

APPROVED 10/3/11

VILLAGE OF DOWNERS GROVE  
PLAN COMMISSION MEETING  
PUBLIC HEARING

SEPTEMBER 12, 2011, 7:00 P.M.

Chairman Jirik called the September 12, 2011 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. Matejczyk, Mr. Quirk, Mrs. Rabatah, Mr. Waechtler, Mr. Webster (arrived at 7:45 pm)

**STAFF PRESENT:** Community Development Planning Manager Jeff O'Brien, Planners Stan Popovich and Damir Latinovic

**VISITORS:** Mr. Chris Salman, Statute Custom Homes, 934 Maple Avenue, Downers Grove; Mr. Mitchell Melamed, 330 N. Wabash, Suite 1700, Chicago, IL; Mr. Keith Neumann, Greenscape Homes, 4355 Weaver Parkway, Warrenville, IL; Major Larry Manzella, Salvation Army, 1520 75<sup>th</sup> Street; Mr. David Trinka, 623 Austin Street, Downers Grove; Mr. Dave Hegarty, 4944 Douglas Road, #204, Downers Grove; Mr. Ron McCluskey, 4944 Douglas Rd., #203, 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.

**APPROVAL OF THE AUGUST 1, 2011 MINUTES**

**MR. COZZO MADE A MOTION TO APPROVE THE MINUTES, AS SUBMITTED, SECONDED BY MR. MATEJCZYK.**

**MOTION CARRIED BY VOICE VOTE OF 7-0-1 (MR. HOSE ABSTAINS).**

Chairman Jirik welcomed new commissioner, Mr. Hose. Mr. Hose briefly shared his personal and professional background.

Chairman Jirik explained the meeting's protocol and procedures.

Chairman Jirik reconvened the public hearing for File PC 09-11:

**File PC-09-11 (Continued from 6/6/11 and 8/01/11)** A petition seeking: 1) Zoning Ordinance Text Amendment to add recycling collection drop-boxes use to the list of special uses for the B-2, General Retail Business district; and 2) Special Use approval for recycling collection drop-boxes for the property located on the north side of 75<sup>th</sup> Street approximately 1850 feet west of Lemont Road, commonly known as 1520 75<sup>th</sup> Street, Downers Grove, Illinois 60516 (PIN's 09-30-201-015, -028); The Salvation Army, c/o Mitchell J. Melamed, Petitioner; The Grove Associates, c/o Robin Realty and Management, Owner

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

Planning Manager, Jeff O'Brien, recalled that this application was before the commissioners on June 6, 2011 and continued again on August 1, 2011 for the applicant to be present at tonight's meeting. A recap of the application followed by Mr. O'Brien, noting the application was revised to allow for a truck to be used as the collection facility instead of boxes. He explained that the truck would only be on-site during the regular business hours for the Salvation Army's resale store. He noted second-hand stores are a permitted use in the B-2 zoning district as long as all operations occur within an enclosed building. Therefore, per Mr. O'Brien, the donation center would require a text amendment in the special use category, which the petitioner is requesting. The proposed text amendment language was referenced in staff's report and read by Mr. O'Brien. Staff confirmed that no additional neighborhood comments were received to date.

With regard to applicant's modification, staff believed the proposed use did not meet the general provisions for the B-2 zoning district or the standards for special use. The Village's zoning ordinance requires most uses be confined within a building to limit nuisances and maintain attractive shopping areas. Also, a proliferation of these types of outdoor uses at second-hand stores which would burden the Village's code compliance efforts. Other concerns included that allowing the use of a truck as an exterior collection center would be detrimental to the health and general welfare of the B-2 zoning district and it was not compatible with the surrounding area. Staff felt there was no benefit to parking a truck in the shopping center especially if the truck is located in the parking lot in front of the Salvation Army's tenant space. Staff recommended denial of the text amendment and special use based upon its findings. If, on the other hand, the Commission supported the application, Mr. O'Brien recommended making two separate motions and using the recommended language in staff's report.

Asked to elaborate upon staff's concerns regarding the text amendment, Mr. O'Brien explained that since the use is prohibited, the applicant must prove that the exterior donation collection would not create a nuisance. However, once a use is listed in the zoning ordinance, the burden fall on the Village to prove that the collection center would be detrimental to the community's health and safety.

Mr. Matejczyk believed that the rigid criteria would still have to be met and a request would have to come before this commission. In response, Mr. O'Brien confirmed that other organizations meeting the same criteria could proliferate. An example of such second-hand shops/charitable organizations followed.

Mr. Beggs queried why a truck would be used, since it seemed to be an intermediate step between a collection box and an enclosed store. Mr. O'Brien recalled that the applicant may have had limited space interior space. Mr. Beggs believed limited space was not a valid reason. He also voiced concern about policing the truck as well as it becoming unattended. Mr. O'Brien deferred to the petitioner as to the exact reasons for proposing a truck.

Asked staff's input on what the costs and man hours were associated with the enforcement of such special use, Mr. O'Brien believed some extra policing and drive-bys would take place for the first few months, followed by the complaint process.

As to what the differences were for donating in a truck and donating in a store, Mr. O'Brien explained the main advantage for placing the boxes was donations could be collected at any time. He noted the truck would operate only during the store hours and be staffed.

Commissioners raised concerns about signage and lighting. While no adjacent tenants voiced concern about the truck and its location, Mr. O'Brien clarified that the property owners, not the tenants, would have been notified.

Mr. Waechtler felt the tenants should have been notified. Per a question regarding visibility of the shopping center with the parked truck, Mr. O'Brien was not too concerned about the truck's location given the size of the parking lot. He stated the Plan Commission could always revise the truck's location if there were specific concerns.

Mr. Matejczyk questioned if the signage on the truck would be in violation of the sign ordinance. Mr. O'Brien stated it would not be a sign code issue because the truck would be moving daily. Another question was raised regarding Kimco Realty's ownership regarding the petition, wherein it was clarified that Kimco owned the commercial shopping center on the east side of Lemont Road.

