1  CITY OF EVANSTON
2  PLAN COMMISSION
3 RE: CONTINUATION - DRAFT DOWNTOWN PLAN AND ZONING
4 RECOMMENDATIONS. The Downtown Plan Committee of the
5 Plan Commission has been leading a downtown planning
6 process. Residents, businesses, institutions, and other
7 property owners have participated throughout the process
8 and have provided their ideas for the future of
downtown.
9 A Transcribed Report of Proceedings of a public
10 hearing on the above captioned matter, held July 16,
11 2008 at the Evanston Civic Center, 2100 Ridge Avenue,
12 Council Chambers, Evanston, Illinois, at 7:08 p.m. and
13 presided over by James Woods, Chair.
14 PRESENT:
15 J. WOODS, Chair     A. HUNTER
16 S. OPDYCKE, Vice Chair  J. NYDEN
17 C. BURRUS     R. SCHULDENFREI
18 S. FREEMAN     C. STALEY
19 D. GALLOWAY     L. WIDMAYER
20 STAFF:
21 D. MARINO     T. NORFLEET
22 B. DUNKLEY

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CHAIRMAN WOODS: I'd like to call to order the Evanston Plan Commission Meeting of Wednesday July 16, 2008 and it's 7:08 p.m.

We do in fact have a quorum, and we have, the first order of business the July 9th meeting minutes.

COMMISSIONER FREEMAN: Move to approve the minutes.

COMMISSIONER STALEY: Second.

CHAIRMAN WOODS: Any discussion, questions, comments on the meeting minutes of July 9th? Hearing none, all in favor of approving the July 9th meeting minutes say aye.

(Chorus of ayes.)

CHAIRMAN WOODS: The next order of business is the continuation of the Draft Downtown Plan and Zoning Recommendations, and I'd guess we'd like to get brought up to date with everything we got.

MR. BISHOP: Yes, Mr. Chairman, Kirk Bishop from the consulting team. I believe distributed in advance of the meeting, probably on Monday, was a kind of a markup of the stacks that was reviewed last time, I think with a heavy emphasis on the public benefit bonus provisions.
As you all will recall, we spent considerable time sort of going through to see which items even made the list of possibly available public benefit bonuses. There are a number of other placeholders that we added to the draft for issues that we discussed.

But given the short amount of time meetings we weren't able to sort of fully develop some of the, some of the things that we did discuss including a possible limit that we might place on parking, the height limit on parking floors within large Mixed Use buildings.

And something that wasn't in the packet that was distributed Monday as well was proposed language for the, that might, that we might use or might propose at least to be used for the streetscape and alley improvement bonus.

Many of you will probably remember that we discussed at length whether or not the streetscape and alley improvements was an item was, that should be bonusable under the system.

I think, understandably, many people were sort of uncomfortable even voting on whether it should be included because the sort of threshold criterion for getting in the door to even ask for it, how much of the
block would one have to do in order to be even eligible for consideration for that bonus wasn't, I think, very clearly laid out in the ordinance. Since that time we've taken a crack at that language, and I think Tracy distributed that tonight. There's a one-pager that was handed out tonight along with the rankings that you used that includes our first crack at more definitive language for the threshold criterion of at least the entire block face of the, of the block that the building, the new building fronts on. And if a fronts on multiple blocks then both block faces. And the same is true for alley improvements.

So perhaps that will provide enough guidance for people to maybe sort of reconsider whether, again, whether or not the streetscape and alley improvement public benefit bonus should be added to the list or not.

Also on that one-pager is a proposal for limiting the height of parking floors in a DC district. This came about, just to kind of remind us all and for me to retrace my footsteps, we talked at length about whether or not, I think people were very, very supportive of the idea of underground parking.

And I think we, I think the Plan Commission
agreed to sort of add that the list. There was a sort
of consensus opinion that it should be added to the list
of available bonus items.

There was some consideration about whether or
not we should require it. And I think we had suggested
that we might provide even more incentive to use the
underground parking bonus, or to put parking underground
if we were to limit the height of any parking floor
within a building at some, at some levels.

So that if one was, if one was proposing a
building and it needed more parking then you could put
above, we proposed 52 feet in height for the DC
district, that would essentially be about four stories
up if you think about a 18 to 20 foot ground floor,
three floors of parking at about eight per floor.

Our thinking here is that if the building
needs, if it needs more parking, that it would require
an extra floor parking you'd have to go underground.

Or the alternative, I think it's suggested in
the language that we handed out there was as an
alternative to prohibiting parking above some level,
again, we propose 52 feet for the DC district where we
think is really the most, is most applicable, that's why

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we address DC and not the others.

The alternative to prohibiting parking above that height would be to say, any parking above that height counts as floor area for the purposes of calculating the buildings FAR.

You remember last time, again, that we had a lengthy discussion of what counts as floor area for the purposes of calculating FAR. Parking is not, is never counted under the existing definition of floor area. So this might be another way to sort of incentivize people to get creative about how to address parking.

The other benefit of this, I guess, or implication may be a better word, is that as buildings get bigger and the parking demand is greater you've got to get very creative in terms of how you address, you address your parking needs.

If you decide you need a bigger parking podium and don't want to go underground that's going to, that's going to cost you leaseable or saleable floor space in the building.

COMMISSIONER FREEMAN: We're already determined that we're not going to be able to go more than two feet down.
MR. BISHOP: Two floors, yes.

COMMISSIONER FREEMAN: Two floors, I meant two floors B-

MR. BISHOP: Of course.

COMMISSIONER FREEMAN: -- down, because of water. So how much of an incentive is it really though if you need significant parking? I mean, is it that much of an incentive?

MR. BISHOP: Well, the bonus itself is a considerable incentive, or it's at least meant to partially offset that cost. It'll be a fairly generous incentive in terms of its, in terms of how it's calculated.

And if we add to it this limit on the height of any parking floor, or add the provision that parking above that height counts as floor area, I think it really will push people to underground parking to, for at least a portion of the buildings parking. Which is, I think, all we can realistically hope for given the water table and construction cost issues related to underground parking.

COMMISSIONER HUNTER: How did you arrive at the 52 again, quickly, I mean, I don't mean to
reiterate.

MR. BISHOP: A ground floor of 20 feet, 20 foot very generous ground floor, retail frontage, and then three parking floors at eight, eight foot floor to ceiling per floor. 32 plus 20, that got us to 52.

COMMISSIONER HUNTER: And, but how did you arrive at the three floors?

MR. BISHOP: Looked at a couple of, of recent projects, typical sort of parking bases on buildings and thought, well, three, I think three floors will get them to a sort of minimum requirement. They might need four, in which case we will get some underground parking.

So it was kind of based on typicals and a kind of, sort of gut hunch about what would be reasonable.

COMMISSIONER HUNTER: And would the three floors, based on, you say looking at stuff in Evanston?

MR. BISHOP: Yes.

COMMISSIONER HUNTER: And which buildings in particular, I mean, would be an example of that?

MR. BISHOP: Well, I don't know that, I'm not sure I can tell you any that, that count to three floors. But I looked at Sherman Plaza, 708 Church proposed, and one other. I'd have to B-
COMMISSIONER HUNTER: Yes.

MR. BISHOP: Tom helped pull some files for me, and I'm, I can't remember the third.

COMMISSIONER HUNTER: Thank you.

COMMISSIONER STALEY: So what do you really mean by floors when you're talking about the elevation? Are you talking about the floor that you actually would park on, or are you talking about the ceiling of the, basically the garage envelope?

MR. BISHOP: The floor, good question. If the floor, if the top of the floor elevation itself exceeds the 52 feet under, at least under this proposal, that'd be the threshold, not the top of the, not the bottom of the ceiling of that, of that floor as a three dimensional space, but as a flat plain.

COMMISSIONER STALEY: You might want to clarify that. I think I understood it that way, but I, I think you could interpret it kind of two different ways.

MR. BISHOP: Yeah, yeah. I had intended, I had intended that final sentence, but I'm sure it's inartfully done and we could make it a little clearer. And perhaps a, this is B-
COMMISSIONER STALEY: A diagram.

MR. BISHOP: A diagram would probably be worth a thousand words.

CHAIRMAN WOODS: I guess I'm struggling with the 52 feet. Three floors of eight gives you 24, plus 20 foot first floor for retail or whatever, would get me to 44 feet. And B-

MR. BISHOP: Okay. I must be wrong. I assumed four B-

CHAIRMAN WOODS: Four floors?

MR. BISHOP: Well, and B-

COMMISSIONER STALEY: No.

CHAIRMAN WOODS: what about the structure though?

MR. BISHOP: Four times eight, 32 plus 20.

CHAIRMAN WOODS: You're talking about four floors?

COMMISSIONER HUNTER: Yes, so it must have been four B-

MR. BISHOP: Yeah, that is right, I'm sorry, I mis-spoke about what we were, sort of how we, how we came up with the 52.

COMMISSIONER HUNTER: to go back to Charles's
question, with the parking garage you've got slanted
floors and how many you squeeze in. So it's the
envelope of 52?

MR. BISHOP: Yeah, we, you know, that's a good
question as well. It may be that if we, if we embrace
this as a concept, and I think that's a, sort of a if-y
proposition at the moment, we might need to go with some
sort of median, you know, a halfway point on the
slanting floor.

But, yes, 52 feet to the top of the floor that
the cars are actually parked on B-

COMMISSIONER HUNTER: Yes.

MR. BISHOP: -- is the intent of the language.

CHAIRMAN WOODS: I guess, personally, I'd be
more comfortable with 44, and then anything above that
counts against FAR.

COMMISSIONER GALLOWAY: Yes.

CHAIRMAN WOODS: Yes, Robin?

COMMISSIONER SCHULденFREI: Yes, I would also
concur. I mean, I consider it, I continue to be
concerned that we are creating a plan in which we'll see
a lot of ill-screened parking. I had hoped that the
habitable building wouldn't just be a bonus, but more,
more integrated into the requirements.

And this FAR question with the parking, basically free parking in the FAR is a concern to me. If we're going to do it I'm not sure that four floors essentially, you've got the ground floor but then three. I mean, that visual pedestrian experience, I think, becomes degraded.

I could give them one free parking floor, I guess, if really pushed. But, I mean, four stories, again, the pedestrian environment. I mean, maybe you put the four stories way above, you know, if it's over 20 feet, 20 stories or something. But again, we're really degrade, are we degrading our pedestrian experience by allowing this FAR in there and what's the overall experience. But I'd like to hear from others.

CHAIRMAN WOODS: David?

COMMISSIONER GALLOWAY: I think we need to reach a balance between the economic viability and our goals to put parking below ground, and to shield any parking at least as far as it's visually apparent to a pedestrian.

And we discussed a number of ways in which, in
which we could shield or conceal the parking, whether
it's by standards of how the facade is treated or by
wrapping the parking with, with occupiable space.

There's, you know, I'm inclined to, you know,
without a lot of great, without a lot of investigation
or time spent thinking about to, to agree with Jim that
maybe 44 feet is, is the highest. And then after that
you either take on FAR or you get increased height by
putting some parking below grade.

But I think what would help is if, is if we
could see some, some modeling of this, you know. Give
us an example of, of a lot, of a viable lot in this area
and what the ramifications of what we're talking about
would be for the development of that specific lot.

COMMISSIONER SCHULDENFREI: Yes.

MR. BISHOP: Well, as the, during the
implementation phase when the actual ordinance language
is, is worked up and proposed for your review, I'm sure
some models and diagrams could be provided.

I think what we respectfully request at this
time is just some sort of basic parameters of guidance
for what you'll be looking for when that language comes
back to you as full ordinance language as opposed to
this more conceptual approach.

COMMISSIONER SCHULDENFREI: Right. But here we've got 52 feet, so then when we're doing the zoning it's going to be hard to get it down to 44.

CHAIRMAN WOODS: Oh, I don't think so.

COMMISSIONER SCHULDENFREI: Oh, we can just do that even if it's in the plan?

CHAIRMAN WOODS: Certainly when we went through the Central Street process we changed numbers all over the place.

COMMISSIONER SCHULDENFREI: That weren't in the, will this language be added to this document, or this is just a supplementary piece of information? I guess where the numbers are count, right? Because B-

CHAIRMAN WOODS: I don't get, know whether at the end of our review process here what form document goes forward to P&D and whether their, all the edits will be in a, in a new version of this, or whether it will be this with a whole bunch of attachments.

COMMISSIONER SCHULDENFREI: Yes. But that makes a difference, Jim, if B-

CHAIRMAN WOODS: Well, I think so to. I'm just B-
COMMISSIONER FREEMAN: I mean, I would like to see a new version for us B-

CHAIRMAN WOODS: -- asking because I don't know.

COMMISSIONER FREEMAN: -- right now.

MR. DUNKLEY: It may make sense to have the, the new clean version plus identification of all of the amendments.

COMMISSIONER SCHULDENFREI: But, Jim B-

CHAIRMAN WOODS: Yes.

COMMISSIONER SCHULDENFREI: -- the distinction I'm kind of wondering about, once you had the Central Street Master Plan as a document, as a bound document, those numbers didn't really change. You did the zoning that was behind those numbers.

CHAIRMAN WOODS: No, no, no, no, no.

COMMISSIONER SCHULDENFREI: You can change B-

CHAIRMAN WOODS: We changed the numbers.

COMMISSIONER SCHULDENFREI: Even in the document that had been reviewed B-

CHAIRMAN WOODS: Absolutely.

COMMISSIONER SCHULDENFREI: -- and passed by
CHAIRMAN WOODS: Absolutely.

COMMISSIONER SCHULDENFREI: Okay, that's good.

CHAIRMAN WOODS: Because you've got to separate the conceptual master plan from the actual zoning. Right now we're doing the conceptual master plan, the actual zoning is Johanna's committee.

COMMISSIONER SCHULDENFREI: Right. But where they're contra-distinctioning, you make on decision in zoning, then did you go back and change B-

CHAIRMAN WOODS: We actually did change a couple of zones, I believe, in the final Central Street document.

COMMISSIONER SCHULDENFREI: Okay, and then repassed it B-

MR. DUNKLEY: We always went back to the plan to understand what the intent was. And we really drew the line in changing any of that that was already approved.

I'd like to weigh in on the, on the subject of
metrics. Bill Dunkley, Zoning Administrator, for the record.

I would like to caution you in any, in every way in altering some of the basic definitions of metrics that we have used for years. I really hate to be the voice of conservatism, but it's, in this case there is a really big impact on the way we administer the Zoning Ordinance.

If we change, for instance, our definition of FAR for a particular district we are running into all sorts of problems with being able to compare anything within that district to any other location in the city, as well as anything in the, calculated in that district from anything calculated before in that district. Plus, we open ourselves up for risks in making, in making errors.

The way we calculate something is just that, it's the way we, we have calculated it. It doesn't determine policy. There are other ways of getting to what it is we need to do or want to do.

But I'd caution you against making those wholesale changes in some of the, in some of the, the traditional ways we have calculated things. They are...
what they are. If there's a citywide need to alter that, a compelling one, then we should consider it. But I'd caution you in where, where that may lead.

CHAIRMAN WOODS: So you're saying you would recommend, Bill, against the idea of parking above a certain height suddenly being counted against FAR?

MR. DUNKLEY: Yeah, I would. Again, if we can come to use the FAR metric and then come to another metric that may add back in a value so that we can still, when we say this building has, achieves a certain FAR and it is measured against a, a maximum value, that's comparable both historically and geographically.

CHAIRMAN WOODS: Robin?

COMMISSIONER SCHULDENFREI: But my reading, but my reading of the code, it generally specifies what can be devoted to accessory parking decks as separate from the FAR within the building height.

So how does that, those essentially free parking decks that you get right now, for instance, in D3 it reads, the maximum height in the D3 district is 85 feet, building height B-

CHAIRMAN WOODS: Well, there's two separate issues, I believe.
COMMISSIONER SCHULDENFREI: Right.

CHAIRMAN WOODS: Parking decks never count against FAR in the City of Evanston's Zoning Ordinance. What they do do is count against height with the exception of certain zones. And this one says you get no free ride on height.

COMMISSIONER OPDYCKE: But I don't think it does say that. In the text I didn't see that specific reference and it should be in there about parking not, not counting for purposes of FAR, but counting for purposes of height.

CHAIRMAN WOODS: I don't think it says one way or the other in this text whether it counts for or against FAR, because it's following the City of Evanston's Zoning Ordinance definition of FAR, which does not include parking in FAR.

COMMISSIONER OPDYCKE: Okay.

CHAIRMAN WOODS: But what it does specifically, I believe, say someplace B-

COMMISSIONER OPDYCKE: Things like antennas on top are not used in the calculation of overall height. Antennas, and cooling equipment, electrical appliances and so on.
CHAIRMAN WOODS: And it says somewhere in here that all above grade parking counts towards building height.

COMMISSIONER SCHULDENFREI: So that gets counted.

CHAIRMAN WOODS: Right B-

COMMISSIONER SCHULDENFREI: Right?

CHAIRMAN WOODS: -- there.

COMMISSIONER NYDEN: That essentially B-

CHAIRMAN WOODS: 2,3,1-C.

COMMISSIONER OPDYCKE: 2,3,1-C. Well, you know, it doesn't B-

CHAIRMAN WOODS: 2,3,1-C. You're in 2,4 you got to go back to last week's document.

COMMISSIONER OPDYCKE: Well, the current document though, the one that we just got doesn't B-

CHAIRMAN WOODS: Yes, but this doesn't have 2,3 in it.

COMMISSIONER FREEMAN: The other on is not Section 8, that's in Section 1.

COMMISSIONER OPDYCKE: Is that Section 8 there?

CHAIRMAN WOODS: Yes, it's Section 8, but
it's B-

COMMISSIONER OPDYCKE: Well, I'm looking at 2,3,1-C in the most recent document dated 7/14.

CHAIRMAN WOODS: 2,3,1 B-

COMMISSIONER GALLOWAY: Do you have page, please?

COMMISSIONER OPDYCKE: Page 90.

CHAIRMAN WOODS: Page 90 is B-

COMMISSIONER OPDYCKE: And it talks about architectural features or B-

CHAIRMAN WOODS: Well, that's not 2,3,1 that's 4,3,1.

COMMISSIONER GALLOWAY: That's 4,3,1.

COMMISSIONER OPDYCKE: Never mind.

COMMISSIONER FREEMAN: But does it need to be changed to B-

CHAIRMAN WOODS: The question I have is 2,3,1 it specifically talks about parking counting against building height, but 2,3,1 is inside of the R-D B-

COMMISSIONER OPDYCKE: It's repeated.

CHAIRMAN WOODS: Is it repeated?

COMMISSIONER OPDYCKE: Yes, I think one of the B-
CHAIRMAN WOODS: It's hard to know with pieces of things.

