avenue, approximately 490 feet west of Belmont Road, Downers Grove, IL commonly known as 2300 Wisconsin Avenue, Downers Grove, IL (PIN 08-12-407-006); David MacNeil Petitioner; MacNeil Real Estate Holdings, Owner.

Chairman Jirik swore in those individuals who would be speaking on the above petition.

Mr. Damir Latinovic addressed the commissioners and discussed that the site was a five-acre vacant parcel zoned M-1 Light Manufacturing on the north side of Wisconsin Avenue, west of Belmont Road. Reviewing the plans on the overhead, he explained that the petitioner was seeking a special use in order to construct three principal structures on the site with a surface parking lot surrounding the buildings. He noted each building would consist of multiple units approximately 1,650 sq. feet in size that could be combined to larger spaces.

Mr. Latinovic explained there were two construction phases planned for the development. He noted Phase I (summer 2012) would include the construction of Buildings 1 (8,250 sq. ft.) and 2 (43,160 sq. ft.), the construction of 118 parking spaces, and a surface stormwater detention pond. He noted

APPROVED 5/7/12

Phase II (spring 2013) would include the construction of Building 3 (39,840 sq. ft.) and an additional 29 parking spaces. He explained the detention pond would be converted to an underground facility in Phase II because Building 3 was to be constructed where the previously-pond would be located. Mr. Latinovic noted the total building square footage would be 91,250 sq. feet with up to 147 parking spaces. The uses would be split between light industrial, office, and warehouse.

Mr. Latinovic indicated Village staff was recommending a condition that Phase II begin by May 1, 2014 and if that deadline was not met, the petitioner would have to request an extension from the Village Council for the special use. He went on to discuss the elevations for the three buildings, noting that the maximum height would be 21 feet (most surrounding buildings were between 20 and 25 ft. in height). Each unit had the option to include an overhead garage door that would replace one parking space.

Mr. Latinovic provided an overview of the parking calculations/ratios for the three buildings. He explained each tenant would be required to obtain a separate building permit. As such, staff would review the uses to ensure there would be enough parking.

Mr. Latinovic confirmed that staff reviewed the traffic based on what was being proposed as to what was previously there. He explained the proposed development is expected to generate 136 trips in the AM peak and about 141 trips in the peak PM hour based on the Institute of Traffic Engineers' Trip Generation Manual. He compared the proposed development to the existing traffic counts on Belmont Road. He noted that based on 2008 data received from the County, there are approximately 1,549 cars traveling south on Belmont Road in the AM peak hour, south of Ogden Avenue. He noted 1,635 cars travel on Belmont Road in the peak PM hour. Mr. Latinovic noted the total trips generated from the proposed development could increase the existing peak hour traffic on Belmont Road by 8.5 percent. He explained staff expected that half of those trips generated by the proposed development would be traveling west on Wisconsin Avenue towards Walnut and Interstate 355. Therefore, staff believed the peak hour traffic generated from the site to Belmont Road would be less than a five percent increase than what currently existed.

Mr. Latinovic stated the proposal would be required to meet all stormwater requirements. He noted one of the two curb cuts on the site would be closed but relocated to the east. He explained there would still be two access points to Wisconsin Avenue. He stated the Fire Prevention Division reviewed the site and requested that the buildings include a full fire alarm system and sprinkler system.

In closing, Mr. Latinovic stated that staff believed the proposal was consistent with the Comprehensive Plan and its goals, met the requirements of the Village's Zoning Ordinance, and met the Standards for Special Use approval. He explained the buildings would provide small and flexible spaces for contemporary uses and had similar impacts as other light industrial uses in the Ellsworth Business Park. The proposal was located close to Interstates 355 and 88. He noted the Village notified surrounding owners and did not receive any inquiries.

Mr. Latinovic stated staff recommended that the Plan Commission forward a positive recommendation to the Village Council, subject to the conditions on page 5 of staff report.

APPROVED 5/7/12

Mr. Matejczyk voiced concern about the high density of the proposal and possible parking difficulties when all of the units become full. He suspected the traffic generated would be higher, given his own experience around factories.

Mr. Latinovic agreed office uses could generate more traffic, but explained the development would include storage and warehouse uses that would co-exist with the office space. Those uses generated less traffic than office uses. Mr. Latinovic reminded the commissioners that staff would review each proposed tenant build out for parking figures.

Mr. Matejczyk asked how many trucks would be traveling to Walnut.

Mr. Latinovic stated it was unknown what types of uses would exist and staff's estimate only identified general trips and not necessarily the types of vehicles. He also reminded the commissioners that Cameo Apartments was established after the industrial uses. He noted truck traffic was to be expected in light industrial areas. As to restrictions on the types of uses within the development, Mr. Latinovic stated the only restriction would be based on the parking requirements.

Mrs. Rabatah asked whether staff's traffic estimation considered the Belmont underpass project. She asked how much increased traffic would make staff uncomfortable.

Mr. Latinovic stated he expected future traffic on Belmont Road to be higher as compared to 2008 due to the underpass even without this proposed development. The trip generation, however, will remain the same and staff therefore expects it to be less than five percent because there would be more traffic on Belmont Road. Adding 130 cars in the peak hour translated to less than five percent for today's standard.