(Commissioner Webster arrives at 7:45 p.m.)

Mr. Mitch Melamed, Attorney, 269 Silven, Glencoe, IL, was invited to speak and explained that he took the comments from the last meeting very seriously and discussed them with Salvation Army Major Manzella. In addressing the comments tonight, Mr. Melamed clarified that there will be no lighting on the truck and the truck will be staffed at all times. Because there has been previous rummaging through donation boxes, he stated the Salvation Army was trying to get away from donation boxes. To date, he emphasized there had been no complaints regarding the two current boxes in over a year due to the constant maintenance of them. Lastly, Mr. Melamed stated he knew of no code prohibiting the Salvation Army or any other business from parking 15 to 20 trucks daily in the proposed parking spaces. Regarding proper notification to the adjacent businesses, he thought the village's ordinance would have required notification to them, given that in every other shopping center location where the Salvation Army existed, businesses were "thrilled" to have them because it brought additional business to their shopping centers.

Addressing the statement why people who were donating could not bring their items into the store "because they are shopping anyway," Mr. Melamed explained those were separate issues, noting the person who donates does not necessarily go into the store to shop. Mr. Melamed reminded the Commissioners that the Salvation Army preferred to have donations inside the store but that this particular lease did not allow it due to the front single entrance and the issues that arose with a single entrance. Additionally, because the Commissioners' comments were taken seriously, Mr. Melamed stated the wording for the text amendment and special use would be applicable to a very limited number of organizations and would include a sunset provision. He stated he also telephoned staff to ask what other measures could be added to the special use and stated that staff had no response.

As to staff's concern about the application placing a burden on the code compliance officers, Mr. Melamed stated there were no facts to explain the statement to address it. He further testified that the shopping center lease provided that that Salvation Army had to keep debris from accumulating and if the Salvation Army did not keep it clean, it would lose business and lose

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money for its programs. Further explanation followed regarding the positive financial and environmental impacts of having an exterior donation center versus an interior donation center. Sales statistics and the sales tax benefits to the village also followed by Mr. Melamed. Given the positive benefits to the village, Mr. Melamed hoped to receive a positive recommendation from this commission.

Major Larry Manzella, 1520 75<sup>th</sup> Street, Downers Grove, and administrator of the Chicago Central Adult Rehabilitation Center located downtown Chicago, discussed a similar facility in Skokie, Illinois, where the collection boxes were not allowed, and spoke about the assistance he received from that Village to open a facility there and the accommodations the Salvation Army made to be in that location. He also discussed the positive benefits of having the on-site truck versus the drop boxes. Maj. Manzella believed the reason the process worked so well was due to the visibility of the truck. He hoped to work with Downers Grove to ensure the process was orderly and in place.

Mrs. Rabatah asked whether the Village of Skokie wrote a text amendment to accommodate the truck, wherein Major Manzella stated they did not. Mrs. Rabatah stated she was concerned about the text amendment and asking where the truck went in the evening. Major Manzella stated it depended upon the location of the truck but, in this case, it moved to the rear of the store to be unloaded and stored. If not, it was driven back to the Chicago location.

Per Mr. Hose's question, the Major explained how a donation is processed through the store, noting that 100% of the inventory currently comes from the collection boxes and an occasional walk-in. Asked if donations could be directed to the back of the store, Major Manzella stated it was a consideration but given the location, said it would be difficult for drivers to navigate to the rear of the store.

Mr. Beggs pointed out that he was being asked to provide a specific solution to a location that was too small and had drawbacks and was not sure it was a good reason to approve the proposal. He did not know how to justify solving the applicant's location problem.

Major Manzella believed the Salvation Army signed the lease, with the idea that the drop boxes would be allowed. However, now the Village is not permitting them.

Mr. O'Brien interjected and stated Salvation Army checked with the Village of Downers Grove about having an exterior donation center via a questionnaire and was told no exterior donation collection facility would be permitted.

Mr. Waechtler pointed out the Salvation Army knew that information, but signed the lease. He proceeded to explain that he took photographs of the rear entrance, which had signage, and asked if a donation could be dropped off at the rear entrance, since he drove around to the rear to view it.

In response, Mr. Melamed, assumed donations could be dropped off since a rear entrance existed and assumed that the rear entrance was also used for other operations.

Mr. Waechtler also clarified and added that the Plan Commission did not make decisions based on sales tax revenue.

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Chairman Jirik opened up the meeting to public comment. No comments. Public comment closed. No closing statement received from the applicant.

Chairman Jirik confirmed with new commissioner, Mr. Hose, that he read the prior minutes and was comfortable in voting on this petition.

Mr. Hose asked staff if it would be possible to have signage either in front of the store or in the store that would comply with the sign ordinance that would direct donations to the rear.

Mr. O'Brien stated there could be window signs directing customers to the rear of the store. He indicated the storefront also sat back somewhat as compared to the other stores that sat flush with the sidewalk.

Mr. Matejczyk noted that with the text amendment written so tightly, he did not see an issue of proliferation in the village and noted the amendment specifically applied to the case before the commission. It provided much control by the petitioner as well as village enforcement. He supported the proposal as it filled a need and he would not want to see it exit the village.

Mrs. Rabatah asked if there was another way the Village could accommodate the applicant without providing the text amendment and allow the Salvation Army to operate properly. Mr. O'Brien explained the Zoning Ordinance specified that second-hand stores needed to contain their operations inside of the building. He indicated staff worked hard to eliminate donation boxes from commercial properties in 2010. As such, given the Village's ordinances and recent actions, the only way for the Salvation Army to get an exterior donation center would be a text amendment.

Mr. Waechtler supported Mrs. Rabatah's comments.