COMMISSIONER OPDYCKE: So it is in the 7/9 version.

CHAIRMAN WOODS: Okay.

MR. BISHOP: It is not repeated.

CHAIRMAN WOODS: Yes, it's, for example, on page 84 in the most recent handout, which is 331-C. It says, each above grade parking floor is counted for the purpose of measured parking height.

COMMISSIONER STALEY: That's in the downtown traditional.

CHAIRMAN WOODS: Right. Now you got to go to downtown core.

COMMISSIONER OPDYCKE: Which version are we looking at?

CHAIRMAN WOODS: And it isn't in the downtown core one. It needs to be added.

COMMISSIONER OPDYCKE: I mean, we've really got four different versions here. We have the 114 pager and then we've got the July 9th, we have the June, we've got the May, and we've got the March versions. And these, in some respects they're a little out of, out of
1 sync with one another.
2 COMMISSIONER FREEMAN: Well, as somebody
3 suggested at the start of this, that perhaps we should
4 have a, an updated document now that we've gotten
5 through B-
6 CHAIRMAN WOODS: The majority of the sections.
7 COMMISSIONER FREEMAN: Yes.
8 CHAIRMAN WOODS: But I guess under 4,3,1 we
9 need to add that language.
10 COMMISSIONER HUNTER: Or we have a section
11 which covers all of the B-
12 COMMISSIONER FREEMAN: Districts.
13 COMMISSIONER HUNTER: Sorry?
14 COMMISSIONER FREEMAN: Yes.
15 COMMISSIONER HUNTER: Yes, is that what you
16 were thinking?
17 COMMISSIONER FREEMAN: Cover all the B-
18 COMMISSIONER HUNTER: You know just have a,
19 you know, an up-front section that says these are the
20 items that cover all of the B-
21 CHAIRMAN WOODS: Yes, whatever is the
22 appropriate way within a zoning B-
23 COMMISSIONER OPDYCKE: Can I throw something
of a little wrench into this Mr. Chairman?

CHAIRMAN WOODS: Absolutely.

COMMISSIONER OPDYCKE: We have assigned certain percentages to these various bonus categories.

CHAIRMAN WOODS: From the original document you're talking about?

COMMISSIONER OPDYCKE: Yes. For example, underground parking 25 percent maximum, whole building sustainability 15 percent, and so on.

I would like us to consider using those figures as advisory. Advisory, because if an extraordinary benefit comes along, for example, Mr. Klutznick says, let me put up my 40 story building or my 35 story building and I'll redo the Fountain Square Plaza, my expense, I'll completely redo the whole thing.

Well, if you look at these percentages, public plazas are entitled to a maximum of 10 percent increase in FAR. And I would like us to consider the possibility of, of using these as guidelines rather than firm absolute numbers to accommodate the extraordinary if it occurs, the extraordinary contribution.

CHAIRMAN WOODS: Okay, I got a Christmas tree here. Now, who is this? Okay, David. I got different
COMMISSIONER GALLOWAY: I understand where, I think I understand where Stuart's coming from, and it relates to a, a notion I had at the last meeting where, wherein, you know, it's always nice to be able to articulate and delineate the specific result of someone coming before us and taking advantage of some of these bonuses.

But what that doesn't do is what I think Stuart is speaking to is that there may be a particular need on the part of the city at a certain period of time for a benefit such as that that would be a win win situation.

So perhaps, well, we may not, you know, increase the percentage. It could be expressed as, as a range that would be, you know, that, between 10 and 15 percent, or 10 and 20 percent given the review of a commission like ourselves as to the appropriateness. Now, perhaps the building we used was the wrong example because it's such a volatile site.

CHAIRMAN WOODS: For starters, yes.

MR. LaMOTTE: I think we've got, John LaMotte from the Lakota Group.
CHAIRMAN WOODS: Thank you.

MR. LaMOTTE: A couple things, again, the plan, I think, as you were talking about earlier is the plan being recommended to the counsel based on your modifications. The zoning is really the next step, so you're trying to just clean it up but it's not officially being approved. And the bonus list, you did a great job of typing it up and then showing what's priority or not. And then the percentages are guidelines. And we may event want to tonight not even have the percentages yet until you get those percentages B-

CHAIRMAN WOODS: But B-

MR. LaMOTTE: -- in the next round.

CHAIRMAN WOODS: But I would assume that the percentages need to be somewhat affected by the ranking of priority of the bonuses.

MR. LaMOTTE: And the second part of that equation then is then, which can't happen now because a lot more work has to go on, is the numbers have to go in if you do this much. So if a developer puts in $200,000 B-

CHAIRMAN WOODS: Yes, the very specifics.
MR. LaMOTTE: But that's the standard for B-
they get the bonus. If they come back and say, no, we
want to put $2 million in Fountain Square you and the
counsel has to say, well, wait a minute, that's not
quite how we have the bonuses set up, maybe we negotiate
or no you got to put in 200,000 and get up higher with
other bonuses.

The reason being you want to have a structure
is otherwise you're back to negotiating every single
site, and you don't want to do that. You want to get a
nice menu, work the percentages according to dollars on
your priorities and then go from there.

And if they come back and say, we'd like to
not do all these bonuses and really do the whole thing
10 times what we would be donating, that's a policy
thing you can deal with later.

CHAIRMAN WOODS: Is there, I guess my question
would be, is there anyway to structure some language
such that a developer coming in with some extraordinary
offer of public bonus has some public process that he
could therefore go through to perhaps have his bonus
accepted?

And that sort of gets us to that other
discussion about public process and this whole thing.

So, you know, but it's just a question because, you know, quite frankly if somebody developing, let's say Northwestern sold the site next to the parking garage where the farmer's market is. And somebody came in, I'm just saying, suspend disbelief for a moment.

COMMISSIONER BURRUS: You pick the two most controversial things you can possibly talk about B-

CHAIRMAN WOODS: Well,

COMMISSIONER BURRUS: -- Church and Northwestern.

CHAIRMAN WOODS: Well, I'm just saying, if they sold, you know, what if. And the developer of that came in and said that I'm going to put up a building here, I would like to get the maximum bonus. In order to do that I would like to build out Fountain Square.

Is there some avenue that somebody could have to at least have a discussion about that because certainly there is a significant benefit to the city.

COMMISSIONER OPDYCKE: Well, I have some language B-

COMMISSIONER FREEMAN: But why would that be, I mean, that's B-
CHAIRMAN WOODS: And I'm not saying B-

COMMISSIONER FREEMAN: No, that's like a special case that you would come to the, you know, the City Council on, or to B-

CHAIRMAN WOODS: Well, and that's what I was asking.

COMMISSIONER FREEMAN: Yes.

CHAIRMAN WOODS: Is there a means to do that?

COMMISSIONER FREEMAN: And I have some other issues so please keep my light on. But we can keep going on here.

COMMISSIONER OPDYCKE: I do have some language.

COMMISSIONER SCHULDENFREI: Johanna had her light on.

COMMISSIONER OPDYCKE: I'm sorry.

CHAIRMAN WOODS: Well, there's a bunch of people with lights on. I got lights B-

COMMISSIONER NYDEN: But I think Seth's was B-

CHAIRMAN WOODS: Yes, Seth's next.

COMMISSIONER FREEMAN: But I have other things I would like to discuss, which, not specifically this one issue.
CHAIRMAN WOODS: Go ahead, if you please.

COMMISSIONER NYDEN: Thank you. I guess, you know, my, I would prefer to see this to be as predictable as possible. And I don't think that it's fair to say, well, if you come in with, like, a lot of money, or some really great project for us in Evanston we're going to, you know, maybe let you go a little higher or, you know, fill out that building a little bit more, because I think that's, I think people, this, a year ago in the summer asked that we not do tall buildings. And it was, I think there was a reaction to that, so fine.

We now see some tall buildings in the plan, but I think the one nice thing that I've still liked about this plan is that it's creating a predictable zoning system that you can, it might be a little confusing but you know how big the building can get and you know how people get that way.

And so to start doing this, saying, well, I have a big project that could, you know, do something that we really wanted to see done come along it's like, it's like, you know, saying that the downtown is up for sponsorship. And I don't think B-

CHAIRMAN WOODS: The Nike building?
COMMISSIONER NYDEN: Well, exactly. I mean, or Downtown Evanston brought to you by Klutznick, you know. I mean, it's kind of what you're, what that, and, you know, I mean, the Klutznick example it's, I mean, the city, I think, spent about three million to fix up Fountain Square right now. And then, you know, then things get a little stickier too with B-

COMMISSIONER OPDYCKE: Are you kidding? $3 million?

CHAIRMAN WOODS: No, no, no, no.

COMMISSIONER NYDEN: It wasn't three million?

CHAIRMAN WOODS: 300,000.

COMMISSIONER NYDEN: 300,000? Okay, I'm sorry, somebody told me three million.

COMMISSIONER OPDYCKE: Million, I could redo it big time.

COMMISSIONER NYDEN: Yes, right, okay. Sorry, sorry, I apologize. Okay, so they spent money to already fix it up, and then, then we get things like TIF and other assistance programs in there and so things get a little, so, you know, yes, they spend more money to do this one thing, but then they might ask for money, because we do have TIF's in Downtown Evanston.
So things get a little, a little mucky when
you start to say, if they come in with something really
big they can, you know, build big.

CHAIRMAN WOODS: By the way, I agree with you.

MR. DUNKLEY: If I could just weigh in
briefly. From my experience at the, in the trenches of
working with citizens on various aspects of the Zoning
Ordinance I think if we were to, if I were step back and
do a swath analysis of what, where are we in terms of
the state of zoning here I would say that maybe our, an
opportunity of being prepared for the big bucks
development who wants to just bestow some enormous gift
would not be nearly as large an opportunity as the
threat of having a populace that doesn't have any
confidence in their Zoning Ordinance.

CHAIRMAN WOODS: I agree.

MR. DUNKLEY: I see, I saw it through every
process that I've worked through. And when you always
have the opportunity of throwing up your hands and
saying, well, it doesn't matter because one vote on the
council throws all the rules out anyway, it really
corrodes your public involvement process, and we come to
decisions that are not as good as we would if we had
that level of confidence.

COMMISSIONER FREEMAN: Mr. Conservative. Can I, yes, I'm going to go.

CHAIRMAN WOODS: -- other issues?

COMMISSIONER FREEMAN: They do revolve around bonus, and what I don't understand is why we have a one-time contribution, where considering one-time contributions gives you a lifetime bonus of, so if you got a 20 percent bonus for contributing some dollars, and you had a 30 story building, now you have a 36 story building for a one-time contribution.

If the net effect is an ongoing bonus for the building why isn't the contribution to the city an ongoing city contribution every year? I don't understand how we just do, why we're just doing a one-time, you know, fee, or whatever it is, and then we get, the developer gets all these floors that he gets to have an income, or they get an income on for life. I mean, thoughts?

COMMISSIONER GALLOWAY: Consultants?

COMMISSIONER FREEMAN: Well, I actually want thoughts to your, of the, of the commission and then we can hear from the consultants if that concerns anybody
here, or B-

MR. BISHOP: Let me just clarify what the ordinance says, and then we welcome your comments. The fee in lieu provision of the bonus system have to go toward public improvements.

COMMISSIONER FREEMAN: Sure.

MR. BISHOP: So this one-time payment is, is really no different than building the improvement on the site. It's going towards the acquisition of park land that will be forever this cities, towards the construction of improvements on park land towards facade improvements that are real, that are tangible, that are just as tangible as any onsite improvement in the building.

COMMISSIONER FREEMAN: But they're temporary. So if you look at the, wait, wait, wait, the onsite appromvement of a, improvement to the building they're going to maintain the Plaza.

I mean, I look at the, you know, the highway that says, you know, this highway maintained by so-and-so, and it's an advertisement. And as long as they maintain that stretch of highway they're getting the ability advertise.
Now, these guys essentially can do the same thing and say, okay, I'm going to improve this park, or I'm going to improve Fountain Square. And 10 years from now, or five years from now it needed to be maintained. Now, they're not maintaining it five years from now, but yet they got another six to eight stories on a building that in perpetuity they're getting extra leasing and all the other stuff. So that's my perspective, you know.

Yes, if they're buying park land, you're right. But I don't know if we have park land to buy in Evanston, all right, you know. So I look at it as a, a quid pro quo, you're doing something for perpetuity and we're letting you have the extra stories in perpetuity. That's my feeling about this.

COMMISSIONER STALEY: Jim, can I B-

CHAIRMAN WOODS: Yes.

COMMISSIONER STALEY: Can I respond to that?

CHAIRMAN WOODS: Yes.

COMMISSIONER STALEY: We looked at it the way a developer would look at this, it's an economic analysis as to how much you're going to pay.

If you're going to have to pay every year
forever and ever, then in determining what that bonus is
worth to you you're, of course, going to pay less every
year. You're going to make an economic analysis to how
much it's going to cost.

The easier way is to do is as a part of the
entire development. If they have to do it the way, they
can do it the way you're talking about, but the nut is
going to come way down. It will not be worth it to them
every year to do what you're talking about.

COMMISSIONER FREEMAN: Well, the nut may come
down per year, but it's in perpetuity and it's, there
were comments last, there were comments last week about
how the bonus will fill up a bank account and all of a
sudden will end, it won't be there the following year.
In this way, if it is in perpetuity, or X number of
years, you, yes, the yearly outlay may be less than a
one-time thing but the total nut might either be the
same or more.

COMMISSIONER STALEY: Well, we shouldn't be
giving bonuses for things that are just going to carry
on for a few years and then start costing us a lot. I
don't know that there are whole lot, I'd have to go back
and think, but I don't think a whole lot on the list
that we narrowed down last week that would do that.

But if it's going to be something just gets us started and then we pick it up when the city doesn't have any money I would agree with you.

But I, you can do it your way, but it's an economic analysis. It isn't going to be just a great thing for the city to spread it out because the developer's going to look at it one way or the other, get it up front or you get it in installments.

CHAIRMAN WOODS: You know, in some ways I think it's partially an issue of how the recipient of the contribution deals with it. You could take the contribution and invest it all in capital improvements, but that's certainly not the way an institution would act.

An institution would say, I need to take so much of that money, I can invest that in capital improvements, and then I need to invest a certain amount of that in an endowment that would cover maintenance of that capital improvement for some years to come.

Now, of course, city governments don't seem to be able to figure out exactly how to do that. But that seems like a logical kind of approach.
COMMISSIONER WIDMAYER: That's why we have trust funds. But you know it's, if you look at what we've been looking at in form based code that's looking at not only a single building but the block, the area, the context.

So there may be some logic in saying, improving a park helps improve the building, the context, everything to it.

But the point that you just made is also a good one, that if there are two floors of parking underground that's a permanent impact. If I, you know, contribute to redoing the Fountain Square that's a 10 or 15 year deal. And I think that's where we get back to the percentages.

And, you know, something that has a limited life contribution gets you a lot less, or should, than something that has a permanent contribution. And I don't think there should be the flexibility of saying, wow, I'm going to redo this whole park, so that should be the substitute for two floors of underground parking.

I mean, I don't think that was ever the intent of what we were trying to do, and it's almost a dangerous option to lay out there.
So improving the park next to the building, which makes the building the park, the neighborhood, the whole block look good, is worth something. But let's keep in perspective.

The other thing, when you talk about the, maintaining it forever there may be some logic to that in a single owner office building or something. But if it's a condominium building and then you turn around and talk about affordable housing, it's a conflict because you're going to have to use assessment money to do that. And you can't keep assessments high and have affordable housing. It doesn't work.

MR. LaMOTTE: Affordable offices.

COMMISSIONER WIDMAYER: Pardon?

MR. LaMOTTE: And affordable offices.

COMMISSIONER WIDMAYER: And affordable offices. Well, that's still a function of the single owner and how he assesses the value of the property and everything else over time. I'm talking about individual where you've got 50 individual owners.

And if you're trying to make some of them affordable, you know, nobody's shown me yet anything in state law that allows you to charge an assessment
differently for an affordable unit than any other unit of the same size.

Therefore, the whole problem of assessments is there anyway, anytime you try to talk about affordable housing in a condominium building. And if you're going to add to that it makes it almost impossible.

COMMISSIONER BURRUS: Seth, I actually, I do agree with you that we need to look at having more of a long term impact. But Larry's point is well taken in that these developers get together for a project, and then they may disband. The developer could go away.

And Jim's point about really the recipient, the institution, needs to be fiscally responsible and do an endowment, if we want to talk about that, and if we want to do, give percentages for bonuses then we should do a, make it a large contribution and then consider that a percentage of that endowment then goes to the city every year.

But that's something that council would need to agree to do. But B-

COMMISSIONER FREEMAN: -- that recommendation.

COMMISSIONER BURRUS: Absolutely. And I think that that makes a lot of sense because that's what
happened is that we get an infusion of money from developers at times. As a city we spend that money and then we have nothing left. And that's, that's the issue that you're going to, and I think that's a very valid issue. But something that, unfortunately, our, our elected officials can make that choice to be fiscally responsible in that way.

COMMISSIONER FREEMAN: So then the whole document, again, is about direction and recommendation for policy setting.

COMMISSIONER BURRUS: Absolutely.

COMMISSIONER FREEMAN: But it's not the policy.

COMMISSIONER BURRUS: Yes, and I think that Jim said it beautifully, that it's the institution, the recipient that needs to make that choice. It really can't be the developer because they could disappear next week.

COMMISSIONER FREEMAN: Most likely will as soon as they can sell everything in the building.

MR. LaMOTTE: Also, I think if you're thinking of that kind of calculus and math you've got to really think that through, like, you're going to get into the
bonuses and what not, and the monies in the zoning.

But also you got to remember the property taxes because you can layer, and add, and Christmas tree this thing, and then there's no development, you're not quality development, and so you've got to be careful on the balance.

Most of these bonuses around the country are use for, let's fix the park, the streetscape, the facades, and physical improve it, and then the tax revenue is going to be going on and on and on even if the developer sold it in a year. So those extra floors they got with 60, 16 new condos they're going to be paying every year taxes to the city.

And then you've got an SSA downtown. So you just got to be careful of the math that okay, I'm going to do this contribution, 200,000, or whatever it is to Fountain Square, and then I'm going to be in an SSA for local services that the city's not providing, and I'm paying my taxes, whoever that is, the owner, the office person's still paying it.

That's where you got to be careful. It's usually not setting up these endowments and funds in the perpetuity because the tax revenue's there doing that.
COMMISSIONER BURRUS: But you can do both, and there's no reason why you couldn't do both. And it makes more sense fiscally to do both. But I don't know why you would say you would just want the taxes when you can actually make money off of these bonus, this bonus money that's going in.

Why would you suggest not being fiscally responsible in, in, when you have the opportunity?

COMMISSIONER FREEMAN: Well, I don't think he did suggest that at all.