Mr. Kevin Greyhill, 2435 Wisconsin Street and 5230 Walnut Avenue, Downers Grove, on behalf of the petitioner/owner for Dave MacNeil, MacNeil Automotive a/k/a Weather Tech, discussed that originally, in 2007 and 2008, the owner wanted to combine his properties to make one main manufacturing and office headquarters. Mr. Greyhill explained due to the economy in 2008, the cost of construction for his proposal would have been too significant the development was not pursued. He noted the existing building was razed and the site, now up for sale, had not seen an offer for three years. Mr. Greyhill explained this new proposal was being put forth to offer small businesses a place to start.

Mr. Greyhill stated that he did not know what types of uses would encompass the building and stated the parking would be addressed by staff during building permit review. Should the office units fill out first, it would be up to the owner, as the seller of the units, to offer the remainder units as warehouses due to the parking requirements. Mr. Greyhill believed more of the units would be used for warehousing and light-industrial uses due to the surrounding trades and the central location of the buildings.

Per a question, Mr. Greyhill explained the buildings would be constructed of pre-cast material with neutral colors and bronze caps.

Mr. Waechtler suggested that color elevations would be helpful and should be submitted prior to going before the Village Council.

Chairman Jirik opened the meeting up to public comment. No comments were received, as such, the Chairman closed public comment. The petitioner had no closing statement at this time.

Per a question by Mr. Waechtler, Mr. Latinovic explained that the parking for this site would dictate what type of uses go into the site and the fact that the Comprehensive Plan called for contemporary buildings and developments that fit today's needs of a changing market. Staff believed this development met those goals. As to staff determining the parking availability, Mr. Latinovic explained that each future tenants will have to submit a full building plans reflecting the total number of parking spaces available and the proposed uses so the Village could determine if the parking requirements are satisfied. He stated future tenants would not have to appear before the Plan Commission.

Mrs. Rabatah asked if the petitioner would be eligible for an extension if they did not meet the recommended deadlines. Mr. O'Brien confirmed they would be eligible. He added that the special use requirements allow petitioners to provide a construction schedule for projects with multiple phases. He noted this schedule could be no longer than two years. He stated the Village Council could grant more than one extension if requested by the petitioner. Mr. O'Brien indicated the petitioner provided staff with a construction schedule, which is why there is a recommended condition.

WITH RESPECT TO FILE PC-13-12, MR. COZZO MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL, SUBJECT TO STAFF'S FOLLOWING CONDITIONS:

- 1. THE SPECIAL USE SHALL SUBSTANTIALLY CONFORM TO THE STAFF REPORT, ENGINEERING PLANS PREPARED BY ENGINEERING RESOURCE ASSOCIATES, INC. DATED FEBRUARY 24, 2012 AND ARCHITECTURAL PLANS PREPARED BY FERGON ARCHITECTS, LLC., DATED FEBRUARY 21, 2012, EXCEPT AS SUCH PLANS MAY BE MODIFIED TO CONFORM TO THE VILLAGE CODES AND ORDINANCES.**
- 2. THE APPLICANT SHALL OBTAIN AN EXTENSION OF THE SPECIAL USE FROM VILLAGE COUNCIL IF THE CONSTRUCTION OF PHASE II DOES NOT COMMENCE ON OR BEFORE MAY 1, 2014.**
- 3. THE PROPOSED SIDEWALK ON THE PRIVATE PROPERTY SHALL BE CONNECTED TO THE EXISTING PUBLIC SIDEWALK ALONG WISCONSIN AVENUE.**
- 4. ALL NEW SIGNAGE ON THE PROPERTY SHALL CONFORM TO THE SIGN ORDINANCE. A SEPARATE SIGN PERMIT IS REQUIRED PRIOR TO INSTALLATION OF ANY NEW SIGNAGE ON THE PROPERTY.**
- 5. PRIVATE FIRE HYDRANTS SHALL BE PROVIDED WITHIN 100 FEET OF THE FIRE DEPARTMENT CONNECTION AND NO GREATER THAN 300 FEET APART.**
- 6. THE BUILDINGS SHALL HAVE FIRE SUPPRESSION AND DETECTION SYSTEMS IN A MANNER SUITABLE TO THE FIRE PREVENTION BUREAU CHIEF.**

SECONDED BY MR. BEGGS. ROLL CALL:

APPROVED 5/7/12

AYE: MR. COZZO, MR. BEGGS, MR. MATEJCZYK, MRS. RABATAH, MR. WAECHTLER, MR. WEBSTER, CHAIRMAN JIRIK

NAY: NONE

MOTION CARRIED. VOTE: 7-0

Mr. O'Brien said he would be sending the commissioners an email tomorrow regarding their Open Meetings and FOIA training. He indicated there would not be a second April meeting and the next meeting would be May 7th.

THE MEETING WAS ADJOURNED AT 9:55 P.M. ON MOTION BY MR. WEBSTER, SECONDED BY MR. WAECHTLER. MOTION CARRIED BY VOICE VOTE OF 7-0.

/s/ Celeste K. Weilandt
Celeste K. Weilandt
(As transcribed by MP-3 audio)