Dialog was raised on what other organizations do in similar situations. The Chairman commented that he uses another organization and the process works well. He, however, believed the rear entrance was impractical, as he lived in the vicinity. However, given the economy, he believed any opportunity to encourage the residents to contribute to the community was beneficial and if done with appropriate limits, protection, and diligent wording, it was a positive for everyone. Chairman Jirik also questioned whether the wording was written so "tightly" that it could be taken advantage of. Furthermore, given the discussion by the applicant, he believed the applicant analyzed the issue and had a good business model which could be sustained.

Chairman Jirik made some minor changes to staff's recommendations (see underscored text):

1. The operator shall be a 501(c)(3) organization or other recognized charitable organizations;
2. (No change from staff's recommendation)
3. Located on the same lot or within the same shopping center within a specified area that is within 200 feet of the entrance of the Second Hand Store for which it is ancillary; and
4. The Exterior Donation Collection Facility may only operate when the Second Hand Store for which it is ancillary is open."

Mrs. Rabatah asked if the special use petition could be revisited within one year, should the economy improve. Mr. O'Brien said staff would not be in favor of a sunset provision for the text amendment. He indicated this would be hard to enforce.

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Mr. Matejczyk clarified his earlier comments regarding the economy were that he understood that the need had always been there and was started before the economy sank. He agreed that the business model was valid whether the economy was good or bad and did not see how the text could be made any tighter than it was.

Mr. Quirk thought the Chairman's modification to #3 was too narrow. He thought the applicant should be able to place the truck in a location in front of their store, but did not want to specify a distance.

Mr. Hose questioned whether the wording was too narrow and only one group, via testimony, could take advantage of it. While he liked the sunset provision, he believed there should be a certain amount of predictability in the Village's code. Although he was sensitive to removing the drop boxes, not allowing the truck, etc.; he stated the proposal did not fit with the nature of the B-2 zoning district and he was not convinced that it was necessary.

Chairman Jirik entertained a motion.

**WITH RESPECT TO FILE PC-09-11, MR. MATEJCZYK MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL TO APPROVE A TEXT AMENDMENT AS WRITTEN ON PAGE 5 OF STAFF'S REPORT, INCLUDING THE CHAIRMAN'S REVISIONS:**

**"EXTERIOR DONATION COLLECTION FACILITIES WHEN ANCILLARY TO A SECOND HAND STORE. SUCH SPECIAL USE SHALL BE LIMITED TO THE FOLLOWING:**

- 1. THE OPERATOR SHALL BE A 501(C)(3) ORGANIZATION OR OTHER RECOGNIZED CHARITABLE ORGANIZATIONS;**
- 2. ONLY VEHICLES MAY BE USED TO COLLECT DONATIONS. SUCH VEHICLE SHALL BE:
  - A. SHALL BE NO LARGER THAN 24 FEET IN LENGTH;**
  - B. STAFFED DURING THE HOURS OF OPERATION FOR THE SECOND HAND STORE FOR WHICH IT IS ANCILLARY;**
  - C. SHALL BE REMOVED DURING NON-BUSINESS HOURS FOR THE SECOND HAND STORE FOR WHICH IT IS ANCILLARY;****
- 3. LOCATED ON THE SAME LOT OR WITHIN THE SAME SHOPPING CENTER WITHIN A SPECIFIED AREA THAT IS WITHIN 200 FEET OF THE ENTRANCE OF THE SECOND HAND STORE FOR WHICH IT IS ANCILLARY; AND**
- 4. THE EXTERIOR DONATION COLLECTION FACILITY MAY ONLY OPERATE WHEN THE SECOND HAND STORE FOR WHICH IT IS ANCILLARY IS OPEN."**

**SECONDED BY MR. COZZO.**

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**ROLL CALL:**

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

**MOTION FAILED. VOTE: 4-5**

**WITH RESPECT TO FILE PC 09-11, MR. WAECHTLER MADE A MOTION THAT THE PLAN COMMISSION FORWARD A NEGATIVE RECOMMENDATION FOR THE TEXT AMENDMENT TO THE VILLAGE COUNCIL.**

**SECONDED BY MR. BEGGS. ROLL CALL:**

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

**MOTION FAILED: VOTE: 4-5**

**WITH RESPECT TO FILE PC-09-11, MR. QUIRK MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION FOR THE TEXT AMENDMENT TO THE VILLAGE COUNCIL INCLUDING THE CHAIRMAN'S COMMENTS FOR ITEM NOS. 1 AND 4 ONLY AND EXCLUDING CHAIRMAN'S COMMENTS TO ITEM NO. 3 AS FOLLOWS:**

**“EXTERIOR DONATION COLLECTION FACILITIES WHEN ANCILLARY TO A SECOND HAND STORE. SUCH SPECIAL USE SHALL BE LIMITED TO THE FOLLOWING:**

- 1. THE OPERATOR SHALL BE A 501(C)(3) ORGANIZATION OR OTHER RECOGNIZED CHARITABLE ORGANIZATIONS;**
- 2. ONLY VEHICLES MAY BE USED TO COLLECT DONATIONS. SUCH VEHICLE SHALL BE:
  - A. SHALL BE NO LARGER THAN 24 FEET IN LENGTH;**
  - B. STAFFED DURING THE HOURS OF OPERATION FOR THE SECOND HAND STORE FOR WHICH IT IS ANCILLARY;**
  - C. SHALL BE REMOVED DURING NON-BUSINESS HOURS FOR THE SECOND HAND STORE FOR WHICH IT IS ANCILLARY****
- 3. LOCATED ON THE SAME LOT OR WITHIN THE SAME SHOPPING CENTER WITHIN 150 FEET OF THE ENTRANCE OF THE SECOND HAND STORE FOR WHICH IT IS ANCILLARY; AND**
- 4 THE EXTERIOR DONATION COLLECTION FACILITY MAY ONLY OPERATE WHEN THE SECOND HAND STORE FOR WHICH IT IS ANCILLARY IS OPEN.”**

**SECONDED BY MR. MATEJCZYK.**

Mr. Waechtler expressed concern that the Commission was voting on the matter again with minor revisions. The Chairman commented that the first two motions did not meet a majority vote and a

majority had to vote in favor of to advance the motion. Further explanation followed by the Chairman on the differences for approval and denial.