COMMISSIONER BURRUS: I think that's B-

MR. LaMOTTE: No, I didn't say that. I said that you have to careful. That's why the math and calculus, if this thing even B-

COMMISSIONER BURRUS: Okay, I'm sorry. I thought you were saying you were B-

MR. LaMOTTE: No, no.

COMMISSIONER BURRUS: -- just get the taxes from it and B-

MR. LaMOTTE: No, no.

COMMISSIONER BURRUS: -- not do the endowment.

MR. LaMOTTE: All right. So if you just take a normal development, zoning in any town, here's what
you can do, they put the building in and then the tax
monies come in. They didn't ask for TIF money, no
assistance, no bonus. You're getting 10 bucks a year
from them on taxes. That's money to the city every day
that's coming in.

Then if they're in a special service area
that's another tax that's added on to their, their
tenants or their buyers, that's another tax on top of
the tax, and it'll be on your bill SSA. Then, if you're
given a dollar bonus for 10 bucks for this and 20 bucks
for that, and impact fees, and permit fees. It's just,
you got to be careful, there's no more development.

And we have to, as we get to the policy as far
as downtown heights and depths it's a delicate watch.
Whatever, even downtown Chicago, if you remember some of
the dilemma about LaSalle Street was starting to slip,
some of the Class C Buildings. You just have to be
careful how much load you put on the developers.

Get as much as you can, but it's got to be
balanced, that's all I'm saying. Because their first
reaction, because we deal with this all the time, well,
I'm paying taxes until kingdom comes, isn't that your
cash flow to the city? And then also I have to pay SSA
money into F-Mark, so I have to add that into the pot.

So I think is, you're right, this is a council
discussion. Should we do it, and if we do how is it set
up? That's B-

CHAIRMAN WOODS: Yes, and it's, it's more
about city's fiscal management of various things,
whatever. But I'm sure that Northwestern, when they
look at putting up a new building they're also looking
at, what is it going to need to maintain that building
over time, or doing any open space on their campus.

They're also looking at the issue of what is
it going to take to maintain that space over time, and
where, you know, where is that money coming from. And
hopefully it's in an endowment somewhere, and that's why
they have fundraising.

Yes?

COMMISSIONER FREEMAN: Your light is on.

COMMISSIONER HUNTER: Okay, I can't tell with
this thing here.

Yes, a couple of questions or observations.

Chuck, Charles, last time you made a comment, and I just
wanted to just wanted to sort of square the circle here
about if it applies to the building itself it should be
more clearly a bonus than if it's something offsite,
and, or, and I hear that in part in your comments	onight, I think. Is that part of your comment? I'm
trying to recall your comment last time.

COMMISSIONER STALEY: No, you're right on my
comment last week, and I still feel that, it's my
opinion.

COMMISSIONER HUNTER: Yes, no, no B-
COMMISSIONER STALEY: I could easily be wrong.
COMMISSIONER HUNTER: That's why I wanted
to B-

COMMISSIONER STALEY: I just have a feeling
that all of these bonuses should tie closer to the
particular project, and in improving that project and
area around it, than basically being sort of the feeder
for everything else B-

COMMISSIONER HUNTER: Okay.
COMMISSIONER STALEY: -- that then if we want
to, you know, if we want more books in the library B-

COMMISSIONER HUNTER: Right.
COMMISSIONER STALEY: -- or whatever we want.
But no, I don't know that, you know, but what I said
here has had to do more just looking it. I mean, I've
got more, well, from a, actually, looking at the numbers
I, you know, I've represented developers. And, you
know, they are trying to make a profit in all this.

   It was some of what was just being said there
is that they're not, they're not going to pay you the
same amount of money every year for 20 years that they
would pay you up-front in the lump. That was basically
my point.

   COMMISSIONER HUNTER: Okay.

   COMMISSIONER STALEY: But since I'm talking I
do want, there's one point I made last week and
everybody agreed with. And unless I missed it I didn't
see it in here. And that was that we wanted to be clear
that it was not the developer making the choice as to,
you know, what bonuses they would be entitled to.

   And someone down there came up with, or maybe,
or out here, that it would be, you know, that we would
have the right to basically recommend it, and the city
council would have the right to approve it. But to make
it clear that the developer couldn't just come in and
say, well, here's what I'm going to do for you give me
your bonuses.

   Because I think the way it is right now you
could argue that. But I didn't see it changed. Is there a change in there on that?

MR. BISHOP: 5.5.1.

COMMISSIONER HUNTER: Is that B- ability?

What am I on?

COMMISSIONER WIDMAYER: First point under B-

COMMISSIONER HUNTER: Okay. Oh, I got the old B-

COMMISSIONER NYDEN: Okay. I would like to, oh, are you done? No?

COMMISSIONER HUNTER: No.

COMMISSIONER NYDEN: Sorry.

COMMISSIONER HUNTER: No, I was just going to say I hear a couple of dimensions or variables to this. One of them is physical bonuses versus non-physical. And that latter can be included this notion of financial contribution of some form or another to some cause, and the other is physical.

The other thing I hear is the time dimension, how long is this going to have an impact, et cetera. So I think we have to, and the one that Charles mentioned earlier, is it onsite or is it offsite, et cetera.
So we've got at least three, a three-dimensional space here where we're trying to figure out where these bonuses should reside. And I think we have to think about the priorities that we want to put on these dimensions itself as we think about the specific priorities that we have here.

Which do you want to give greater weight to? Do you want it to be toward a physical contribution, do you want it to be toward a long term, et cetera, et cetera.

So I think we might want to take those into our calculus here as we think about how to distribute the bonuses that we want to.

The final comment would be to, to Larry here. I think there are mechanisms, I disagree with you on affordable housing. And I think that the policy, the values that are embodied in affordable housing should require us to come up with creative mechanisms, and able to realize those values. I don't think we should allow the mechanisms to define what the values are.

COMMISSIONER WIDMAYER: My only point on that is no one has come up with a solution to the, to that problem yet. And B-
COMMISSIONER HUNTER: That's where I say creative B-

COMMISSIONER WIDMAYER: And, you know, you got to work within the state law. And working around that or within it all I'm saying is to put an affordable housing bonus in there that size you have to solve the problem to make it work B-

COMMISSIONER HUNTER: That's what B-

COMMISSIONER WIDMAYER: Otherwise, nobody's going to take it anyway. So you can have 50 percent, 20 percent, 10 percent and it would all be the same. Because if you look at the project where we tried to do that B-

COMMISSIONER HUNTER: That's an inappropriate project.

COMMISSIONER WIDMAYER: -- none of the, none of the units sold the first time we tried it.

COMMISSIONER SCHULDENFREI: Could you elaborate just on affordable housing and some of the issues, because I haven't been following it as closely as I would have wanted to. Like, which project didn't work and how did you solve it, and what are some other issues? Just briefly.
COMMISSIONER WIDMAYER: Well, the project that
didn't work was Tom Rosak's where he tried to include,
and this was, you know, his version of it, but it was an
honest attempt to trying to a number of affordable units
in a condominium building. And for whatever reason, and
I don't know the exact reasons, none of the units were
taken, none of them were sold.

You know, one of the issues that I see, having
lived in half of the unit, half of the spaces I've lived
in in this city have been condominiums. And I've, my
wife and I were president of a condominium association
for a number of years.

It is the, the dealing with assessments. And
if someone who can barely afford an affordable unit and
all of a sudden there's a $10,000 assessment for a new
green roof in 10 years, you know, the question is can
they afford that, is there maybe a mechanism in place to
help them afford that, and if they can't what happens?

Well, as I understand the law, I'm not a total
expert on condominium law, but nobody has been able to
come up with a solution for me. That unit, eventually,
if they don't pay the assessment goes to the building
and is resold to cover the assessment.
So, you know, we all talk about adding affordable units. And this, as I read this this is talking units not in kind money. Adding affordable units, but we haven't spoken about addressing the issues that if somebody bought an affordable unit would allow them to stay in an affordable unit.

COMMISSIONER FREEMAN: But is affordable unit a, a purchase or a rental?

COMMISSIONER WIDMAYER: Well, it's probably a purchase because, you know, I don't know how many developers that want to hang on to six units out of a building.

COMMISSIONER SCHULDENFREI: And is there a state law B-

COMMISSIONER FREEMAN: So in my condo we had, we had units that were actually owned by the building and they were rented. And the assessments that would go to them actually were responsible for, the condo association were responsible for. And that's how, I believe, it was done there.

COMMISSIONER HUNTER: Sounds like the owner, the owner kept them and paid the assessments.

COMMISSIONER WIDMAYER: Yes, the association
COMMISSIONER FREEMAN: Yes, you got a collective owner.

COMMISSIONER HUNTER: So, okay, so that meant that the other members of the associated were willing to pay their assessments?

COMMISSIONER WIDMAYER: Or their fair share?

COMMISSIONER HUNTER: That's what I'm saying, I don't say B-

COMMISSIONER WIDMAYER: If you can get people to do that that's good.

COMMISSIONER HUNTER: I don't say we have all the answers here, but I don't think we should, what I'm trying to say is there's values here that are represented in the issues of diversity, income diversity, et cetera, et cetera, at the small scale of buildings. Not simply, you know, here's a neighborhood over here and here's a neighborhood over here, that there's values that are being expressed here. And I think we should not rule those out simply because we can't think of a creative mechanism, because I think there could, potentially are creative mechanisms out there that can solve these problems. That's all.
COMMISSIONER BURRUS: Could we possibly ship that to the housing committee, commission? And I know that they do a lot with affordable housing, and we have experts here in Evanston that deal with affordable housing. And they could come up with a recommendation for assessing, to make more sense than us trying to debate an issue that none of us has expertise on.

CHAIRMAN WOODS: Larry's the only person here who, to my knowledge, has any real knowledge of assessments.

COMMISSIONER WIDMAYER: Right.

COMMISSIONER BURRUS: And Larry B-

COMMISSIONER WIDMAYER: And my only question is, do you give that high a percentage to it, I guess?

CHAIRMAN WOODS: We haven't really talked about it yet, but B-

COMMISSIONER SCHULDENFREI: Jim, microphone.

CHAIRMAN WOODS: Sorry. We haven't really talked about it yet, but everybody did their own individual ranking, and it's sort of been calculated into an overall ranking. And ultimately that's probably going to impact the maximum percentage you can get for any one of these bonuses.
And, you know, the affordable housing one is, is certainly was given a high priority, but certainly not the highest priorities. And at some point we'll get to that.

Robin?

COMMISSIONER SCHULDENFREI: Larry, just a really quick question. Is there a state law that says the affordable housing unit couldn't be assessed at a very different percentage rate? My experience with condominiums is the rate was set as a percentage out of a hundred. And my unit was a certain size, and so I paid a 15 percent. Could we not set that at one percent or something that was incredibly affordable, or is there a law in your B-

COMMISSIONER WIDMAYER: You know, and I've asked the question because I'm not sure, but nobody's been able to come back and tell me that there's any provision in the law that allows and affordable unit to be assessed differently or calculated differently.

And that's, you know, I'm looking for the creative idea. And all I'm saying is we keep throwing these in and nobody bites on them because there aren't, nobody's come up with solutions to say we can make this
COMMISSIONER SCHULDENFREI: It's always square footage or is it ever value?

COMMISSIONER WIDMAYER: Some, well, I've seen it both square footage and I've seen it just units, every unit gets an equal amount. And that's because the units were relatively the same size. It was easy.

CHAIRMAN WOODS: Johanna?

COMMISSIONER NYDEN: Okay. I think I could warm up to the bonus system with monetary, you know, donations or whatever if there, if and only if it would be caveat that the developer can absolutely not ask for any kind of subsidy from the city, because that would be a, that would be a pass through basically. If somebody says, well I will, you know, donate money to, to build a park, or I will donate money to preserve a landmark, but then turns around and asks for B-

CHAIRMAN WOODS: Could I have 3.2 million so I can B-

COMMISSIONER SCHULDENFREI: Preserve that landmark.

CHAIRMAN WOODS: -- preserve the landmark?

COMMISSIONER NYDEN: Or acquire the landmark.
That's a problem. So I, right, it would be a, I would feel like an idiot if we didn't say that B-

COMMISSIONER SCHULDENFREI: Or write it in somewhere?

COMMISSIONER OPDYCKE: What's the harm in asking?

COMMISSIONER NYDEN: There's no harm in asking. But I don't think that, I mean, if somebody's going to give, and I don't know what the money, monetary value in order to get a bonus would, sort of more floor it would be, but if then they say, well, I have this TIF eligible expense here for a land acquisition, or whatever the expense happens to be, or remediation of a site, then they get to build a bigger building.

COMMISSIONER OPDYCKE: Well, but what's wrong with asking though?

CHAIRMAN WOODS: Asking for what?

COMMISSIONER OPDYCKE: Whatever it is they're asking for, some subsidy.

COMMISSIONER NYDEN: But they're asking B-

COMMISSIONER OPDYCKE: I mean, they can ask.

COMMISSIONER NYDEN: But you don't get the bonus then.
COMMISSIONER FREEMAN: You don't still get the bonus.

COMMISSIONER NYDEN: Yes.

COMMISSIONER OPDYCKE: Why can't they ask?

COMMISSIONER NYDEN: Fine, they can ask but they can't get the bonus.

COMMISSIONER SCHULDENFREI: Can I answer that question? Stu, I think it goes back to what Bill Dunkley said earlier about public faith in the process, and public faith with the Plan Commission, and public faith with the downtown plan.

And I think, on the surface, it just, one's gut reaction to that is that it's not fair. You're putting money into one aspect to get a bonus and then you get a buyback or something?

COMMISSIONER OPDYCKE: Well, would they be foreclosed for asking for TIF funds for example, any developer, would they be foreclosed from asking the city council for TIF funds?

COMMISSIONER SCHULDENFREI: Yes, I think if they want a bonus, and they're going to pay for a bonus then that negates the ability to get money elsewhere that would in effect balance out the money they're
spending in one place.

COMMISSIONER NYDEN: I mean, the idea of TIF is there's certain extraordinary development costs that they, the TIF fund mitigates by, you know, capturing future tax dollars and putting that into a fund to finance a building or some kind of development.

And if you're saying that you, that there's some extraordinary cost about your building and you, you need money right now to help finance that, and you need TIF, but then at the same time you say, you know what, I'm going to, I want to tap into this bonus system so I'm going to spend this extra money to buy into the bonus system to build a bigger building, that's a problem. Because then you may could cover that extraordinary development cost because of TIF.

COMMISSIONER OPDYCKE: Well, shouldn't that be left for the city council? I mean, shouldn't they be the ones to determine B-

MR. LaMOTTE: Well, let's clarify one thing though. As Tom and I were just talking, the double dipping thing with bonuses you've got to be very clear on that, and we're getting probably into the legalese and/or the code writing a little deeper tonight, so
you're not doing one for the other.

But you don't want to handcuff the city in a situation where if you really need TIF to get the project going. Because you're looking at a site that's got normal land costs, normal development costs, and then this is what we're going to give for the bonus. But, oh, my God, we just found out that the sewers are so bad that it's way beyond the typically development costs.

And then maybe a good project gets lost because the city can't help them with, with the sewer costs, or whatever it is. So, but for, as you know, because your firm does this, the TIF, but for the TIF this isn't going to go forward. Then you've got a regular development project and then you got to bonus up.

So there may be something down the road that you want. The downtown is struggling you want a, a multiple entertainment center, bowling thing for the kids, a Mixed Use development, and they may need to do some TIF on it to get them even to the table.

So I think we may be linking two things here that might get a little handcuff on the council. It's
probably going to be rare because your downtown's in
pretty good shape right now according to the senior
staff as far as infrastructure and transportation, but
down the pipe you may want something.

COMMISSIONER OPDYCKE: That's my point. We
don't want to handcuff, to use your word, the council.

MR. LaMOTTE: Right. And they can decide
policy-wise that, wow, we really want, like some of the
work you guys did in the research park where you got to
reshuffle the deck over there.

COMMISSIONER BURRUS: It's totally different.
Some of the bonuses, saying, I think we're saying that
zero, you can ask for some of the bonuses, such as whole
building sustainability, that's part of the project, or
the underground parking you could get bonuses for.

I think the point is that you can't give money
into a fund and then ask for TIF money back out, that's
a shell game, that's what that is. That's, what we're
saying is, you can still get TIF money if you're doing
some of the other bonuses, but you can't say, we're
going to put money over here but then we want TIF money
to cover the money we put over here. That's what we're
saying.
And what you're saying, I want to be very clear, what you're saying is if they do whole building sustainability, if they do underground parking they can still get TIF money possibly or B-

CHAIRMAN WOODS: Well, I think what John's B-

COMMISSIONER BURRUS: -- and it's different.

CHAIRMAN WOODS: I think what John's also saying though is that your making your bonus allotment at the beginning of the project.

There may be things where you've decided okay, this person can get a five percent bonus on FAR in height, or FAR because they're contributing to some public open space improvements, the park, whatever.

And then along, in the project they discover a new condition then it makes sense that TIF funds be available.

MR. LaMOTTE: Or, wait, wait, wait. Even in a pre-existing condition, you have a clean site and then you're ready to go. You get your base zoning, you get your bonuses. Oh, the city's found out that the site's got bad sewers or environmental problem they need TIF to help. Now, whether they've given the TIF money to him or he, they're fixing the sewers now the site's
normal, now you got to bonus up. That's B-

COMMISSIONER BURRUS: Shouldn't you've done, shouldn't they have done their due diligence prior to that? I mean, that's a little B-

COMMISSIONER NYDEN: I'm not talking about, I'm not talking about the ones where, oh, my gosh, we need new sewers, or oh, my gosh, we have to, we just found that there's B-

MR. LaMOTTE: You're talking about TIF funds or B-

COMMISSIONER NYDEN: -- a leaking underground storage tank B-

MR. LaMOTTE: -- brown fields or something like that.

COMMISSIONER NYDEN: Right. And I hope there's no brown fields in downtown Evanston.

MR. LaMOTTE: Left.

COMMISSIONER NYDEN: But, you know, but, what I guess, and I don't have a problem if, you know, somebody's going to do the downtown, the underground parking and they need some kind of TIF assistance to shore up the, the walls of the, that's fine.

But what I do have a problem with is somebody
coming and saying, we are going to preserve a landmark, and we're going to donate money for that, and we want to build a bigger building because of this, but we also need money B-

MR. LaMOTTE: Reimburse B-

COMMISSIONER NYDEN: -- reimbursement for something else that they have identified before they have built their building as a TIF eligible expense. I don't think that's right, and I don't think that's fair. And like Bill said, it goes against creating a predictable system.

MR. LaMOTTE: Just clarify. So you're saying that if they're putting 200,000 in for the preservation for the landmark B-

COMMISSIONER NYDEN: Right.

MR. LaMOTTE: -- they're then asking TIF for 200,000, and it's a zero sum.

COMMISSIONER NYDEN: Exactly.

MR. LaMOTTE: That's what he's talking about, it's not a double dip. The infrastructure stuff is really mostly going to be driven by the city, and they may be needing to prime the site to get it to a normal thing. That kind of stuff is normal.
The asking for two bucks here to give them two
bucks there, that's, that goes against the bonus system.

COMMISSIONER NYDEN: Exactly. And that's what
I'm saying. Like, there needs to be something in here
that prevents that from happening.

COMMISSIONER SCHULDENFREI: How could you
prevent that, what kind of language could you possibly
add?

MR. SMITH: You're absolutely right, you
can't. Most bonus provisions have those types of
qualifiers. And I'll give you an example of it.

Lots of cities have housing programs to create
affordable housing. You can't take advantage of that
affordable housing program that the city has and say,
well, those are my affordable units that I'm using to
get bonuses, okay.

CHAIRMAN WOODS: Right. Which is above and
beyond the minimum requirements.

MR. SMITH: But, you know, those kind of
qualifiers, all those limitations, it's perfectly
reasonable that you bring them up now, but I think
ey're part of an ordinance, a structure of an
ordinance, yes. But you're absolutely right, you know.
COMMISSIONER NYDEN: I guess I just, I would hope that that could be captured so city council sees that they can talk about it, they can debate it, whatever. And it's somehow, you know, written up in the ordinance by the legal people.

COMMISSIONER SCHULDENFREI: Could we add it to 5.5.1, which is part of the intent, page 91 in the long document?

COMMISSIONER STALEY: Could I say something before we add it?

CHAIRMAN WOODS: Sure.

COMMISSIONER STALEY: I don't disagree with the general concept of the fairness principal here. You ought not be getting credit for something you're getting reimbursed for. But I, and I think this probably doesn't matter a whole lot anyway because we're going back and forth, and back and forth. And as we have been reminded we are basically just a recommending body.

So it will be the city council that will ultimately look at this, and ultimately it'll be the city council that's reviewing the TIF and making all B-

But it seems to me like we're going kind of way out of our way to handcuff the process. I can see a
situation, I don't see where it is right now, but
usually if you have a TIF project it's usually because
you've got a blighted areas, and not, is you got some
area that you want to have developed.

I mean, so if you have that situation in
Evanston, and you have a TIF project then you're going
to be trying to get people to come in, and they are
going to be using the TIF funds.

Now, once they get in there and are doing the
project it may determine to be in their best interest,
but possibly also in the city's best interest that they
do apply for some bonus so they can do something or
other.

And I don't, you know, I don't know that when
you get to that point whether it's going to be unfair or
not, and I don't think anyone sitting up here right now
can determine that. We can put something in, it ought
to be weighed. But I think to sit here and tie the
whole thing up, it's just a mistake made by people
looking off into kind of gloomy future.

COMMISSIONER SCHULDENFREI: I don't think it's
tying it up as far as, in terms of being clear. And I
think even the consultants have been clear in saying
that's not their intent. And so if there's some
question, if that's clearly not the intent, yet there's
no language in here, I think, that's why I asked them,
and why I see some typing happening over there.

Perhaps there is some simple general non-binding language. I can't quite make it out.

COMMISSIONER WIDMAYER: I think we can have a
little bit of faith in that though. I mean, I think, as
I recall there was a similar situation where a developer
wanted some TIF money to improve a landmark building so
he could build a, a taller building. And I think we saw
that rather recently. And I believe council rejected
that B-

CHAIRMAN WOODS: Notion?

COMMISSIONER WIDMAYER: -- notion handily. So
I think there's B-

MR. LaMOTTE: I would suggest B-

COMMISSIONER WIDMAYER: The logic is not lost
on them.

MR. LaMOTTE: I think Kirk is trying to get
some of these in here, at least a little more generic so
we're not getting to legalese on this right now.

COMMISSIONER HUNTER: But I would like to
address the general notion that we don't want to
handcuff the council. I think that's precisely what we
want to do. And what we're trying to do is make
predictability here so that we don't have a capricious
set of council decisions. So I disagree with the
overarching comment, we don't to handcuff. So we might
want to use a different metaphor, okay.

MR. LaMOTTE: If you as a policy recommending
group gives them a bunch of recommendations that says,
well, we don't want TIF this and TIF that, TIF has got a
set of state laws and requirements, very strict now
these days, you don't want to add any more restrictions
to that. They know what they can do with it, and
they're going to be identifying these projects before
the developers come along.

But what you don't want to do is discourage
good projects because B-

COMMISSIONER HUNTER: I'm, no, of course, no
one wants to discourage good projects, the underlined
is, good, there.

MR. LaMOTTE: The other quick thing is just I
think for the sake of time Kirk's trying to get some
broader language in. But if, for the record, for this
like you're raising, or the number of bonus points, and
percentages, this is a checklist that the next group has
to work on, your committee, Bill, the council, to
sharpen up the language in here. The whole
administrative section needs to be fleshed out, rules,
regulations, legalese. This is the skeleton with some
meat on it, and more stuff gets put in after we're done.
COMMISSIONER SCHULDENFREI: Right. And we're
talking about bonuses here, right, so wouldn't handcuff
a project you just wouldn't get the bonus. That's the
distinction, if I'm not mistaken.
COMMISSIONER OPDYCKE: To your point,
Professor Hunter, the city council can do anything it
wants. Currently in the zoning a super majority can do
anything beyond what is permitted in the Zoning
Ordinance, and I would expect that same provision in the
zoning B-
COMMISSIONER HUNTER: I fully appreciate that,
I just wanted to make them a little bit more cautionable
in having to do that. They have to jump some hurdles to
do B-
COMMISSIONER OPDYCKE: If the ultimate check
on the city council is political.
COMMISSIONER HUNTER: That's right, that's right. If we can put some hurdles there that make them justify their rationales in a public forum, et cetera, I'm all for that. People should be accountable for the decisions they make, you're absolutely right.

COMMISSIONER WIDMAYER: Yes, I just would like to point out though that the super majority concept, at least as it's been used recently, is part of a plan development, and a plan development is not a special use under this zoning as being proposed.

CHAIRMAN WOODS: Correct. Well, I guess to get, to try and get back on track here a little bit we have the amended document that was handed out in our packets. Does anybody have any questions, comments, or concerns about that? Personally, I think they actually captured everything that we talked about.

COMMISSIONER BURRUS: Jim, are we going to go over the percentages? I know Stu had some concerns about what they're at now.

CHAIRMAN WOODS: Yes, I think we needed to talk about the thing because there were B-

COMMISSIONER BURRUS: Right, no, I agree.

CHAIRMAN WOODS: -- there are two people for
two of the categories, and one person for one of the
categories that wanted to vote tonight as a, or rank
tonight, I shouldn't say vote, rank tonight. And I
think we needed to go back to do that. And I think that
some of these, the reason that certain people wanted to
wait was they wanted to know a little bit more about
those categories.

MR. BISHOP: -- have a conversation on them
and B-

CHAIRMAN WOODS: Right.

MR. BISHOP: -- why rank them if we don't know
what we're doing.

CHAIRMAN WOODS: Right. So the consultants
said, had addressed the issue of the bonus for
streetscape alley improvements in terms of a minimum
threshold for that. And so I guess the question is, do
we need any more discussion or comments on that one. I
don't think we have anything specific about facade
improvements and landmark preservation.

But I'm assuming that those are some sort of
calculation related to financial investment that would
get you to some point of bonus. If you contribute five
bucks you're not going to get a bonus, but if you spend
$250,000 to preserve something you might get some sort of bonus. And I'm just trying to use some big ballpark kind of ideas. Maybe I should say five bucks and a million bucks, I don't know what the right numbers are. And that would be true of the facade improvements as well, I assume.

MR. BISHOP: Yes, I think it would be structured, I think B-

If you were to pursue that, that bonus it would be structured in precisely the same way as the landmark bonus. All of which are key to land values essentially to the extent, yes, all of which are key to the actual contribution, which are then related back to land values in order to determine how much floor area bonus you get.

Essentially setting up a situation where, whereby, buildings can be increased in size in two ways. You can acquire more lot area and apply that FAR to additional lot area, or you can acquire virtual lot area by availing yourself of the, or at least requesting a public benefit bonus.

COMMISSIONER HUNTER: How is the land value,
what land value do you use B- 

MR. BISHOP: Well, you'd have to get sort of up to date, typically what happens is, is communities get sort of up to date land valuation data and keep it, can sort of continually updated.

COMMISSIONER HUNTER: For that lot or for the city as a whole?

MR. BISHOP: Well, it depends on the size of the geography. I think within downtown you might need to sort of divide it into a couple, couple areas just to, you know, reflect the, yeah, reflect the zoning context down there.

CHAIRMAN WOODS: I was going to say, would you divide into sort DC B-

MR. BISHOP: Perhaps that would be the most precise way to do is it make it reflect the zoning classifications themselves, yeah, it makes sense.

Yes, I did.

COMMISSIONER WIDMAYER: Jim?

CHAIRMAN WOODS: Yes?

COMMISSIONER WIDMAYER: I have a question then on the land value. You're using a five year running average, or suggesting a five year running average. A
lot of the value, if the value of the land were to go
down what impact does the five year average over, say, a
two year average in terms of your calculations as
proposed?

MR. SMITH: Averages will always be a little
out of date, okay, because you are a average. But in
most cities, and I suspect in Evanston, there aren't
that many sales in a given period. So you're dealing
with a relatively small sample, and because you're
dealing with a smaller sample it's actually sensitive to
even contemporary or immediate changes, especially if
you do it by districts.

If you do it, you know, you have a average for
the traditional districts, for the transitional
districts, for the core. And assuming there aren't
that, that large of a sample during a five-year period,
they can reflect changes fairly quickly because you're
average a small number of sales.

COMMISSIONER WIDMAYER: So if, yeah, in the
core area, you know, we've seen a lot of speculation
pricing. I don't think we have in the other two, I
think the other two have pretty well held their own.

And I'm just wondering if as a result of this
some of the speculation aspect goes out of, out of the pricing, yeah, a leveling off. And does that make a difference in how it's applied to the formula? That's my only question.

MR. SMITH: Hopefully it does.

COMMISSIONER WIDMAYER: I mean, if, yes, but when you're using land value as part of the calculation are we giving, you know, less or more if we use a five year versus a three year?

MR. SMITH: There is a cost associated with doing this kind of survey on land costs. And so a lot of places use five because it's easier. You could say three, your period. It's just the way the draft is written it's the responsibility of the Planning Department to maintain some data on land sales.

COMMISSIONER WIDMAYER: Yes, but that's not that hard, we buy stamps, so it's all recorded. My only question is, what's the impact. Are we, you know, is it better, yes, is it helping or hurting or does it make a difference?

MR. SMITH: Right now, assuming there's been some decline in the value of land, okay, if the bonus was in effect right now, a bonus system, you would be
pricing the cost of the bonuses higher. Because three, four years ago, with the speculation that was going on, the prices would be higher.

But it's ebb and flow like that. They'll be times when speculation occurs again because the market is really good and there's really good conditions. And at that time you'll be pricing it maybe a little bit low.

CHAIRMAN WOODS: I guess the real impact would seem to be there's, there would be greater volatility the shorter the period that you're looking at your land value at. And the longer your period, you're looking at your land value B-

COMMISSIONER WIDMAYER: Hopefully you're seeing more leveling.

CHAIRMAN WOODS: Yes, there's more leveling. Right.

Okay. So does anybody need anymore discussion of these items, or would those people who didn't rank these items be willing to rank them now?

COMMISSIONER OPDYCKE: I have a question.

CHAIRMAN WOODS: Yes, please.

COMMISSIONER OPDYCKE: Are we saying that
these public benefits are the only ones, that's it?

MR. BISHOP: Yes, right. And as a matter of fact those two haven't even made the list yet, right.

Remember last you voted on each of them, those two, those two being streetscape, ally improvements, and facade improvements were not voted on in final form, you tabled that some pending some further B-

COMMISSIONER OPDYCKE: I would still like, whether it's the Plan Commissioner or City Council, I would like to empower them to consider other public benefits that are not contained in this list that are extraordinary in character.

For example, geothermal heating has a zero carbon footprint, it's not on this list.

MR. LaMOTTE: Well, we'll need sustainability, we would credit that energy system, and including stuff that might B-

COMMISSIONER OPDYCKE: Okay, thanks.

CHAIRMAN WOODS: Robin.

COMMISSIONER GALLOWAY: I have a question relating to the recent update document, page 109 paragraph 5.15 relating above grade parking concealed by habitable floor space. Did we eliminate that as, as a
bonus the last time?

CHAIRMAN WOODS: No, I thought we put it back in.

MR. BISHOP: No, by a close margin it B-

CHAIRMAN WOODS: Because it's all lined out in my text, and yet it's, if I'm not mistaken it appears in a spreadsheet as, as still a bonus, though I think we, is that my recollection was that discussed keeping it but lowering its value, perhaps. Is that right?

COMMISSIONER FREEMAN: Well, if it was passed it's lined out in here.

MR. BISHOP: It is blocked out in there, you're right.

COMMISSIONER OPDYCKE: It should not be lined out.

MR. BISHOP: It did remain on the list, and it was lined out in error. Tom was confused.

CHAIRMAN WOODS: Can you fix it now?

MR. BISHOP: I can fix it now, I was just thinking of that, thank you. There we go.

CHAIRMAN WOODS: What I want to do is talk about the rankings first and B-

MR. BISHOP: So for the moment I put those two
items in highlights at the bottom.

CHAIRMAN WOODS: Right.

MR. BISHOP: I think it might be appropriate to see if those are on the list. I'll also tell you that while you were talking I sort of reset the percentages based on this in a very scientific way whereby I used 25 percent as the top for underground parking, and then assigned essentially a declining bonus, everything in the three's got a 15, everything in the two has got a 10.

It didn't change things too dramatically, but it is a way to sort of reflect the voting and, and stick with some percentage basis. But clearly that's in play, too, so I'll just mention that I did that.

CHAIRMAN WOODS: So what is whole building sustainability again?

MR. BISHOP: 20 percent, or, yes, 20 percent.

COMMISSIONER NYDEN: Will there be a different percentage for gold versus platinum?

MR. BISHOP: Yeah, I believe that, good question, yes, there should be. There should be based on cost differential of achieving that status. 20 percent would only be available for the platinum, yeah.

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COMMISSIONER GALLOWAY: Could you read those for me B-

MR. BISHOP: Yes, I'm sorry.

COMMISSIONER GALLOWAY: -- for those of us that are somewhat visually impaired?

It may not be, I don't have my glasses on.

MR. BISHOP: It's a terrible font for viewing, it wasn't really intended for screen. Underground parking is based on this scientific method that I've employed, 25 percent, whole building sustainability 20, affordable housing onsite 15. I guess you can see it now.

This is just one way to sort of recalibrate the table based on the rankings. It seemed kind of intuitive. We already talked about that, we just talked about that. 20 percent's for platinum.

CHAIRMAN WOODS: Landmark preservation is 10?

MR. BISHOP: It's the maximum.

CHAIRMAN WOODS: Streetscape and alley improvements is 10, facade improvements 10.

COMMISSIONER BURRUS: Will those numbers change for streetscape and facade if we redo our vote, because we really haven't revoted.
CHAIRMAN WOODS: Eventually, yes. I would personally like to get to the, are they, are they in or out, then get the people who didn't rank them if they're in to rank them.

So I guess I'm recommending that we, one by one, streetscape and alley improvements, we'll do what we did last time. Yea is we keep it, nay is we don't.

COMMISSIONER GALLOWAY: Was there anyone that's unclear or B-

CHAIRMAN WOODS: Yes, do we need any more discussion as to what they are?

COMMISSIONER GALLOWAY: -- about what, need more discussions about what they are, what the pros and cons were?

COMMISSIONER BURRUS: I mean, I think, well, I was going to say with the change in the language I'm okay with it now.

CHAIRMAN WOODS: Okay. So start down on my right. Al?

COMMISSIONER HUNTER: I don't vote, do I?

CHAIRMAN WOODS: Well, this is not voting. This is B-

Streetscape and alley improvements, in or out?
In.

COMMISSIONER WIDMAYER: In.

COMMISSIONER NYDEN: Yea.

COMMISSIONER BURRUS: Yea.

COMMISSIONER FREEMAN: Yea, in.

COMMISSIONER GALLOWAY: Yea.

COMMISSIONER STALEY: Yea.

COMMISSIONER SCHULDENFREI: Yea.

COMMISSIONER OPDYCKE: Yes.

CHAIRMAN WOODS: Okay, it's in. Facade improvements, in or out? Out.

COMMISSIONER OPDYCKE: In.

COMMISSIONER WIDMAYER: Yea.

COMMISSIONER BURRUS: Yea.

COMMISSIONER NYDEN: No.

COMMISSIONER GALLOWAY: Aye.

COMMISSIONER STALEY: Aye.

COMMISSIONER FREEMAN: No.

COMMISSIONER HUNTER: Yes.

COMMISSIONER SCHULDENFREI: Yea.

CHAIRMAN WOODS: In. Okay. So, now, okay. But the people who voted no, they can re-change their, their ranking.
COMMISSIONER FREEMAN: Sure, I didn't rank it.

COMMISSIONER SCHULDENFREI: No, I know, but some people who voted no, I just wanted reinforce that because I voted for it but my ranking is at one, I might change it to .5.

COMMISSIONER GALLOWAY: .05.

CHAIRMAN WOODS: Okay.

COMMISSIONER HUNTER: Jim?

CHAIRMAN WOODS: Yes.

COMMISSIONER HUNTER: I briefly calculated not just the average but also the variation.

CHAIRMAN WOODS: Yes.

COMMISSIONER HUNTER: You can't really do it with, say, a few. But what I did do is drop the extremes. In other words, if there was only one five and everyone else gave it ones the range would be five to one, but the actual consensus as expressed would be much different.

And by and large there were no major changes by doing that. Except, I want to indicate, public plazas, which on the range was five to one, when you drop the extremes it was three to two. I mean, so it was a high degree of consensus once you drop the, the
1  extremes.

2  Similarly for the underground parking there
3  was a five to one range, that narrowed to a five to four
4  dropping an extreme there. Most of the others were
5  pretty much the same.

6  So they weren't affected by that. But those
7  few indicated a degree of consensus where you drop a
8  single extreme vote one way or the other. I just
9  thought I'd point that out.

10  CHAIRMAN WOODS: The interesting thing is that
11  it does narrow the range, but it doesn't effectively
12  alter the average.