Mr. Beggs stated he was not in favor of any text amendment and was concerned about passing a text amendment to satisfy a very individual need for a very individual location, regardless if it was a 501(c)(3) or for-profit. Dialog followed that the Village of Skokie did not have a text amendment.

Mr. Waechtler, in looking at the drop box photographs, expressed concern about the enforcement and the extra work forced upon the Village's code enforcement staff. He concurred with Mr. Beggs' comments.

Mr. Webster, while he stated he was not at the beginning of the meeting, understood the conversation and did read the prior minutes. He confirmed he was present at the deliberation portion of this meeting. Furthermore, he commented that the Commission was creating an opportunity for a special use and the Commission had created special uses, in the context of a text amendment, prior, and had similar concerns. However, given the way the text amendment was written, he believed it met the standards in staff's report. He questioned what was wrong with two or three other organizations in the Village who could meet these standards and have the same service to the community. He did not believe the Commission was giving anything to the petitioner that was so exceptional and believed the amendment was appropriate to an organization that the Village should keep.

**MR. HOSE MADE A MOTION TO AMEND CONDITION NO. 3 TO INSERT THE WORD "REAR" BETWEEN THE WORDS "THE" AND "ENTRANCE", TO READ AS FOLLOWS:**

**"EXTERIOR DONATION COLLECTION FACILITIES WHEN ANCILLARY TO A SECOND HAND STORE. SUCH SPECIAL USE SHALL BE LIMITED TO THE FOLLOWING:**

- 1. THE OPERATOR SHALL BE A 501(C)(3) ORGANIZATION OR OTHER RECOGNIZED CHARITABLE ORGANIZATIONS;**
- 2. ONLY VEHICLES MAY BE USED TO COLLECT DONATIONS. SUCH VEHICLE SHALL BE:
  - A. SHALL BE NO LARGER THAN 24 FEET IN LENGTH;**
  - B. STAFFED DURING THE HOURS OF OPERATION FOR THE SECOND HAND STORE FOR WHICH IT IS ANCILLARY;**
  - C. SHALL BE REMOVED DURING NON-BUSINESS HOURS FOR THE SECOND HAND STORE FOR WHICH IT IS ANCILLARY;****
- 3. LOCATED ON THE SAME LOT OR WITHIN THE SAME SHOPPING CENTER WITHIN 150 FEET OF THE REAR ENTRANCE OF THE SECOND HAND STORE FOR WHICH IT IS ANCILLARY; AND**
- 4. THE EXTERIOR DONATION COLLECTION FACILITY MAY ONLY OPERATE WHEN THE SECOND HAND STORE FOR WHICH IT IS ANCILLARY IS OPEN."**

**MR. WAECHTLER SECONDED THE MOTION TO AMEND.**

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To the amendment, Mr. Quirk confirmed the Salvation Army would be accepting donations in the truck at the rear of the store and prohibiting donations at the front. The truck would be in the rear only.

**ROLL CALL ON THE AMENDMENT:**

**AYE: MR. HOSE, MR. WAECHTLER,**

**NAY: MR. BEGGS, MR. COZZO, MR. MATEJCZYK, MR. QUIRK, MRS. RABATAH,  
MR. WEBSTER, CHAIRMAN JIRIK**

**MOTION FAILED ON THE AMENDMENT. VOTE: 2-7**

**ROLL CALL ON THE ORIGINAL MOTION (without the Amendment to Item No. 3 only):**

**AYE: MR. QUIRK, MR. MATEJCZYK, MR. COZZO, MR. WEBSTER, CHAIRMAN  
JIRIK**

**NAY: MR. BEGGS, MR. HOSE, MRS. RABATAH, MR. WAECHTLER**

**MOTION CARRIED. VOTE: 5-4**

Chairman Jirik offered an opportunity for Commissioners who voted in the negative to explain their position.

Mrs. Rabatah stated she made her comments prior but stated she did not believe the text amendment met the approval of *Section 28.1902(a) Standards for Approval of Special Uses*. She believed the Salvation Army, as it currently operated, was profitable.

Mr. Hose agreed with Mr. Beggs' comments about the uniqueness of this particular petition. He agreed the word "necessary" was open to interpretation and the term "desirable" was a subjective criteria and there could be items and trash outside the truck, which was a concern, which was why he recommended moving the donations to the rear of the facility.

Mr. Waechtler reiterated his earlier remarks and added that the Salvation Army was a worthy organization but other organizations picked up donations at front doors also. The argument about parking in front as being illegal, he understood, but stated there were plenty of parking spaces in front of the proposed facility or a window sign could be placed directing donations to the rear of the facility. He added it was burdensome to code enforcement and believed a proliferation would occur from other organizations.

Mr. Waechtler asked that the photographs submitted to the commissioners be brought to the Village Council for review, noting one of the photos depicted a mess around the drop boxes.

Mr. Beggs indicated that he stated his concerns earlier in the evening.

The Plan Commission took a 10-minute break at 9:25 p.m.

Chairman Jirik reconvened the public hearing for PC 09-11 at 9:35 p.m.

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He reminded the Commissioners and the public as to where the Plan Commission was in the proceedings for this petition. He indicated the Plan Commission voted to recommend approval of a text amendment. Chairman Jirik asked for a motion regarding the special use.