13  COMMISSIONER HUNTER: No, it doesn't, the
14  actual average.

15  CHAIRMAN WOODS: Right.

16  COMMISSIONER HUNTER: But it shows a
17  consensus. Do you see what I'm saying?

18  CHAIRMAN WOODS: Okay. Well, I'm going to go
19  through, one by one, I'm going to start on my left.

20  Chuck?

21  COMMISSIONER STALEY: What do you want? You
22  want my number?

23  CHAIRMAN WOODS: I'll tell you what I want.
COMMISSIONER STALEY: What do you want?

CHAIRMAN WOODS: Do you want to make any changes to ones you've already ranked?

COMMISSIONER STALEY: No.

CHAIRMAN WOODS: And would you like to re-rank streetscape and alley improvements and facade improvements?

COMMISSIONER STALEY: Yes, I'd give a two to streetscape and a one to the facade.

CHAIRMAN WOODS: Okay. And Robin, you ranked everything, would you like to change any of your rankings?

COMMISSIONER SCHULDENFREI: I'd like to initiate a conversation based on a side conversation I was just having with Commissioner Freeman regarding the underground parking and loading. Seth, do you just want to just state for the record, because that might change my vote?

COMMISSIONER FREEMAN: I was asked as to why I gave that a one, and I gave that a one because I just thought it should be, should be mandatory that you shouldn't get bonus for it.

So that's why I gave it, you asked me as to
why, David asked me, Commissioner David here asked me
why I gave it a one, and that's why I gave it a one.

COMMISSIONER SCHULDENFREI: But if it isn't
going to be required, I quite agree that it should be
required. So is there a way to make it required, and if
not should we just make it more feasible.

COMMISSIONER STALEY: We had that discussion
last week.

COMMISSIONER SCHULDENFREI: Right. So B-

CHAIRMAN WOODS: I thought the discussion
about this issue last week was that B-

COMMISSIONER FREEMAN: It costs more.

CHAIRMAN WOODS: -- it costs significantly
more, and that in, at least in the opinion of the
consultants that making it a mandatory requirement was
potentially problematic. And therefore, we were looking
for other avenues to kind of B-

COMMISSIONER SCHULDENFREI: Yes.

CHAIRMAN WOODS: -- force them.

COMMISSIONER SCHULDENFREI: No, no, I watched
the tape. That wasn't the question I was asking. I
guess I was asking, given the state of things do you
want to keep it B-
COMMISSIONER FREEMAN: I want to keep, I'm keeping it a one. And if you run the statistical models on it I fall off because I'm an extreme.

COMMISSIONER SCHULDENFREI: I have no change for any of my votes then.

COMMISSIONER FREEMAN: You know, I was an extreme on the public parking, I mean, the public spaces as well.

CHAIRMAN WOODS: David, do you want to modify anything?

COMMISSIONER GALLOWAY: Can you come back to me in a moment?

CHAIRMAN WOODS: Sure. Seth? You didn't rank streetscape and alley improvements and facade improvements?

COMMISSIONER FREEMAN: Yes, I will do streetscape and alley improvements, I'll give that a five. I will give facade improvements a one based on the conversation we had last week and how, what was actually, I forgot the gentleman's name, actually suggested against doing that. And B-

CHAIRMAN WOODS: You also didn't rank landmark preservation.
COMMISSIONER FREEMAN: Yes, I'll give that a three.

CHAIRMAN WOODS: I'm going to keep all mine. Stuart, any changes?

COMMISSIONER OPDYCKE: I think I would move whole building sustainability from a four to a five.

CHAIRMAN WOODS: Johanna?

COMMISSIONER NYDEN: No, no changes.

CHAIRMAN WOODS: Colleen?

COMMISSIONER BURRUS: Yes, I'd like to change streetscape and alley improvements to a four, and facade improvements to a two.

CHAIRMAN WOODS: Larry?

COMMISSIONER WIDMAYER: I'm happy.

CHAIRMAN WOODS: Al?

COMMISSIONER HUNTER: No, I'll stick with what I did.

CHAIRMAN WOODS: Okay.

COMMISSIONER STALEY: I'm okay with mine, too.

CHAIRMAN WOODS: Okay, I put them all in the spreadsheet, and whole building sustainability is 4.2, affordable housing is 3.2, landmark preservation is 2.3, so for all they're all the same. Public plazas is 2.8,
this is the same. Public park open space improvements
is 2.8, which is the same. Underground parking and
loading is 4.3, which is the same. Wrap parking is 2.6,
which is the same. Affordable office space is 3.0,
which I believe is the same. Streetscape and alley
improvements is 2.5, which is up one. And facade
improvements is 2.1, which dropped a little bit.

Larry?

COMMISSIONER WIDMAYER: One question. We
talked about a differentiation between gold and platinum
on the whole building sustainability. Is there any
interest in making gold 20 and platinum 25?

CHAIRMAN WOODS: Actually, I was going to
suggest that gold be 15 and platinum be 25. I think
that'd be a substantial difference, because really
platinum is B-

COMMISSIONER WIDMAYER: Kind of the next, the
next ionosphere?

CHAIRMAN WOODS: Yes.

COMMISSIONER OPDYCKE: Where then does
geothermal heating and cooling fit in to the calculus?

CHAIRMAN WOODS: That fits in under whole
building sustainability.
COMMISSIONER OPDYCKE: Well, I know. But if you're talking about gold certification B-

COMMISSIONER SCHULDENFREI: It can fall under any of them.

CHAIRMAN WOODS: Yes, it can actually fall under any of them. It can be the avenue by which you get certified silver, gold, or platinum.

COMMISSIONER OPDYCKE: I mean, do they need geothermal heating and cooling for platinum certification?

CHAIRMAN WOODS: You don't need it to get any of them, there are other ways of doing it. It'll get you there.

COMMISSIONER NYDEN: But you'd have to do other things to make yourself B-

CHAIRMAN WOODS: Right.

COMMISSIONER NYDEN: -- significantly carbon neutral. So the benefit of geothermal would be there with other benefits B-

CHAIRMAN WOODS: Right.

COMMISSIONER NYDEN: -- that you'd be obtaining points to B-

CHAIRMAN WOODS: Anybody who's going to
achieve any of these levels is going to do a financial feasibility on terms of what, how he gets his points to do it in as least expensive a fashion as they possibly can.

COMMISSIONER OPDYCKE: Okay, all right.

CHAIRMAN WOODS: Combined with what they feel like is the appropriate things.

COMMISSIONER OPDYCKE: By the way, how much geothermal do we see in present, present day construction? Does anybody know that?

CHAIRMAN WOODS: And it varies greatly across the country based on the properties of the soils and underground, the conductibility of the underground soils that exist in an area for example.

It also gets impacted by things like Unions and non-Unions. In Iowa there's a tremendous amount of geothermal energy that's being used, and it is almost all non-Union. And there, have very high conductivity of the soil in Iowa as opposed to evaluating the same thing in the suburbs of Chicago, the west suburbs of Chicago where all of a sudden the conductibility of the soil is not as good and the Union gets involved.

COMMISSIONER SCHULDENFREI: Jim, could you
just hit water though here if you can't put parking in
how you need your geothermal?

CHAIRMAN WOODS: Well, in some cases the
gеothermal is ponds and things like that.

COMMISSIONER OPDYCKE: The King Project on
Church Street, the Walter King Project. They've got 40
some units, each one has a geothermal, has geothermal
capacity. And it's expensive, but they figure five, six
years it pays for itself, and it leaves pretty close to
a zero carbon footprint.

CHAIRMAN WOODS: Yes, and residential
construction is, particularly that kind of residential
construction is significantly different than major
commercial buildings in terms of how you can use
gеothermal and things like that.

And in public construction you get into a
whole set of different bidding circumstances and other
kinds of things that greatly impact whether you can do
it or not, and whether it makes sense financially. It's
a very involved analysis.

So anyway, do we, does anybody, I guess, Kirk
you just made the modifications based on those new
numbers?
MR. BISHOP: Yes, I did. And the essence of it is if it got to a four or above it gets 25. And everything in the threes gets a 15, and two, anything below three is a, limited to a 10 percent maximum bonus.

CHAIRMAN WOODS: Okay. 65, 90, 100. Yes, I think as, in terms of intent I think we're there, and we can worry about the details later, because I'm sure we're going to revisit.

I believe the next item that was sort of up for discussion was the whole notion of the public process.

COMMISSIONER FREEMAN: Break, break.

CHAIRMAN WOODS: You want a break? Okay, we'll take a break for nine minutes, and then we'll be back here.

(Off the record.)

CHAIRMAN WOODS: Let's get underway again. I guess the first thing I need to report is that the spreadsheet miscalculated some things. So streetscape and alley improvements didn't have the correct formula, and so the corrected formula gets it to a 2.7 average. And the corrected average for facade improvements is 1.9.
COMMISSIONER NYDEN: How does it affect the percentages if it B-

CHAIRMAN WOODS: And I just realized we're going to have to make slight change to landmarks as well.

COMMISSIONER HUNTER: What is that going to be?

CHAIRMAN WOODS: Because it's not calculated correctly. Okay, so landmarks is going to be 2.4, which I'm not sure if that changed it or, I, well, I'm going to send it to B-

And I think that Kirk has made adjustments in the overall percentages based on the one thing falling below the two, he has made that one, or the five percent for the facade improvements as opposed to 10.

COMMISSIONER HUNTER: What happened to wrap parking?

CHAIRMAN WOODS: Which?

COMMISSIONER HUNTER: Parking, wrap parking.

CHAIRMAN WOODS: Wrap parking? The average of that was 2.6, and so it's a 10. 3.0 was affordable office space.

If I'm not mistaken, Kirk, everything under...
two is five, between two and three is 10, between three and four is 15, and above four is 25? At least as an intent at this point?

MR. BISHOP: Right.

CHAIRMAN WOODS: To be reviewed in detail for a future date.

Okay. Does that get us to public process, which I think actually is, this point relatively clearly stated in 515. Right? Is it 515.1? 551, whatever it is. Hold on. No, it's 551.

COMMISSIONER FREEMAN: 96, right, or something?

COMMISSIONER SCHULDENFREI: Page 98.

CHAIRMAN WOODS: Page 98. 551 Review and Approval, flurry bonuses for public benefit features may be approved only through the public benefit bonus review process which involves a review and recommendation by the Plan Commission and a final decision by city council.

And I assume that, if they have to go through a public review session in front of us we can also comment on architecture and other sorts of issues. They don't have to necessarily heed it, but B-
Absolutely.

COMMISSIONER STALEY: Could I comment again on that, because I hate to belabor this point, but it's going to come before us, but still when it comes before us, if the have it and if it's, you know, are we going to have to give them a bonus for it if it's when the, there, I can still, it doesn't quite satisfy me. Because I think it's clear that it has to come to us for a review and a recommendation, but if they meet the requirements can we still just tell them no, we don't think it's appropriate for this project?

MR. BISHOP: Yes.

COMMISSIONER STALEY: Yes?

MR. BISHOP: Yes. In accordance with the two criteria that, that follow in 552.

COMMISSIONER STALEY: Keep reading.

MR. BISHOP: If they apply, that's the minimum threshold. But you and ultimately the council have to decide, I'm yelling because this thing is out of battery.

Yes. They have to comply, oh, I'm fine, but you have to based your determination on does it comply and does it provide a true public benefit to downtown
residents, visitors, guests and the like. So on that basis, yes, I this not an automatic system, this is not a, just a symbolic review and an opportunity to get them in a public setting. This is a, once they cross the bonus threshold there is discretion.

COMMISSIONER OPDYCKE: Does that hold true for, I mean, for platinum LEED I thought we said you get 25 percent? But so is it still discretionary?

MR. BISHOP: The intent of that table is that's the maximum bonus that can be, that can be awarded for that project.

COMMISSIONER OPDYCKE: All right.

CHAIRMAN WOODS: Right. But I think the intent behind what Kirk's saying is that if, for example, a project came in and it had all the features necessary to make it platinum but everybody decided that it was really butt ugly and detrimental to the city in every other form we could say no to the bonuses.

COMMISSIONER HUNTER: Can you make it specific to a particular bonus? Do you see what I mean? We're not going to grant that bonus, we may grant the other bonuses?

CHAIRMAN WOODS: Yes.
COMMISSIONER HUNTER: Okay.

MR. BISHOP: Once, yes, so if you wanted to improve a park, and we don't need the park improved, so, but we would take the underground parking. That's an example of where you're, you're approving one but not the other.

CHAIRMAN WOODS: Yes.

Mr. LaMOTTE: But some like the LEED stuff or an equivalent. Maybe they get these features, and they've gotten their, they get that bonus but they've got a butt ugly building, you got to go through and push them on design standards.

But if there's, like, a B- LEEDs that the building council B- there may be some that have, yes, met the bonus, they get all these points.

Mr. BISHOP: Well, that's an alternative, and it's an alternative that I find attractive, that a couple of the bonuses be objective as of right bonuses.

But our new recommendation and the language in the draft applies universally to the, to the entire universe of bonuses, and they would all require review and approval in a public setting unless, unless you all recommend that we modify it in some way.
You all remember, this is a fairly dramatic change in our recommendation. A form based code, you know, one of the, one of the supposed benefits of a form based code is it is a certain predictable sort of tool set that can be used, and offers that predictability, and certain to both the property owners and developers, and to area residents who want to know what can and can't happen.

But because of the, and as of right 16 FAR building in a DC is, would be such a dramatic change, and because it just seemed too drastic a step, we've revised our recommendation, and it now, now is that once you avail yourself of the public benefit bonus system you're in a public review process.

COMMISSIONER SCHULDENFREI: I'd like to commend you on that addition, I really appreciate it and I think it's a really good change.

CHAIRMAN WOODS: I guess there are a couple things on here, personally, that I would be willing to say that could be objective things and I'd be willing to give a bonus for just because they've met the criteria. And that certainly, to me, would be whole building sustainability thing.
And then a system by which, for example, you get the maximum bonus for providing, of 25 percent for providing all underground parking. Or you, for if you put, you know, 75 percent of your parking underground you get some percentage kind of thing.

COMMISSIONER FREEMAN: You know, the sustainability issue though is, I still, we asked, I think last time, for a list of what is, goes into LEED certification and the percentages. So proximity to transportation is something that does go into B-

CHAIRMAN WOODS: That gets you one point.

COMMISSIONER FREEMAN: That's only one point?

CHAIRMAN WOODS: It gets a one point.

COMMISSIONER FREEMAN: Okay. So, I mean, is that something that should be off the table, you know, for Evanston. Because, I mean, anything you build here is going to give you that one point. Yeah, but good news for the developer, but B- the bonus system.

CHAIRMAN WOODS: Yes, but the problem is you got get, like, I don't know, I can't remember exactly what the number is for gold. Does anybody know it off the top B-

Okay, that's great, because I think it's,
COMMISSIONER NYDEN: It's 39 to 51 for gold, and 52 to 69 for platinum.

COMMISSIONER FREEMAN: Okay. So then it's just one point for being B-

CHAIRMAN WOODS: Yes, it's a B-

COMMISSIONER FREEMAN: Okay.

CHAIRMAN WOODS: -- really minimal thing contributing towards getting there.

COMMISSIONER SCHULDENFREI: I don't know. I like it, how it's written because if it's, if you start to get into some sort of buy right bonus, it just circumvents the Plan Commission review. I think it'll go quickly and easily with the bonus system.

We've got a system in place, we'll have more language with the final code. And I think why build in too much rigidity because things might really change. And what seemed in 2008, the summer of 2008 as, you know, an obvious automatic bonus may not seem so obvious and automatic in 20 years, and this is a 20 year plan.

So actually, I would be in favor of just leaving it as-is and just letting it come through the Plan Commission, and I think it'll go through quickly as
things come up. And if there's an issue then it will stick in Plan Commission and citizens will be able to comment on it. But I think it looks good as-is.

CHAIRMAN WOODS: Al?

COMMISSIONER HUNTER: Yes, following that, is, what are the procedures for altering the bonuses? I mean, do we have that built in, or is that clearly defined?

CHAIRMAN WOODS: I would assume, like, it's similar to any aspect of the zoning ordinance in that you would have to run it through the normal changes to a Zoning Ordinance process.

COMMISSIONER HUNTER: Okay.

MR. BISHOP: It'd be a text amendment to your Zoning Ordinance B-

COMMISSIONER HUNTER: Okay.

MR. BISHOP: Public hearings before the Plan Commission and B-

CHAIRMAN WOODS: Because I would assume that over time these bonuses may indeed change.

COMMISSIONER HUNTER: Oh, absolutely. That's why I was wondering if it stipulated or B-

CHAIRMAN WOODS: Okay.
COMMISSIONER WIDMAYER: Yes, there might even be a value to putting a five year review automatically in there that just says, every five years the Plan Commission, the Zoning Committee, the Plan Commission reviews these, just to keep them up to date. Because some things will, may fall off, others may become new and important.

CHAIRMAN WOODS: I mean, you know, if everybody availed themselves of the affordable office space bonus we might get to some point where we wouldn't need it. But I don't think that's going to happen, but it could.

Yes, or the mainstream LEED stuff, all of a sudden everybody's doing platinum buildings, then why are you giving bonuses for it.

Stuart?

COMMISSIONER OPDYCKE: As long as we're on the subject of Plan Commission, I think that for projects in excess of 25,000 square foot and an excess of 25 units the Plan Commission should review the project and have a, have a public hearing to decide whether or not the requirements of the downtown plan, including the guidelines, the design guidelines, and the design
standards are met.

In addition to determining what, if any,
bonus, bonuses would be applicable.

COMMISSIONER SCHULDENFREI: Before we forget,
just to, before we go into that topic.

COMMISSIONER FREEMAN: Hang on one second,
let's, I would like to have you, can you qualify what
you were B-

COMMISSIONER SCHULDENFREI: Well, can we just
finish the topic? Can you just add the five year review
to the notes? That's all.

COMMISSIONER FREEMAN: Could you a little more
detail behind what you just said?

COMMISSIONER OPDYCKE: Well, I'd like to
invite comments from my fellow commissioners on this. I
know it's, it's being advertised as form based, and
typically commissions such as our don't get involved in
determining whether designs are appropriate or not.

But I think for, for large projects, and given
the fact that we have a very active citizenry here, that
we should open it up for public comment for, for any
project in excess of a certain dimension. To ensure
that the requirements that we've set forth in this
downtown plan are in fact met.

Now, I can also see Spark involved in some earlier juncture.

CHAIRMAN WOODS: Spark is always going to be involved.

COMMISSIONER OPDYCKE: Yes, I think, that's the job of the zoning, that's the job of the zoning department, to see that the intent and zoning are met.

And again, I guess the question is if this passes as proposed, and somebody comes in with a building that's that size and it's by right, I'm not sure what the overall value is of, of, you know, having two or three public meetings on something you can't say no to.

Well, for example, we talk about fenestration, we talk about building materials in here. And who's going to, who's going to ensure B-

COMMISSIONER WIDMAYER: Well, do you want an appearance review? Do you want a architectural review committee to be added to the zoning portion of it that's purpose is to review architecture?

CHAIRMAN WOODS: Yes.

COMMISSIONER OPDYCKE: That might be, that
might be an answer. But we talked before about not
conferring bonuses to a developer because the building
is ugly.

Now, unless we have an opportunity to comment
on the design guidelines B-

COMMISSIONER FREEMAN: Do we have an ugly
meter?

COMMISSIONER OPDYCKE: -- I don't see where we
can even interject that particular objection.

COMMISSIONER WIDMAYER: But that's if there
are bonuses being requested. And you're talking about
doing it whether there are bonuses being requested or
not.

COMMISSIONER OPDYCKE: That's true.

COMMISSIONER WIDMAYER: And I'm saying, if all
you're doing is, is making sure that it meets the
zoning, the zoning department does that. If you want
somebody to review architecture, then maybe what we need
is an architectural review B-

COMMISSIONER OPDYCKE: That process B-

COMMISSIONER WIDMAYER: -- that might be B-

COMMISSIONER OPDYCKE: -- appropriate.

COMMISSIONER WIDMAYER: -- committee to do
that. And then their recommendation could be attached
to something that comes before council and Plan
Commission if there's a bonus review as well.

COMMISSIONER OPDYCKE: I want an, I would like
an opportunity to for some form, whether it's the plan
commission or whether is design Evanston, or something,
to be able to say to the developer, this is an ugly
building, it should not go up, we don't even have to
consider bonuses because it doesn't belong in this town.

CHAIRMAN WOODS: I mean, one of, I guess, one
of the issues that I see, and, is that, and I'm not sure
how you do this. But Spark needs to have more teeth,
and maybe needs to be configured a little bit
differently.

You know, having it in the middle of the day
sort of precludes most people's participation. Very
often even members of this committee find it difficult
to attend a Spark meeting that they might like to
to attend.

And it's not necessarily a place of comment at
this point in time, or public, you know, input or
whatever. Although, for the most part, if you attend
the meeting and you could request to speak and be, be
given that opportunity.

But the other thing I would like to, to point out is that, you know, very often we get these Spark comments as part of, sort of our overall packets for projects. And, you know, I can find myself reading the Spark notes and going, yes, okay, so how come he's here and didn't do those things. So, like, somehow Spark needs more teeth too.

COMMISSIONER WIDMAYER: It's the plan development process as it sits today, and in which Spark is not supposed to, they evaluate, they make comments, but they're not supposed to make recommendation as they might on just a variance to ZBA.

CHAIRMAN WOODS: Right. They're a recommending body again, making recommendations to us.

COMMISSIONER WIDMAYER: Yes. You know, we talked, a number of years ago we talked about binding appearance review, and then because of some legal concerns it was dropped, but now the legislature of the State of Illinois, in their ultimate wisdom, has deciding a binding appearance review is just fine.

And, you know that may be part of what you want to attach to the zoning part of it, or the process
part, which would be different than a public review of
asking for bonuses.

CHAIRMAN WOODS: One cautionary tale about all
that. And generally speaking I would love to see some
sort of architectural review process that would try to
compel a developer to do something in a certain kind of
way.

But there are issues with it as well, because
depending on who is on that committee you can have
totally divergent opinions because we are definitely in
the area of subjectivity at that point.

And having gone through, in Arlington Heights,
the Board of Architectural Review, or Architectural
Commission, or whatever they call it, in Arlington
Heights, you have one architect telling you you should
be doing a modern building. Another architect telling
you you should do a prairie style building, and a third
architect telling you that you should do a romanesque
building.

And so how the architects are supposed to have
any clue what he's going to do B-

COMMISSIONER WIDMAYER: You mean architects
don't always agree?
CHAIRMAN WOODS: How about, it's kind of like asking engineers what kind of mechanical system do you use or how do design it. For as many as there are in the room you'll have that many opinion.

COMMISSIONER WIDMAYER: That is a problem. And I'm just saying, there are alternative ways of doing it.

CHAIRMAN WOODS: Yes.

COMMISSIONER WIDMAYER: And I'm not sure that, you know, where it fits in. I, you know, I understand the concern.

CHAIRMAN WOODS: I mean B-

COMMISSIONER WIDMAYER: Yes, you want to avoid truly ugly buildings B-

CHAIRMAN WOODS: Right.

COMMISSIONER WIDMAYER: -- and have a mechanism to do that. Now, we do have design guidelines, which maybe need updating B-

CHAIRMAN WOODS: Yes, I mean B-

COMMISSIONER WIDMAYER: -- but, which could be applied. And they're fairly broad, they're more architectural concepts, I think, than, you know, specifics. But B-
CHAIRMAN WOODS: Well, and I B-

COMMISSIONER WIDMAYER: -- you put that in.

CHAIRMAN WOODS: -- I think that Spark, for

the most part is trying to implement those design

guidelines as part of their process as well.

The issue may be that without the plan

development process Spark ends up having more teeth, or

there's some other way that, to do something about that.

Because, like I said, I find myself reading those

things, and for the most part agreeing with everything

that's said and then wondering how the project got

before us.

And, of course, we recently had a very good

example of this. And, you know, basically figured out

how to dispatch that project as quickly as possible.

But it had to come to us so that we could dispatch it.

Spark, on the other hand, you know, did everything they

possible could have to dispatch it, but it couldn't make

that happen.

COMMISSIONER HUNTER: Yes. Is it, is there

anything in the form based planning code, stuff like

that, that deals with these kind of issues that we're

talking about here? Or, I mean, are we talking B-
COMMISSIONER SCHULDENFREI: No, it could be pink, the windows could be tint, I mean, there's a lot of things that could, you know, are beyond, it's impossible to set out so much. So, no. I mean, it could be

COMMISSIONER HUNTER: No, no.

COMMISSIONER SCHULDENFREI: -- be hot pink and we couldn't say anything.

COMMISSIONER HUNTER: But I'm just saying what, in what we have now even touches on these kind of issues?

CHAIRMAN WOODS: We have design guidelines. And, the design guidelines are incorporated into this B-

COMMISSIONER HUNTER: That's what I'm saying B-

CHAIRMAN WOODS: -- as B-

COMMISSIONER HUNTER: -- is there reference to B-

CHAIRMAN WOODS: -- providing direction.

COMMISSIONER HUNTER: -- design guidelines in the form based?

MR. BISHOP: Yes, yes. The proposal in the form base strategy that's in here is, actually move some
of those guidelines more towards standards B-

COMMISSIONER HUNTER: Standards, right, okay.

MR. BISHOP: -- that Spark, through even a modified site plan review, appearance review process could, could review and it could have more teeth. So it is an important part of understanding the, just sort of bifurcated review process that we're proposing is that all projects, even projects that don't request bonuses, would be reviewed through the Spark process.

And it might be appropriate for you to direct us to see, to, in working with staff on the zoning part of this, to see if we can come up with a modified Spark review process that, that could sort of fill the gap that is left.

CHAIRMAN WOODS: I'm all for that.

COMMISSIONER WIDMAYER: Yes, it think that's what we're trying to accomplish with this, that if it's, and if it's not going for bonuses of what have you it's a more predictable process. And then when they want more they've got to do a lot more.

CHAIRMAN WOODS: I guess it's the thing of, if you're not asking for additional stuff that your process ought to be relatively predictable and simple. But if
you start asking for stuff then your process becomes a little less predictable and a little bit more B-

COMMISSIONER HUNTER: Have you reviewed the design stuff, and do you have a sense of what might or might not be standard as opposed to Spark?

MR. LaMOTTE: Well, I would say, as Kirk said, we're trying to get this to be more standard so there's not this B-

COMMISSIONER HUNTER: Yes, that's what I'm saying.

MR. LaMOTTE: -- fluffy zone over here that the developers slide through and say, well I kind of articulated. And on the one hand you can't over design this, because then the architects have no creativity.

But on the other hand there's a lot of things that you don't want. I mean, a concrete bunker look, the cinder block fronts, stuff that you just are saying no.

Then there's this, you must articulate it. And one architect will articulate one way, and another will articulate another way.

So you've got to get to a happy medium so there's a framework or a guideline here. Some of it in
here is now starting to formalize these things as standards. So you've got some good standards that you have with staff wt PD, it just, let's let get them all flushed out, the next round you could add some more without, you know, handcuffing again the architect.

But I think the key is we always run design standards on the happy medium. There should be standards, they should be tools for you and staff to cut some of the craziness out that you guys see. They shouldn't even make it through Spark if they do dumb stuff.

And then when the Spark sends it up here it's pretty cleaned up. And if they, they are ignoring Spark then you guys are on edge from day one. But you've got a framework to work from.

COMMISSIONER HUNTER: Okay.

MR LaMOTTE: And Jim's going about the, you know, eight architects sitting on our last, architects B- on the board and they have eight different opinions. You can get away from some of that if the standards are common ground.

COMMISSIONER HUNTER: Right.

MR LaMOTTE: You may have to say, all right,
it's not a prairie building but he's articulated,
he's opened up the glass, he's getting his blank walls
knocked down.

CHAIRMAN WOODS: And it's clearly just my
opinion, but I mean, one of the great things about
Evanston is sort of the eclecticism of the architecture,
that you have collegiate gothic, you have prairie
style, you have modern, you have, you know, basically
every style that somebody's ever invented exists in
Evanston. And a lot of it of reasonably high quality.

It's not like Riverside, Illinois where
virtually everything is the same character of
architecture and you could write a very set of tight
design guidelines that, you know, an architect there
would then have minimal opportunity to vary from that.

And I think Evanston that would be a mistake,
because then somebody here is deciding, you know,
extactly what style we're going to have and then we get
all the same stuff.

MR LaMOTTE: And then I would also add is
because we heard this in Central Street process, we've
been hearing it in this process, is should you have an
appearance review, should you not, should you have all
the committees that you have, plus appearance review responsibility, should that still be here.

But that's something, I think, needs to be flushed out. When you're ready to go, the plan's approved and you have your code in front of you, what is the process, what kind of teeth, if at all, go into Spark. Should we separate that out into a separate commissions or should be just make sure that we are all up to speed on appearance review on this commission?

CHAIRMAN WOODS: Johanna?

COMMISSIONER NYDEN: Well, I think I have the internet because of the wireless connection to my computer and it's very helpful right now, because I just went and looked to see who are the members of Spark. And I was actually surprised, it's all city staff.

CHAIRMAN WOODS: Right.

COMMISSIONER NYDEN: So I think that if we're going to give more teeth to Spark it needs to have public members. One, okay, well, we need more than just the one. Because there's, like, nine or 10 of us up here and we all have B-

CHAIRMAN WOODS: And that could be a part of the redesign of that process.
COMMISSIONER NYDEN: Exactly. And I, so I just want to put that out there that we need to get the planners, the architects, the lawyers in there.

CHAIRMAN WOODS: And I think some of that is an issue of exactly when during the day it is. I think at times there have been more than sort of one member who was a public member, who's been part of that process, a relatively regular basis whether it was formal or informal. But, you know, sort of 2:30 in the afternoon makes it B-

COMMISSIONER NYDEN: Well, and just people can't come to those meetings.

MR LaMOTTE: One other quick thing, because this, again, is something you need to sharpen your process, your organization as a commission, is that when everybody's armed with the tools, and understands the tools, it moves the meetings quicker so that you're sticking with the guidelines, and you're sticking with the bonuses, then it should take a lot of time and craziness out of everybody's process, including staff. And we've seen it where a good appearance review commission, because they know where their latitude is, will help get the message across to the
developer, actually sketching in meetings.

Well, you keep coming back with the same blank wall, here's a couple of ways to do it. It doesn't hurt you, just do it right. And it actually helps staff and them working together.

COMMISSIONER HUNTER: Could I get, or could we get Dennis' input on this?

CHAIRMAN WOODS: Absolutely.

MR. MARINO: Sparks purpose is a little bit different. I mean, it was intended to be an interdepartmental body of staff people to be able to share perspective, and reaction, and suggestions for proposed projects. So literally nearly all new construction goes through that committee.

It's binding with regard to site plan itself, but not with regard to architecture design. Although, it can be pretty persuasive, but not always as Jim alluded to earlier, recent developers have ignored it totally in that regard.

I think what you're referring to is in terms of an appearance review function that could be layered on with a little more teeth at site plan. But there may also, could be a separate process for that as well.
CHAIRMAN WOODS: And maybe it's, yes, that ultimately is the charge, is to figure out how to get that thing into this process in some sort of reasonable fashion.

COMMISSIONER OPDYCKE: But I was just thinking of staff time, staff, all of that. I mean, this is a cost factor too, conceivably for Spark.

MR. MARINO: Yes, it definitely is. But I think it's critical for us as a staff working group to be able to have all the critical departments there, police, fire, as well as health, and many other folks, certainly community development and public works. And I wouldn't want to lose that capacity.

So I still would want to, want for it to meet during the day, maybe it could meet a little later in the day. But I also, you know, I'm sensitive to the appearance review issues and the desire for a little more public participation there.

We currently have one public member was cited earlier, currently a realtor, but he's also very good on design issues. The previous public rep was Hunts Friedman, who's an architect as you know, distinguished architect. You know, could there be more than one
person appointed by the mayor on site plan?  Sure.

CHAIRMAN WOODS: Seth?

COMMISSIONER GALLOWAY: He can't go yet, because my lights been on for 10 minutes.

CHAIRMAN WOODS: Okay, David.

COMMISSIONER GALLOWAY: I've been quite vocal on this issue for many, many years, and ironically I'm finding a fair amount of comfort in the form based code, and am less inclined to go the route of, say, a full blown architectural review committee.

If for no other reason that it's extraordinarily difficult to get people to volunteer to do anything these days. And you oftentimes get people that do volunteer that are often the fringes, when, which can do more damage than good.

I think, I almost see this as almost a, perhaps a three-tiered approach. If you've got a small building that asks for no bonuses you go to Spark, or you go to a, but that would be a Spark that has to have some additional teeth, where these are not guidelines these are standards. And everyone is educated on the standards.

And I think that, that means that all city
staff members have to fully understand the standards and
be coached in them by a design professional. And that
there needs to be additional representation from the
community on that, whether it's, and one of those
representations ideally should be a design professional.

But they all should be selected, in my mind,
with a critical eye for their broad understanding of
what constitutes a good design. It's not a style,
whether it be gothic, or bow house, or, you know, French
provincial, it's how that design in created, masked,
detailed, and true to basic design principles. But

anyway, I digress.

So maybe a small building with no bonuses goes
through a, through a fortified Spark process with a,
with better education, with standards, and with some
community representation. And maybe it's moved to 5:00
in the afternoon so that some city volunteer people can
at least maybe get off work a half hour, or an hour
early, you know, once a week and make it happen.

Then maybe there's a, for larger buildings
above a certain square footage, I'm not quite sure where
they go right now, but at the farther end of it,

obviously, somebody that has a large building, or any
building that's asking for bonuses, needs to come before
the Plan Commission so that we can do what we've been
talking about doing for about the last hour.

What the interim is, I'm not certain, but
obviously the amount of, we're also trying to create a
process here, which is understandable to all the
developers and is fluid and expeditious as any developer
can ascertain. And obviously small buildings, there's a
lower profit potential, you know, the architectural fees
are lower, the time frame in order to, you know, build a
building within a certain, you know, economic envelope
is shorter. So you want that process to be shorter and
more predictable so that maybe that is a Spark meeting.
And public can attend, but their commentary, you know,
has to be limited, you know.

And as I said, the other extreme, or the other
dermit of the spectrum is the Plan Commission with a full
vote, public, you know, comment and so forth, and so
forth. Where the middle buildings and projects go, and
what that process is I'm not quite sure, but obviously,
in my mind, it seems to be somewhere between those two
extremes.

And I think that's what, I think I'm
addressing some of the concerns that you expressed, Stuart. You know, if you have a project of a certain size it's going to have a significant impact on our community regardless of whether it asks for bonuses or not. And we need to be assured, you know, that you're not building a, you know, piece of junk, you know.

The standards, the guidelines that become standards help, but, you know, any and I see this in my own work, another set of eyes, of qualified eyes on your project invariably makes it better, invariably.

COMMISSIONER FREEMAN: Yes, I appreciate your comments, and I agree with a good part of them. One of the issues I have with the form based code here is that, you know, without the public comment I can even deal with that. But my biggest concern is, like, you know, the impact a building has on a community. So the business impact, economic impact on a community is not part of this. So, that I, that I have seen here.

So while we have zones, and we say you can build buildings in these zones that, as long as they conform to what we say they need to conform to, but, you know, what are they replacing? You know, what kind of businesses are being displaced and what's being brought
in, and, you know, so that is not part of this.  And so I think that that's why you need to have things like public comment.  I think that's why you need to have review.  And it's more than just for the standards.  In fact, I'm less concerned about the standards than I am about the impact to the community.

COMMISSIONER NYDEN:  Can I just say one thing real quick?  I think when John Kennedy came and talked about the impact of big buildings and taking out little buildings that may not serve much purpose visually we all sort of were pleased about the analysis and thought that that kind of analysis should be done by somebody, either staff or somebody to, to provide some kind of context outside of, like, you know, does it fill the FAR or height requirements.  And we're looking at something a little bit more in the terms of the larger community not just the design of the building.

COMMISSIONER FREEMAN:  You know, an example would be, you know, putting up a new mall where a building that's just got tons of stores in it that Evanston can't support.  So if there is not a feasibility study done, now I'm sure the, the developer is going to look into that.  But we know that, you know,
COMMISSIONER SCHULDENFREI: Malls fail.

COMMISSIONER FREEMAN: I'm sorry?

COMMISSIONER SCHULDENFREI: Malls fail, or buildings fail. And, you know, I believe that cities fail based on not having retail space filled, having the wrong type of retail, filling shops. And I think that that's all part of the character of our community.

And my concern about this is that there, there seems to, this seems to bypass that process of building, or new development. So, discussion. I mean, is there B-

COMMISSIONER GALLOWAY: Well, I think it's interesting that you're, I think we need to keep a little perspective on this. We're, I think your comments are the result of a project, one of the first that I can recall, the 708 Church Street project wherein a new building actually was displacing some property that was generating B-

COMMISSIONER FREEMAN: No.

COMMISSIONER GALLOWAY: -- revenue, significant revenue. Many projects that have come
before us recently, many of the projects of a similar
scale have replaced properties that are, are generally
not producing, you know, any economic benefit.

COMMISSIONER FREEMAN: No, this had nothing,
actually it's, 708 is something that you could use as an
example, but I think it goes, it runs the gamut from
Sherman Plaza to, and I'm not saying that that wasn't
the correct thing to do there, okay.