**WITH RESPECT TO FILE PC-09-11, MR. WEBSTER MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION FOR THE SPECIAL USE FOR THE SALVATION ARMY TO THE VILLAGE COUNCIL WITH THE FOLLOWING CONDITIONS:**

- 1. THE AREA AROUND THE EXTERIOR DONATION COLLECTION FACILITY SHALL BE SURVEYED DAILY AND KEPT FREE OF DEBRIS AND UNSECURED AND LOOSE MATERIALS.**
- 2. THE SPECIAL USE SHALL SUNSET IF THE CURRENT TENANT, SALVATION ARMY, VACATES THE TENANT SPACE AT 1520 75<sup>TH</sup> STREET.**
- 3. THE LOCATION OF THE EXTERIOR DONATION COLLECTION FACILITY SHALL SUBSTANTIALLY CONFORM TO THE SPECIFICATIONS ATTACHED TO EXCEPT AS SUCH SPECIFICATIONS MAY BE MODIFIED TO CONFORM TO VILLAGE CODES, ORDINANCES, AND POLICIES.**

**SECONDED BY MR. MATEJCZYK.**

Concern was raised by Mr. Waechtler regarding Item No. 1 and what exactly was being monitored and suggested refining the words "donation collection facility". He suggested adding the words, "and truck" after the word "facility." The chairman, however, clarified that should the village council approve the text amendment, other organizations would now interpret the definition Exterior Donation Collection Facility as a vehicle 24 feet long and staffed. The words "and truck" were not added.

Regarding staff's condition no. 1, Mr. Beggs voiced concern that the words "be monitored daily" were different from the facility being staffed during the hours of operation, wherein Chairman Jirik believed staff was wanting a prescriptive survey for trash and believed it should be made more clear, if necessary.

Mr. O'Brien agreed and stated staff was trying to eliminate the possibility that large items be left outside of the vehicle during the hours that it is staffed.

Mr. Hose suggested removing the words "monitored daily" in Condition No. 1 due to concerns about creating a daily log.

The Chairman preferred that the two words remain because the village was calling for the petitioner to check the area on a daily basis. However, he suggested to delete the word "monitored" and insert the words "surveyed" and after the words "kept free of debris and" delete the word "rubbish" and add the words, "unsecured and loose materials." Maker of motion and seconder accepted the refinements.

Additionally, with regard to Condition No. 1, Mr. Webster explained that the owner of the shopping center must also maintain the control of his tenants so that they were complying with the Village's property maintenance code so that Code Enforcement did not have to site visit. He noted that the

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tenant, i.e., the Salvation Army, who would have to meet the conditions of the special use, had to monitor the special zone that was created for them or they would be in violation of the special use.

Further dialog followed regarding clarification of Condition No. 3 and the fact that it was referring to a PUD concept. A thorough discussion followed regarding the comments and refinements being made as well as discussing the concerns about monitoring of the site.

**ROLL CALL ON THE SPECIAL USE (with minor refinements):**

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

**NAY: NONE**

**MOTION CARRIED. VOTE: 9-0**

**File PC-28-11** A petition seeking a final plat of subdivision to consolidate two parcels into one lot for the property located on the west side of Douglas Road at the intersection of Douglas Road and Otis Avenue, commonly known as 4524 Douglas Road, Downers Grove, IL (PIN 09-05-414-025); Chris Salmon, Stature Custom Homes, LLC, Petitioner; Michael Higgins, Owner.

Chairman Jirik swore in those individuals who would be speaking on File PC-28-11.

Village Planner, Stan Popovich, summarized the petition before the commissioners, noting it was to consolidate two parcels into one lot of record at 4524 Douglas Road. Site dimensions for the current two parcels followed, i.e., a 22-foot wide northern lot and a 60-foot wide southern lot with a single family home across the common property line. A deck and gazebo are also located on the adjacent portion of Lot 1. As proposed, the deck would be demolished and the gazebo would be relocated onto the new lot. In the future, Mr. Popovich reported the petitioners planned to construct a new single family home on the newly created lot of record.

Staff stated the proposal complied with the Future Land Use Plan, met the zoning lot dimensions in the R-4 zoning district, and complied with the village's Subdivision Ordinance. To date, a couple of neighbors inquired generally about the property. Overall, staff recommended that the Plan Commission make a positive recommendation to the Village Council with the single condition listed in staff's report.

A question was raised regarding the multiple lot sizes in various locations, to which Mr. Popovich proceeded to explain the various tracts and the cleanup that staff was trying to accomplish by providing buildable lots to this petitioner as well as the following petition (PC-33-11). Chairman Jirik also elaborated on the previous swapping of these small lots in prior years and the decision to consolidate some of the lots to provide a coherent basis to move forward on a parcel. Another question followed as to the new location of the gazebo and confirmation that it would be on the new lot along with a primary structure.

Petitioner, Mr. Christopher Salman, 943 Maple Avenue, Downers Grove, stated that staff covered the presentation well and just added that he did review the three lots together and lots to the south of these properties were 50 feet wide down Douglas Road. The house built at 4516 Douglas is on an 82-foot wide lot and he believed the proportion of the lots were consistent with the neighborhood.

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Mr. Waechtler confirmed with Mr. Salman that the existing gazebo would be relocated and not newly constructed.

Chairman Jirik opened up the meeting to public comment. None followed. Public comment closed.

**WITH RESPECT TO FILE PC-28-11, MR. WAECHTLER MOTIONED THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL, SUBJECT TO STAFF'S ONE CONDITION LISTED BELOW:**

- 1. THE FINAL PLAT OF SUBDIVISION SHALL SUBSTANTIALLY CONFORM TO THE M&L HIGGINS SUBDIVISION NO. 1 PLAT PREPARED BY RIDGELINE CONSULTANTS, LLC, DATED AUGUST 29, 2011 AND ATTACHED TO THE STAFF REPORT EXCEPT AS SUCH PLANS 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. MATEJCZYK, MR. QUIRK, MRS. RABATAH, MR. WEBSTER, CHAIRMAN JIRIK**

**NAY: NONE**

**MOTION CARRIED. VOTE: 9-0**

**File PC-33-11** A petition seeking a final plat of subdivision to consolidate two parcels into one lot for the property located on the west side of Douglas Road approximately 70 feet south of the intersection of Douglas Road and Otis Avenue, commonly known as 4532 Douglas Road, Downers Grove, IL (PIN 09-05-414-027); Chris Salmon, Stature Custom Homes, LLC, Petitioner; Michael Higgins, Owner.

Mr. Popovich reviewed the site plan and location of the proposal noting the petitioner would like to consolidate two parcels into one lot and create a 50-foot wide by 150-foot deep lot. Again, the current property was made up of portions of Lot 1 (4528 Douglas Road) and Lot 2 (4532 Douglas Road). He explained that the petitioner undertook a lot reconfiguration that reconfigured the property lines of Lots 1 and 2 and provided the southern six feet of Lot 1 to Lot 2. The administrative reconfiguration however did not create a buildable lot of record for Lot 2, the subject of this petition. Mr. Popovich reported that the original Lot 1 remained a buildable lot of record and the only action being required was for the former Lot 2 to create a buildable lot of record. The property is currently vacant and is being considered for a future newly constructed single-family home.

Staff reported the proposed use would be consistent with the Future Land Use Plan; it met the Zoning Ordinance lot dimensions in the R-4 zoning district, and it complied with the village's Subdivision Ordinance. Any drainage concerns would be addressed at the building permit stage. To date, the same couple of neighbors as the previous petition inquired generally about the property.

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Overall, staff recommended that the Plan Commission make a positive recommendation to the Village Council with the single condition listed in staff's report.

The petitioner, Mr. Christopher Salman, 943 Maple Avenue, Downers Grove, spoke and stated that staff covered the presentation well and restated that traveling south on Douglas Road, most lots were 50 feet wide. He believed the proposal was the highest and best use for the land and said there was a possible buyer for the land, with construction possibly starting this fall.

Mr. Waechtler believed this proposal as well as the prior proposal were great improvements.

Chairman Jirik opened up the meeting to public comment. None followed. Public comment closed.

The petitioner provided no closing statement.

**WITH RESPECT TO FILE PC-33-11, MR. COZZO MOTIONED THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL, FOR APPROVAL OF A FINAL PLAT OF SUBDIVISION, SUBJECT TO THE CONDITION BELOW:**

- 1. THE FINAL PLAT OF SUBDIVISION SHALL SUBSTANTIALLY CONFORM TO THE M&L HIGGINS SUBDIVISION NO. 2 PLAT PREPARED BY RIDGELINE CONSULTANTS LLC., DATED AUGUST 29, 2011 EXCEPT AS SUCH PLANS MAY BE MODIFIED TO CONFORM TO THE VILLAGE CODES AND ORDINANCES.**

**SECONDED BY MRS. RABATAH.**

**ROLL CALL:**

**AYE: MR. COZZO, MRS. RABATAH, MR. WAECHTLER, MR. HOSE, MR. BEGGS, MR. MATEJCZYK, MR. QUIRK, MR. WEBSTER, CHAIRMAN JIRIK**  
**NAY: NONE**

**MOTION CARRIED. VOTE: 9-0**

A change in the agenda followed:

**File PC-30-11** A petition seeking a final plat of subdivision to consolidate two lots into one lot for the property located on the south side of Norfolk Street, approximately 230 feet west of Main Street, commonly known as 1019 Norfolk Street, Downers Grove, IL (PIN 09-20-110-024) Keith Neumann, Petitioner; Greenscape Homes, Owner.

Chairman Jirik swore in those individuals speaking on File PC-30-11.

Village Planner, Damir Latinovic, pointed to the site on the overhead and stated it was for a final plat of subdivision to consolidate two lots (one parcel 50-foot wide and the other parcel 25 feet wide), currently improved with a single-family residence and detached garage. The petitioner intended to demolish the existing structures and construct a new single-family residence.

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Per staff, the proposed use would be consistent with the Future Land Use Plan. It met the lot dimension requirements for the R-4 zoning district and it complied with the Village's Subdivision Ordinance. The new lot would be 75 feet wide by 155 feet deep. No exceptions were being requested from the Subdivision Ordinance. All required easements would also be provided. To date, Mr. Latinovic stated no neighbors inquired about the property. Overall, staff supported the proposal and recommended that the Plan Commission make a positive recommendation to the Village Council with the single condition listed in staff's report.

Petitioner, Mr. Keith Neumann, 4355 Weaver Parkway, Warrenville, IL, commended staff for their presentation and summarized that he already submitted for a building permit. The house would be approximately 60 feet wide.

Mr. Waechtler commented on the positive improvements he has seen in the area and agreed the proposal would be a good addition.

Chairman Jirik opened up the meeting to public comment. None followed. Public comment closed.

The petitioner provided no closing statement.

**WITH RESPECT TO FILE PC-30-11, MRS. RABATAH MOTIONED THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL, FOR APPROVAL OF A FINAL PLAT OF SUBDIVISION, SUBJECT TO STAFF'S ONE CONDITION BELOW:**

- 1. THE FINAL PLAT SHALL SUBSTANTIALLY CONFORM TO THE 1019 NORFOLK SUBDIVISION PLAT PREPARED BY HAEGER ENGINEERING, LLC., DATED AUGUST 11, 2011, LAST REVISED AUGUST 22, 2011 ATTACHED TO STAFF REPORT DATED SEPTEMBER 12, 2011 EXCEPT AS SUCH PLAT MAY BE MODIFIED TO CONFORM TO THE VILLAGE CODES AND ORDINANCES.**

**SECONDED BY MR. WAECHTLER.**

**ROLL CALL:**

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

**NAY: NONE**

**MOTION CARRIED. VOTE: 9-0**

**File PC-31-11** A petition seeking a final plat of subdivision to consolidate two lots into one for the property located on the south side of Austin Street approximately 125 feet west of Douglas Road, commonly known as 511 Austin Street, Downers Grove, IL (PIN 09-09-08-217-034); Keith Neumann, Greenscape Homes, Petitioner and Owner.