But before you can do these type of
developments you need the impact analysis, you know,
that's what I do for a living is analytics and trying to
understand why people do things and, you know, and and
the impact on businesses and that kind of stuff. So I
believe we need to do our due diligence around that for
the health of Evanston.

COMMISSIONER GALLOWAY: I'm not saying we
don't, but I'm saying that that probably needs to be
done to the degree that that project impacts that. If
you were to ask, if you were to B-

COMMISSIONER FREEMAN: Sure, sure.

COMMISSIONER GALLOWAY: -- you know, if the
city was, I mean, some projects it's an absolute no
brainer.
COMMISSIONER FREEMAN:  Sure B-

COMMISSIONER GALLOWAY:  You got a building
that's empty, it's been, you know, vacant for three
years, it's not generating any B-

COMMISSIONER GALLOWAY:  But that doesn't mean
you should put in a, you know, a three or four story
mall with a bunch of, with stores that aren't going to
attract.  And then you end up having empty stores.  So
that's why I believe we should have review processes.

COMMISSIONER SCHULDENFREI:  Right.  And along
those lines, I mean, somewhere between what Stu said,
what Dave said, and what Seth said, I think it's really
important to consider what is predictable and what isn't
predictable with the new plan.  Because there is a lot
of things that are predictable, and height is certainly
the big button there.  But there's a whole lot of other
things that one can think of.  Again, can it be hot pink
and why not if everything else is sort of according to
the standards.

I think I'm proving Spark makes sense, but I
also don't think we should reinvent the wheel and try to
do something different than what we already have.  We
have a very functioning and diverse Plan Commission.
And so I think over a certain site size it makes sense to actually have the aspects of public comment, economic impact, other intangibles. And where you have the long protracted battles is over things like height. If that's set, and it's these smaller things, I think it's going to make a difference. But I think it's actually the intangibles, the things that we're not thinking about that could use some review.

COMMISSIONER WIDMAYER: What are you reviewing, I guess becomes the question in terms of what you're developing here? And you're developing a zoning code, and at least the way it's being presented today, if you meet the criteria of the zoning code you can hold a bunch of hearings and you can tell them you don't like hot pink, but unless you've actually got an appearance review mechanism in there you can't say no either because it's by right.

I mean, you know, you're used to a plan development process where everybody's coming in and they're asking for a lot more, and therefore the whole thing can be rejected by, rejected, because you never see the guy who decides to buy the building at 708 and
put up a three story, a brand new three story building. Because that's, you know, that's within the zoning, it's by right, and as long as it meets the building codes you never see it, we never see it, it never comes here.

So the, you know, the, with all the things that you're talking about, you know, they don't happen today. So I guess the question is, what are you either trying build into this code, because just holding a hearing on something that, at the end of the day you got to say well, thank you very much, and they walk away, doesn't have a lot of meaning.

So you either got to build something into the code that reflects that, or you kind of have to accept the fact that either you're building into the zoning code a by right situation that you may modify by asking for an appearance review or, you know, physical something like that. You can talk them maybe about permitted uses and not permitted uses in the general sense, but unless you're going to, you know, go a lot further in how you define the code the rest of it is just time.

COMMISSIONER SCHULDENFREI: Right. And the
question is then, how much by right is by right, and is,
how fixed is by right, and are there some small things
we can do that will allow it not to be so by right.
I mean, we have that problem before you had
plan development of a certain threshold things were by
right, and you had some bad buildings built. I mean,
people point to them all the time, I name some
addresses. We have this problem and this doesn't solve
that problem.

So it solves one kind of problem, height
predictability, good, that's great. But the question on
the docket now is, we've got problems with by right, and
are we opening the door to a whole other set of
problems. And I'm not saying throw the baby out with
the bath water with form based code.

I'm just asking, and I'm not the only up here,
obviously David, and Seth, and Stuart have asked too,
they were asking, can we, before it's too late in this
process, we're asking, how tight are we making these
things? How by right? Where's the citizen comment, is
there a place for it? Is there a place to make changes
or not?

If the answer is no that might impact, you
know, some votes on this plan later on, I don't know, we'll see. But the question is, I think it is a question not just rhetorical.

COMMISSIONER BURRUS: I would agree with Seth and everyone who's talked about the, having citizen comment. Because it isn't, there are so many things that came in, even with on the Central Street Theaters of widening the alley, and how the loading was put in. And things that, where, I think the staff does a great job and Spark, but they're not, they don't know the site, they don't live the site. And we, I believe get a lot of great feedback from citizens who are experiencing that development in that area in a way that we can't, and maybe that helps the developer. Or we can include something of encouraging the developer to meet with citizens. So it could help the development in a better way if we do have citizen comment, you know, as we go along.

I think, is that what you're kind of addressing, Seth, in that regard?

COMMISSIONER FREEMAN: Well, it's more than citizen comment. I mean, it's, you know, analysis on the impact to, like, a business district to B-
COMMISSIONER BURRUS: Right, yes.

COMMISSIONER FREEMAN: -- you know, displacing office building, and lower priced housing, or lowest, lower priced office space, and what happens to the doctors, the dentists, the shrinks, the mom and pop stores, and where do they go, and isn't that part of the character of certain areas in Evanston. And I can keep going on, and what happens to that type of review process?

COMMISSIONER BURRUS: Right. But I think that a lot of those issues come up at citizen comment in a strong way, in a way that we don't always necessarily think about now.

COMMISSIONER FREEMAN: But it's different than, you know, widening an alley.

COMMISSIONER BURRUS: No, no, I agree.

COMMISSIONER FREEMAN: It's, like, there is an absolutely analysis you want.

COMMISSIONER BURRUS: I'm agreeing with you.

COMMISSIONER FREEMAN: Okay.

COMMISSIONER BURRUS: It's just, what I'm saying is that citizens bring up things like displacement of local businesses, they bring up office
space. Throughout the process over the past, you know, 12 months we've heard, you know, every concern possible around the particular development we all love.

But I think it's really important, and it may help the development, other developments going forward if we had that back and forth process.

COMMISSIONER FREEMAN: It could also the development that you're referring to that we all love.

COMMISSIONER BURRUS: I'm not going there.

COMMISSIONER GALLOWAY: Seth, if I understand you correctly, what you're, you're keying off the presentation that John Kennedy made to our, to us, which, in my mind, was sort of a socioeconomic impact study that would be done in the event that there is a project that will have significant impact on an existing site. And many of us have talked about that B-

COMMISSIONER FREEMAN: Yes.

COMMISSIONER GALLOWAY: -- prior to this meeting. And we have, you know, I think we're as, pretty much unanimous agreement that a study like that, if it was done by a city consultant who's paid by the city, you know, to do that would be, would present us, and the city, and the public, with valuable information
as to what indeed is the impact of this project.

Is this developer coming in to try and make a quick, quick killing and then leave time, or is he bringing to the fore a valuable project which, both short term and long term will have economic benefit.

COMMISSIONER FREEMAN: Absolutely, sure.

COMMISSIONER GALLOWAY: -- benefit. And is he, is he forward thinking, is he moving in a direction of wherein this is something that we can anticipate the future, you know, being something oriented toward the future, whether it be, you know, a research park, or a Mixed Use development and so forth. So the

COMMISSIONER FREEMAN: Yes, yes, yes and yes.

COMMISSIONER GALLOWAY: There's that but

COMMISSIONER SCHULDENFREI: But how would you add that in

COMMISSIONER GALLOWAY: -- and there's also the issue of what Colleen is talking about of, about public input. And I think for projects of a Central Street nature, which is a significantly sized project, I think it relates to what Stuart was talking about. It also relates to what I was talking about.

And that I would suspect if there's a similar
project to Central Street it would probably be, be here
before us requesting bonuses. In which case, you know,
the public's input would be, would be mandatory. And by
virtue of that fact we would garner that, that kind of
input.

So, I mean, I don't think we're, we're all on
a similar page, it's the fine, it's, it's the mechanism
and defining the middle ground. I think we're all B-

COMMISSIONER SCHULDENFREI: But Dave, quick
question, what if, but the bonuses don't trigger the
economic impact study, or the, that would, we'd just
look at the bonuses.

So how would what you described, which I like,
how would that fit into the plan we have before us today
where you talked, just talked about those various
aspects? How would fold that in?

Because I sort of see, well, they should come
before us, and I think that makes sense, except for
maybe they want to circumvent and just not, and not come
before us. And so therefore, build, you know, to the
envelope they're given.

But even if they're coming to us for bonuses,
and we are evaluating the bonus, where would the, where
would the other analysis that you're talking about come in there?

COMMISSIONER HUNTER: Can I pose a question on that? And in part goes it, to the, you know, our consultants here. With the form based code, very clearly we're talking form, and not to use a trite planning notion, how much function is actually contained in, in the form based code.

Because what I hear Seth talking about here, and some others, is what is the functional use of this particular building economically, otherwise, et cetera, in it's particular context. Do we need a 12th nail salon, or something like that?

You know, I'm not assuming they're putting up a building just to be a salon.

COMMISSIONER FREEMAN: I'm not assuming B-

COMMISSIONER HUNTER: But, no, but what I'm saying is you're addressing the functional use of the physical structure here, not just that this B-

COMMISSIONER FREEMAN: You know, it's more than just the functional use, it's the, you know, what is it replacing? You know, are we B-

COMMISSIONER HUNTER: What was the previous
function?

COMMISSIONER FREEMAN: Yes.

COMMISSIONER HUNTER: But you're addressing it at a functional level not simply a physical form level.

COMMISSIONER FREEMAN: Well, then also a, and also in a financial B-

COMMISSIONER HUNTER: That's functional, I mean, B-

COMMISSIONER FREEMAN: Okay.

COMMISSIONER HUNTER: -- that's in part function. I mean, I would include that under functional.

COMMISSIONER FREEMAN: Okay.

COMMISSIONER HUNTER: So my question, I guess, here is, how much functional detail is normally incorporated within a form based code?

COMMISSIONER FREEMAN: None.

MR. BISHOP: Very little. The function, the function here is in the first half of this document, the plan aspect. If, and by that I mean if there's a sense that certain areas of downtown should not be made available for any change of use they shouldn't be zoned in that classification. Once that decision has been
made there are some sort of basic legal parameters we
need to adhere to in terms of fairness, and due process,
and other constitutional rights.

COMMISSIONER FREEMAN: So then what are you,
so are you saying then that some of these zones we could
say, well, if this is in these zones then you have to
meet additional criteria, meaning the financial
analysis, the impact and that studies, and things like
that? Is that what you're saying?

MR. BISHOP: No, I'm not saying that, I'm not
necessarily dismissing it. It's a system I'm struggling
to get my mind around.

I'm not aware of precedent in local government
zoning and planning research for using an economic
analysis as a basis for approving or denying a building.
That's an important planning consideration that should
go in to the plan itself.

But in a case by case determination of whether
to approve a building or not B-

COMMISSIONER FREEMAN: Projects, let's use,
from my understanding that's used quite often as to
whether you're going to approve large scale projects.

MR. BISHOP: Well, that B-
COMMISSIONER WIDMAYER: That's under a plan development process. But remember, different ordinance than this plan, if you've got a plan development you've got a super majority, and 50 stories can happen even with this plan. So you got to be careful how you do this.

You're right under a plan development, and most things like big malls, you know, large complexes are plan developments in somebody's, you know, different communities have different versions of plan, but it is a plan development.

And one of the things that, you know, the citizenry keeps telling us is that they don't trust the plan development process downtown. So don't get back into it if you're trying to get out of it.

COMMISSIONER STALEY: Could I say something, I had my light on all night and everybody else. And it's not that I have so much to say there. But I, I mean, I'm, I'm going to get more tired and I'll express it even.

It seems to me, I'd kind of like to go back and see what it was the city council retained these gentleman to do. Because I wasn't here at the time, but
I thought they were retained to basically do a plan for form based zoning. Isn't that what they were, wasn't that what they were hired to do?

And were we then supposed to analyze, you know, their work and determine whether form based zoning made any sense? Because what I'm, what I'm hearing here is all of this, you know, everybody who's speaking pretty much thrashing, you know, kind of like we're fish in a barrel here thrashing against form based zoning.

Because, no, no, because oh, yes, because you want the input, you really want to have everything as a plan development because you want, you know, Seth wants to determine, you know, what was there and can be taken away.

Well, under form based zoning, if you got the zoning in place, people who own property, you know, can tear it down even if it's full of, you know, whatever, and can put up something differently.

And it doesn't have to satisfy you, or it doesn't have to satisfy anyone, it doesn't have to satisfy anyone else so far as use. They have the right to do that under the zoning, you know. If, and I think that's what form based zoning is.
So, you know, what I hear now is trying to create some sort of a hybrid where you really don't have form based zoning. You still got the input, and so you can basically tell the developer sort of everything you want subjectively, and basically get away from form based zoning. That's what I'm hearing.

COMMISSIONER HUNTER: No. Well, I think there's, I would recommend you listen a little harder then. Because I think, yes we're B-

COMMISSIONER STALEY: I'll take your recommendation, thank you. And B-

COMMISSIONER HUNTER: Because I think, yes, we are interested in form based zoning, but I don't, I don't think we have to buy it totally as stated. Because we are concerned about the content and not just the form. And that's what I hear being expressed up here, is that concern about content.

COMMISSIONER FREEMAN: And it's not just me expressing it, I B-

COMMISSIONER HUNTER: No, no, but I'm just saying B-

COMMISSIONER FREEMAN: -- I do, I do have B-
COMMISSIONER HUNTER: -- and so one of

things B-

COMMISSIONER FREEMAN: -- and I've lived here

a long time.

COMMISSIONER HUNTER: -- in coming back to

here with our consultants, which I'm taking as a

consultant, is asking them where is content in form, and

how do you incorporate content, and what is your

experience with form based zoning with respect to

content? And, because these are the experts.

CHAIRMAN WOODS: Before we B-

COMMISSIONER HUNTER: Yes, but I'm just

saying, I'm trying to get their input on this very

point.

COMMISSIONER STALEY: I think they gave you an

answer, is they said, you know B-

CHAIRMAN WOODS: Can I comment on one thing?

I mean, there is several different issues here that are

all playing at the same time, and it's making very

difficult, I think, for anybody to get their arms around

any of this.

There is an issue, which is as of right B-

COMMISSIONER HUNTER: Right.
CHAIRMAN WOODS: -- where there are things within the Zoning Ordinance that we can place, for example, allowable uses on the ground floor, allowable uses in a district B-

COMMISSIONER HUNTER: And that's content.

CHAIRMAN WOODS: -- that will control things to some degree. Having people do socioeconomic analysis for replacing an existing building with an as of right building, that somehow we can go in and tell them that, you know, that use that we said is allowed isn't allowed in this location, you can't really do because you're restricting the owner's rights to develop a property.

COMMISSIONER HUNTER: We always restrict rights, I'm sorry.

CHAIRMAN WOODS: Well B-

COMMISSIONER HUNTER: That's what the law does. The law guarantees rights, but it also restricts rights.

CHAIRMAN WOODS: But what I'm saying is it does it in a capricious way.

COMMISSIONER HUNTER: Well, no, we're not B-

CHAIRMAN WOODS: If you're asking for something more, then you have the ability to ask for
things in return.

And therefore, socioeconomic analysis has a real role because you may do a socioeconomic analysis of a project that says that replacing the B level office space with A, with all condos is the wrong thing to do for the community when they're asking for bonuses.

But if you've determined, hold on, if you've determined that in a specific zone you want to have ground floor retail, and either office or residential above, and somebody comes in with an as of right project that doesn't ask for anything more, we can't tell them what goes in it beyond what we've already said within the ordinance.

COMMISSIONER HUNTER: Well, maybe we want to say more in the ordinance.

CHAIRMAN WOODS: Agreed.

COMMISSIONER HUNTER: Okay.

CHAIRMAN WOODS: That's my point, thank you, Al.

MR. LaMOTTE: Can I clarify a couple things, because I think we're getting lost on some of the, the content of the form based code.

Number one, it's to try and streamline the
process so staff isn't overloaded, you're not overloaded, you're not spending until two in the morning on every project, and negotiation goes on, and on, and on.

Every town that's getting into form based is looking to get predictability and streamlining. Cutting the time down so it's like, yes, we want a good project, why are you not there? You've got all these wire frames and guidelines and things to follow, okay.

So it's better than traditional zoning, it's tighter, it gives guidance to architect that we all want, every town is struggling with design. And the more we all learn about it and get tools the better it's going to be when we make decisions.

When the list of uses if there, and we've talked about this in the beginning, that this is a Mixed Use plan. So we're not saying only office here or condo here or that, and we want active streets.

Then they come in and they say I want to do another nail salon, and it's on the ground floor, and it's got glass along the front, and the architecture looks good, they can do another nail salon as of right.

Where there is some economic impact that might
happen to the city, typically staffs will go and say,
commissioners there's 15 small businesses in there, we
need to figure out a way to, to address them. Some may
want to retire, some may what to move.
This development might not be the appropriate
place, or we ask the developer to help us with ideas or
integrate them back into the building.
But to require that we got to get into their
market study, and their financial analysis, they're
sticking their neck out to build a building that they
think there's a market for, and retail is up and down.
So I think we have to be careful.
The code that you have represented as a draft,
you're not approving the code, is much tighter, much
more predictable, much more tool oriented for you than
you've had in a while. And then you can spend time here
in the creative stuff.
Yes, looks good, soften that brick wall up a
little bit, can you wrap around the alley a little bit.
And not fighting on bulk height, like Robin's saying,
and is this the right project. It's very
straightforward, and let's get into creativity, move on
to the next one. That's what it's all about.
And then if you get into the uses then you got
to get in, so I want a spa but not a spa with nails.

We were in one community and they had uses for
bigger commercial boxes out on a shopping area. And one
said, I like Target but I don't like K-Mart. Well,
that's getting into legal grounds because it says
commercial box, you can't say whether it's Target or K-
Mart.

So we have to be careful on, on as of right
legal grounds B-

CHAIRMAN WOODS: Unless you own the property.

MR LaMOTTE: Yes, unless you own the property
right. And say, okay, now we have a lot more tool here.
And we know we got to tighten the process up in the
next round, you know, with Bill and staff. And let's
get a plan and a guide that we can move towards.

And I think that's, that's our business
tonight and in the next couple of weeks, is getting this
thing up to the council to say, we've got this thing
cleaned up, we're ready to go.

You still got work on your process to do. And
then, I mean, the idea of giving a little more teeth and
empowerment of the Spark, they can cut some of those
little project out of your hair and you have to not
waste time on those, you know. That's the way the
staffs are going if they're empowered to do it.
The big projects, obviously, got to come here.
That's the whole overview.