Chairman Jirik swore in those individuals speaking on File PC-31-11.

Mr. Popovich summarized the petitioner was seeking to consolidate to two lots and two vacated alleys into one single lot of record, measuring 64 feet wide by 150 feet deep, zoned R-4 Single Family Residential. The property was made up of two 25-foot wide lots (lots 11 and 12) by 143 feet deep. The property also includes a 14-foot wide vacated alley on the east and seven feet of a vacated alley to the south. Currently the site includes one single-family home and a detached garage. The petitioner planned to consolidate the lots and construct a new single-family home.

Per staff, the proposed use would be consistent with the Future Land Use Plan; it met the zoning lot dimensions in the R-4 zoning district, and it complied with the Village's Subdivision Ordinance. The new lot would meet all width and depth requirements and no exceptions were being requested from the Subdivision Ordinance. Appropriate easements would be provided and drainage would be addressed at the permitting stage. To date, Mr. Popovich reported that there were a couple of general inquires received regarding the lots but no objections. Overall, staff supported the consolidation proposal and recommended that the Plan Commission forward a positive recommendation to the Village Council with the single condition listed in staff's report.

Petitioner, Mr. Keith Neumann, 4355 Weaver Parkway, Warrenville, IL, reiterated he was seeking to consolidate two lots into one lot, making the lot 64 feet by 150 feet.

Per a question from Mr. Waechtler, Mr. Neumann stated the current house was not occupied.

Mr. Waechtler, again, commented positively regarding the improvements occurring on the block and agreed the proposal would be a good addition to the street.

Chairman Jirik opened up the meeting to public comment.

Mr. David Trinka, 623 Austin Street and 4944 Douglas Road, Unit 303, Downers Grove, asked the Commission for additional time so that he could seek legal counsel to present a petition on behalf of his condominium association to obtain the south 7 feet of the vacated alley. He asked that the petition be denied or postponed due to correspondence he received from staff responding to a question he sent to the Village last year regarding the Village having no plans for vacating, selling or improving any properties within the Gostyn Subdivision. At that time, he said the Village indicated it had no plans. He preferred that the condominium association have time to respond.

Mr. Trinka raised concerns he had regarding the lot dimensions for this particular block. He indicated the subdivision was recorded circa 1889. He noted the lots for the subdivision always had a depth of 125 feet. He stated the Village filed a new plat of survey with new dimensions. Mr. Trinka indicated that he has not, to date, been contacted by a representative of the Village to sign any new corrected plat of survey and that no notification was made to him nor were any signatures received by the Village for the new plat of survey. For those reasons, he asked that the petition be declined or postponed.

Chairman Jirik clarified that the Commission was not being asked to approve a right-of-way vacation, wherein Mr. O'Brien stated the alleys (southern portions) were previously vacated to the developer of the condominium association in the 1970s to facilitate the construction of the condominiums. The north half of the east-west alley was vacated to the resident at 511 Austin Street and the neighbor along Douglas Road while the north-south alley immediately north of the

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condo property was also vacated to 511 Austin Street. The Village had the vacation ordinance and plat on file. Mr. O'Brien stated Mr. Trinkka could contact the Village Clerk for copies of the same.

Chairman Jirik explained to Mr. Trinkka the reason why a vacated alley was on tonight's agenda, as it related to the lot consolidation before the Commission. Mr. O'Brien also clarified to Mr. Trinkka that the question of ownership was not being discussed since the vacated alley was already deeded to the owner of 511 Austin Street in the 1970s.

In order to resolve the legal issues being raised, Mr. Beggs thought it best to get them resolved by the parties involved; the Chairman agreed.

Lastly, Mr. Trinkka questioned how the seven feet could have been vacated and owned by the 511 Austin owner that did not own the depth between 125 feet and 143 feet.

Mr. O'Brien explained that the specific block under discussion and to the east, had lots that were 143 feet deep and included a 14-foot alley in between. However, he specified that the block under discussion was recorded in the 1880s with lots of 125 feet and the error was discovered two to three years ago when an applicant filed for an alley vacation.

Mr. O'Brien indicated that the Village had the block surveyed in 2010 and confirmed the dimensions of the block and lots. He noted that the Village notified the property owners that this action was occurring, but no changes to actual property lines or sizes would occur. He also noted that there were no costs to the residents associated with this action. Mr. O'Brien indicated that the Township Assessor was already assessing property owners for lots that are 143 feet deep. He explained the plat of vacation that was prepared in the 1970s indicated lots in this block are 143 feet deep.

Mr. Trinkka believed legal issues existed and he wanted more time for the issues to be addressed. Asked if he felt he would be negatively harmed by the petition on the floor, Mr. Trinkka believed there was a potential interest in the property itself with regard to the 7-foot vacated alley to the north.

Chairman Jirik verified that Mr. Trinkka was objecting to the owner's claims of ownership to the 7 feet.

Mr. Webster pointed out that the condo parcels already had seven feet of the vacated alley and that Mr. Trinkka was referring to the northern seven feet.

Mr. Dave Hegarty, 4944 Douglas Road, Downers Grove, questioned the commissioners whether the seven feet of grass was the northern part of the alley or the southern part because if it was the southern part, he would object to the petition.

Mr. Popovich pointed out the property lines on the overhead photo.

There being no more comments, public comment was closed.

Based on what was heard by the public, commissioners favored deferring the matter.

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Mr. Webster commented that staff seemed firm in its information on this matter and asked staff whether there was any legality in the consolidation.

Mr. O'Brien stated that Village staff has a vacation ordinance, a recorded plat of vacation, survey evidence, etc. However, he indicated that a member of the public asked to have the case continue to gather additional information. As such, Mr. O'Brien explained the Plan Commission should continue the request so the Commission has all of the information before forwarding a recommendation to the Council. He indicated the resident could obtain the records from the Village's files, present it to his attorney and his attorney could contact the Village Attorney if there were concerns about the legality of the property transfers.

The Chairman believed, so not to encumber the petitioner, that the matter be continued for 30 days since the land was vacated back in 1978 and it was deeded to the owner. A discussion followed on how to proceed.

Petitioner, Mr. Neumann raised concern, stating there was a timing issue as he just pulled permits for a six-foot fence that will be installed shortly, and it could affect adjacent property owners. He asked the commissioners if there was a way to approve with conditions.

The Chairman asked if the commissioners would be interested in forwarding a positive recommendation with a stipulation that the petition not be forwarded to the Village Council unless and until accompanied with sufficient documentation validating that the alley was vacated.

Mr. Webster thought it was a good compromise.

Mr. O'Brien believed the documentation could be easily produced and recommended continuing the matter. He noted the item could be fast-tracked at the Council level if the issues could be resolved. He preferred that the commissioners review the vacated alley documents and the matter return in October.

Resident, Mr. Ron McCluskey, 4944 Douglas Road, Unit 203, Downers Grove, stated that back in the 1970s, the 14-foot alley was vacated and divided in half with each side receiving into their deed the seven feet and it was forever and he did not see why the matter should be continued. He believed the petitioner should be able to do what he wanted to do.

Mr. Waechtler concurred but was comfortable having the documentation in front of him.

Mr. McCluskey asked the Chairman if he could speak to Mr. Trinko outside in the hallway to resolve some issues. The Chairman then entertained a motion to suspend the above for File PC-29-11.

**MR. BEGGS MADE A MOTION TO SUSPEND ACTIVITY ON FILE PC 31-11 TO LATER IN THE MEETING.**

**SECONDED BY MR. HOSE.**

**MOTION CARRIED BY VOICE VOTE OF 9-0.**

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(See discussion of PC-29-11 below)

The commission returned to the public comment portion of File PC-31-11.

Mr. Trinka asked to see the plat of survey from the builder and asked if the petitioner could explain where a fence would be installed.

Mr. Neumann stated his intent was to install a fence along the southern property line of his portion of the vacated alley. He believed the new fence would line up with the fence to the east but he also stated he did not know whether the other property owner had his fence on the property line or not.

On behalf of himself and three of the condominium association members, Mr. Trinka withdrew his objection regarding the alley vacation and property ownership.

Hearing no further public comments, public comment was closed. The petitioner had no closing statement.

Chairman Jirik noted that because the objection had been withdrawn, he thought the Plan Commission had all of the necessary information on this request and could forward a recommendation to the Village Council.

**WITH RESPECT TO FILE PC-31-11, MR. WAECHTLER MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL FOR A FINAL PLAT OF SUBDIVISION, SUBJECT TO THE CONDITION BELOW:**

- 1. THE FINAL PLAT OF SUBDIVISION SHALL SUBSTANTIALLY CONFORM TO THE FINAL PLAT OF SUBDIVISION PREPARED BY HAEGER ENGINEERING, LLC., DATED AUGUST 22, 2011 EXCEPT AS SUCH PLANS MAY BE MODIFIED TO CONFORM TO THE VILLAGE CODES AND ORDINANCES.**

**SECONDED BY MR. QUIRK.**

**ROLL CALL:**

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

**NAY: NONE**

**MOTION CARRIED. VOTE: 9-0**

**File PC-29-11** A petition seeking an amendment to Article XV, Signs, of Chapter 28 of the Municipal Code. The purpose of the request is to amend certain sign regulations. Village of Downers Grove, Petitioner.

Mr. O'Brien reported that this amendment amended the garage sale signs from being placed on village rights-of-ways for not only Fridays, Saturdays and Sundays, but to include federal holiday

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Mondays. There would be no impact to the Village's enforcement practices because there currently is minimal sign enforcement on holidays. Mr. O'Brien explained how the ordinance would be modified to read, as drafted in staff's memo. The other provision of the code amended the sign height and size requirements for large B-3 zoned property that were exactly 100 feet wide. The amendment addressed Section 28.1502.01(A)(1) for signs that were 10 feet in height and 36 square feet by changing "101-259 (ft)." to "100-259 (ft)" in order to match the original sign ordinance requirements.

Mr. O'Brien noted that no public comments have been received regarding this modification.

Mr. Hose noted that the holiday amendment was brought up at a Village Council meeting.

Staff believed the text amendment was appropriate and did not impact the intent of the Village's original adoption of the amended sign ordinance. Staff recommended approval of the petition.

Chairman Jirik opened up the meeting for public comment. No public comment followed. As such, the Chairman closed public participation.

**WITH RESPECT TO FILE PC-29-11 MR. WEBSTER MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL FOR THE TWO ABOVE TEXT AMENDMENTS TO THE SIGN ORDINANCE.**

**SECONDED BY MR. MATEJCZYK.**

**ROLL CALL:**

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

**NAY: NONE**

**MOTION CARRIED. VOTE: 9-0**

Mr. O'Brien referenced the copies of this quarter's *Commissioner* on the dais. He reported the Comprehensive Plan is scheduled for a first reading at the Village Council on September 20, 2011. Staff also welcomed new commissioner, Mr. Hose.

(Return to File PC-31-11 discussion above.)

**THE MEETING WAS ADJOURNED AT 11:29 P.M. ON MOTION BY MR. WEBSTER, SECONDED BY MRS. RABATAH. MOTION CARRIED UNANIMOUSLY BY VOICE VOTE OF 9-0.**

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