COMMISSIONER SCHULDENFREI: And
legalistically, why is it that only bonus triggers the
give and take process with it. Because you B-
CHAIRMAN WOODS: It's property rights law.
MR. LaMOTTE: Property rights law,
constitutional law, and good clean zoning should say,
yes, this is predictable and as of right because we
agree as a city for that. Yes, that use is good, the
bulk is good.
What we're saying now is, well, wait, your use
and bulk may be good but your design may not be so good.
Now we want to come in with some kind of better review.
Everybody's doing that, even if it's, I just slipped in
a three story building for a three story building.
Well, we still want the design right.

COMMISSIONER SCHULDENFREI: And what's the
legal basis for that to say that design's not good
enough?
MR. LaMOTTE: Well, as Larry was saying, before it was guidelines and advisory, a lot of design review functions didn't have tools, and they didn't have training, now they have the training. The courts have come back and said in Illinois, no, you can go ahead and regulate design. Obviously, as Jim said, there's a certain point, you can't get down and design the windows for the architect. But you can do that, and maybe that's one of the first functions that you come out of this. Say, okay, let's tighten our process up, let's tighten Spark up, should we have a separate commission. I don't think we're there yet, and I don't think anybody's, you know, thinking that yet. And then we've got all our tools right here, let's put the bonus numbers in, the calculations in. You've made tremendous progress by going through this process. I'm sure it'll be a tighter ship.

CHAIRMAN WOODS: And I think, clearly, it's not just downtown it's throughout all of Evanston, the issue of architectural quality has been an issue for people.

MR. LaMOTTE: Right. And every town struggles
with it. And the theaters thing now with the plan for Central Street, you are going to put that wide alley in there, you're not going to have obstructions in the alley, you're going to have the wide sidewalk, you're going to have the glass storefront.

That's out of your equation, you don't have to fight with anymore, and then you can spend time on creativity.

CHAIRMAN WOODS: Especially with all the architects in town.

COMMISSIONER BURRUS: Okay. I'm not sure that we came to closure on that. And I, I'm not sure that we can really move on past our, this portion of it, the administration, unless we come to some sort of understanding, because it's really impossible to move this forward if this is left open-ended.

MR. MARINO: If I could comment, excuse me, Jim. Some of the issues Seth was raising earlier I think are really proper issues for the Economic Development Committee. I think what he was really raising was a vision of the form of economic development. I think he was raising issues related to business retention as well.
And also, I think this is perhaps an issue for the Neighborhood Committee of the Plan Commission for it to be reactivated. To begin to look at these kinds of issues, not just within the downtown, but throughout the city in terms of neighborhood business districts.

I think, as you know, Evmark, within the downtown works hard at trying to diversify the mix of businesses, to keep existing businesses, and also to bring in other businesses to fill vacant spaces that will strengthen the mix, if you will.

But I think, you know, the kinds of issues you're, you've raised are very much within the planning genre, but they're often with economic development and neighborhood revitalization more so than in the land use process.

And there's some underlying legal issues, like eagle protection, which were raised earlier by a number of people, that really restrict what you can do sort of with those kinds of issues, which are very legitimate issues for the city, but it's putting those in the right forum and developing policy, programs, incentives, et cetera to achieve those in an action plan.

CHAIRMAN WOODS: Sounds like a good
recommendation for the Neighborhood Committee to take
that up.

So, at least in terms of my understanding of,
of what we're trying to do tonight, what we need in here
is some sort of intent in terms of review process or
administration of this form based code.

And it seems very clear that for small
projects, what we've asked for is some sort of beefed
up, fortified Spark process perhaps with more public
input somehow through that.

And then for the larger non-bonus projects
that we may need to look at some sort of architectural
review process or something. And then for the ones that
are asking for bonuses, that they are actually coming in
front of this body.

So that there's sort of three steps, or three
tiers in terms of projects.

COMMISSIONER GALLOWAY: Well, I'd like to ask
our consultants if they have any experience in what
might have, what other communities have done given
similar circumstances. I mean, it seems to be, the
middle ground is the, the, is the muddiest right here.
And that's the, the large project that, say, doesn't ask
for a bonus but will have, say, significant impact on
the neighborhood.

You know, what, you know, we, if we keep the
present administrative reviewing bodies we've got Spark
and the Plan Commission. So one could say, okay, that
come before, let's just say, let's just think off the
top of our head here.

Okay, so those projects come before the Plan
Commission. But there is very limited, or no public
testimony, let's say, because it's a by right project.

What we really need to address there is
architectural quality and, well, that's pretty much
about it, right, because they are not asking for any
bonuses so we can't evaluate whether they conform or, or
whether we want them, or we believe that the bonuses
they're asking for are viable.

So I think our concern is really one of
project quality, you know. And so, you know, without
trying to create yet another bureaucratic, well, city
committee, which I think would be probably not a good
idea since it's hard enough to fill this commission and
hard enough to fill Spark.

Then, I don't know, I'm just throwing it out
there. Do those projects come before the Plan Commission with some kind of, you know, one meeting before the Plan Commission?

And if we have recommendations shall we say that, you know, you aren't meeting these design standards and we want you to come back. But as for, and then maybe we limit comment to, I don't know.

I'm just throwing this out as an idea to try and get us off, off the dime here. Because I think we got, the other ends of the spectrum fairly well, well covered. And I'd be curious as to what any of you guys have to say about that.

MR. BISHOP: Well, you know, I would suggest that rather than us trying to design one on the fly that we get your sense about whether the intent has been properly expressed here, and that what we're really tasked with doing is coming back to you with a better defined middle ground process that tries to reach this level of review and compromise that I'm hearing you all discuss.

And I'd really, you know, I really want to make sure that we engage them, the staff in this discussion in terms of resources, capabilities,
processes, efficiencies. Nobody's asking you to vote, if you could just give us the intent and come back to you I think it probably would be a more productive process.

CHAIRMAN WOODS: Yes, I mean, I guess in the back of my mind is a question about A, larger projects coming, actually being, well, projects that wouldn't ask for bonuses. I mean, I'm not sure how many larger projects wouldn't ask for bonuses, you know.

COMMISSIONER GALLOWAY: And in which case we may be talking about very few projects in the end, and yet we're spending the vast majority of the time discussing that very scenario. So what else to do about, about the bureaucratic process?

COMMISSIONER HUNTER: Does that give you a sense of intent?

MR. BISHOP: Yes, let's go with that. You know, I would say yes to B-

COMMISSIONER HUNTER: Yes, we want some review, yes.

MR. BISHOP: -- what some of you have just suggested.

COMMISSIONER FREEMAN: I have, I am not an
architect and I am not a zoning expert, but I have done
a heck of a lot of research on form based code and
zoning, and I understand the intent. And I do believe
that the intent of that is, you've done a good job here,
okay.

So I think the issue is to try to them make it
conform to our issues, and you can't, you know, the
things that we have discussed here.

And, you know, this is Evanston, you can not
leave out public comment. You know, this has been a
hotbed of radicalism since about 1966. So B-

COMMISSIONER HUNTER: I think you can go back
to 1890's, that be, probably a CTU was here, yes.

COMMISSIONER FREEMAN: Yes, a CTU, yes, okay.

CHAIRMAN WOODS: Seth will probably bow to
your historical expertise.

COMMISSIONER FREEMAN: Yes, well, I'm talking
about, like, you know, the 60's radicalism, that's about
when, okay.

COMMISSIONER HUNTER: My sense of the intent
is that we want some kind of review of these projects,
even though they don't fall, you know, under the bonus
kind of thing. So however you build a streamlined
review in some fashion would capture the intent.

COMMISSIONER SCHULDENFREI: Commissioner Hunter, that streamline review with teeth or streamline review without teeth?

COMMISSIONER HUNTER: Now we're into the shark's mouth question.

MR. BISHOP: You know, I think they all have teeth, it's, to me it's a matter of what do we review for? Is this a system of planning permissions whereby your ability to build is in question, or are you reviewing the architectural and design details.

And so I think that's the thing I'd really like to see if we can refine and put our best foot forward rather than stepping in something tonight and going back to square one.

I feel like we know that we need to develop this middle ground review process, that your expectations are high in terms of it, striking a balance between efficiency, being time sensitive, and adequate, competent public transparent review.

COMMISSIONER GALLOWAY: I really think it's design quality.

COMMISSIONER HUNTER: Well, I think that's
one. I don't want to drop Seth's point.

COMMISSIONER GALLOWAY: I mean, you don't, are you going to re-engineer the project?

COMMISSIONER HUNTER: Yes, no, no, I don't want to drop Seth's point though. If it is of a sufficient size I think it's going to have impact, and I think we want some notion of impact. Now, how detailed, et cetera, et cetera. So something about context and impact here as a function of scale. Do you see what I mean?

So we're saying, well, the little one's aren't going to have that much B-

CHAIRMAN WOODS: Dennis, would that be a modification to requirements of submittals to the city for projects, so that it's something that we could take up as a separate zoning issue altogether?

COMMISSIONER HUNTER: Okay. I mean, but I, it's not just design.

CHAIRMAN WOODS: Yes, and I'm, and the reason I'm bringing it up that way is because I think it's actually something that, and I think Seth would agree with this, doesn't apply to just the downtown.

COMMISSIONER HUNTER: Right, absolutely.
COMMISSIONER FREEMAN: Oh, that's correct, yes.

CHAIRMAN WOODS: So it's a wider issue of when projects get submitted of some scale anywhere in the city that there would be some sort of evaluation that was looked at.

COMMISSIONER SCHULDENFREI: Jim, and then would that then be enforceable? Does that solve the with or without teeth issue? Because it's part B-

CHAIRMAN WOODS: I don't know that it does or it doesn't because I have no ability, lacking the legal background, to begin to comment on it.

COMMISSIONER SCHULDENFREI: But then, I guess, in our review, in our review of that you could take a document and say, actually this doesn't meet the standards, and that would be a way to do it, that would sort of help the by right, the very stringent by right B-

CHAIRMAN WOODS: Right. And again, you know, going to the downtown plan, if there are specific things that people think should happen, or not happen, within these zones, let's get those out on the table because, you know, now is the time to get that stuff
incorporated, you know.

If, for example, we don't want to see all ground floor retail space turned into banks then we ought to put something in here that somehow restricts that, at least my understanding there's other communities that do do that.

COMMISSIONER HUNTER: Now, can I ask on that, am I on?

CHAIRMAN WOODS: Yes, you are.

COMMISSIONER HUNTER: On that score how much, again, does form based code incorporate that kind of shifting context notion? That is, you have two of these, do you need eight of them?

Is there any way, I understand the legal notions here, and the faith that certain people here have in the market, but the market often overshoots and leaves you with vacant buildings or other kinds of things and other kinds of problems.

Is there any way of building in a sensitivity to the content and the context as things evolve or not? Does that run counter to the very notion of, you've got stable as of right in this area and you can do whatever you want within that? I'm just curious.
MR. BISHOP: Well, it certainly does run contrary to it B-

COMMISSIONER HUNTER: Yes, is there any planning notion out there like that?

MR. BISHOP: Built into the system a little bit. I mean, the traditional districts really don't allow a lot, okay. So B-

COMMISSIONER HUNTER: Oh, I know.

MR. BISHOP: -- behind the idea of the traditional district is that we're going to preserve those districts largely. So I think that some of that is built into this system, you know.

Even in the transitional areas the height limits are six stories. And, you know, that's the character of those districts. And so there is B-

COMMISSIONER HUNTER: But there's not, I'm sorry, I withdraw my question because I think I was dealing with a larger philosophical notion of a planning which is a dynamic continuous planning process where you take into accounts B-

MR LaMOTTE: Let's clarify B-

COMMISSIONER HUNTER: -- what happens, you know.
MR. LaMOTTE: -- because there's the old joke that, you know, a plan should be your planning for the next five years.

COMMISSIONER HUNTER: Right.

MR. LaMOTTE: It's not it takes five years for you to get a plan. I mean, you got to get a plan sooner or later.

COMMISSIONER HUNTER: Right.

MR. LaMOTTE: And this downtown really needs one. So here's a master plan that if you send it upstream to the counsel, they approve it, then every five years you should look at it anyway. It might need B-

COMMISSIONER HUNTER: That's what I'm saying.

MR. LaMOTTE: -- tweaking for two minutes. At that time you can do, as Larry said, where you're just going to check these things. Say, you know what, now we got way too many banks, maybe we add that to the list on our uses. The uses B-

COMMISSIONER HUNTER: Okay.

MR. LaMOTTE: -- are still there, this doesn't B-

COMMISSIONER HUNTER: Or the height, or a
height begins to vary and we begin to say, wait a
minute, we've overshot this now, can we B-

MR. LaMOTTE: Yes, I mean, I can't do a
factory downtown, I can't do a drive in B-

COMMISSIONER HUNTER: Yes, so maybe every five
years is B-

MR. LaMOTTE: Right.

COMMISSIONER HUNTER: So what we're talking
about is an iteration every five years or so.

MR. LaMOTTE: As a normal planning process
that would be a great thing. Even if it's a one-day
workshop with this commission, just updating.

COMMISSIONER HUNTER: Okay, all right. I
guess that's B-

CHAIRMAN WOODS: Yes, each of the districts
does have a category called Use where we can, for those
things that people should, feel shouldn't be in a
district could be listed as excluded.

I'm talking about a separate issue from what
you're talking about, Al, in terms of the dynamic nature
of the process, because clearly things do change over
time and you'd want to adjust accordingly.

MR. LaMOTTE: And if I could quickly make a
point here. If there's something that you really
broader brush see that needs to be addressed in each
character area, but the fine tuning of the list of uses
should come when you guys B-

CHAIRMAN WOODS: The zoning process, right.

MR. LaMOTTE: -- fix your zoning. Because we
just went through one where they didn't even realize
they had some archaic uses in there, a drive-up window
for this and that, that's the time to prune those out
and put some news ones in, but not this process. You're
giving the guide plan, the plan.

CHAIRMAN WOODS: Right, okay. Colleen?

COMMISSIONER BURRUS: Is there, do you have a
list of everything that's in the parking lot? I mean, I
feel like we have a variety of, I mean, I, like, I have
a few and Johanna has a few, but we don't know if
there's actually a, a running list that we're hoping
that you have. Thank you.

CHAIRMAN WOODS: Actually, we are.

COMMISSIONER BURRUS: No, I was actually just
asking.

MR. BISHOP: Well, I have a four item list,
four item list is what I have. It involves zoning of
two parcels, and a height limit for core and central core.

COMMISSIONER SCHULDENFREI: It's By Right for central core, sorry, By Right for core?

MR. BISHOP: Yes, I'm sorry. By Right height you mean?

COMMISSIONER SCHULDENFREI: By Right height in core B-

COMMISSIONER HUNTER: And then zoning of what, two parcels?

COMMISSIONER SCHULDENFREI: -- and the total height B-

MR. BISHOP: Basis parked for core, base height, and base, and max with bonuses is parked, are parked for central core. Is that right? And then the two, the two purple parcels with the asterisks on them?

CHAIRMAN WOODS: To which zone they fell in.

MR. BISHOP: Yes, yes. There was some question about which of those abutting lines should be extended to encompass those.

COMMISSIONER HUNTER: Okay, thank you.

MR. BISHOP: So, are we in agreement? The issues are, which zone the property at the southeast
corner of Clark and Sherman falls into, southeast corner
of Clark and Sherman. The zone in which the property at
the southeast corner of Chicago and Davis falls into.
The, as base height for the core zone identified as I on
the map. And the base height and maximum width bonuses
for the central core zone.

COMMISSIONER FREEMAN: Well, it says, any
other issues or recommendations that members wish to
add.

MR. BISHOP: Yes, it absolutely does.

COMMISSIONER FREEMAN: I would like to also
add a discussion about the heights on the, on the
transitional. We had a short discussion, I don't
remember if it was last week or the meeting before that,
specifically around Emerson Street and this, the heights
of the buildings there in A and then also on F. So I
would like to, I'd like to discuss those as well.

Did someone get skunked? Is there a skunk?

There is skunk somewhere. We must have got skunked, so
I think the skunks must agree that we, we need to
discuss the B-

COMMISSIONER HUNTER: Yes, no, no.

Everyone B-

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MR. BISHOP: Okay, so we have B-

COMMISSIONER HUNTER: It's not in the budget.

COMMISSIONER SCHULDENFREI: I motion that we adjourn and start this fresh next time, because we're all tired, I can look and see city staff is just very tired, and the audience is tired, and the reporters are tired, and the room has now been skunked.

CHAIRMAN WOODS: Is there a general agreement with that? Okay. Then I would like to move that we continue this downtown plan to the next regularly scheduled Plan Commission meeting of August the 13th at 7:00 p.m.

COMMISSIONER NYDEN: Could we check to make sure we're all going to be here because of that whole B-

CHAIRMAN WOODS: Yes. August, is everybody able to be here?

COMMISSIONER SCHULDENFREI: I really apologize that I'm actually not going to be here. This was my one, unfortunately B-

CHAIRMAN WOODS: It is your one week in Evanston?

COMMISSIONER FREEMAN: Can we make it a week sooner instead of make it a month?
COMMISSIONER SCHULDENFREI: Yes, or a week late, or a week later because we have to, I mean, I don't want you to have to accommodate, because I do, this was, I couldn't change this.

COMMISSIONER FREEMAN: I would really like to accommodate your schedule, so B-

COMMISSIONER STALEY: We wouldn't want to do it without Robin, you know.

COMMISSIONER FREEMAN: So, yes, a week earlier.

CHAIRMAN WOODS: Okay. What's people's availability for August the 6th?

COMMISSIONER GALLOWAY: I'm okay.

COMMISSIONER NYDEN: Well, I think that the Economic Development Committee just was rescheduled for that day.

CHAIRMAN WOODS: Let's continue it to a special Plan Commission meeting of August the 6th at 7:00 here in the council chamber.

COMMISSIONER FREEMAN: Are you free, Robin?

No, no, no, it's fine.

COMMISSIONER OPDYCKE: I don't need a vacation, Robin, it's okay.
COMMISSIONER FREEMAN:  Stuart, I like that.

Does that mean there will be no meeting on the 13th then?

COMMISSIONER FREEMAN: Why would we have a meeting on the 13th if we're having one on the 6th?

COMMISSIONER STALEY: Because we have a regularly scheduled meeting.

COMMISSIONER HUNTER: Is that a new, is this a new presentation?

COMMISSIONER STALEY: I can't make the September meeting, no, I can't. I will be in B-

CHAIRMAN WOODS: Well, you may have to check whether you're going to have B-

Motion to adjourn?

COMMISSIONER FREEMAN: Motion to adjourn.

CHAIRMAN WOODS: All in favor?

(Chorus of ayes.)

(Whereupon, the hearing on the above-titled cause was concluded at 10:32 p.m.)