CITY OF EVANSTON

ZONING COMMITTEE OF THE PLAN COMMISSION

CASE NO.: 09PLND-0014

RE: 2009 ZONING ORDINANCE UPDATE, PHASE 1-A.

Consideration of amendments to the Zoning Ordinance as part of the General Zoning Ordinance Updates, Phase 1-A, including updates to correct errors and reorganize and/or reformat existing zoning regulations in order to increase clarity and comprehension, reduce errors of interpretation and misunderstanding, and increase user-friendliness to the Evanston community.

Transcribed Report of Proceedings of a public hearing on the above captioned matter, held April 15, 2009 at the Evanston Civic Center, 2100 Ridge Avenue, 2nd Floor, Evanston, Illinois, at 7:07 p.m. and presided over by J. Woods, Chairman.

PRESENT:

J. WOODS, Chairman
D. GALLOWAY
S. FREEMAN
L. WIDMEYER
R. CREAMER
S. OPDYCKE
J. NYDEN

STAFF:

B. DUNKLEY
D. ARGUMEDO

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CHAIRMAN WOODS: I'd like to call the Zoning Committee of the Plan Commission meeting of April 15th, 2009 to order, and I certainly think we have a quorum. I think Bill has it.

COMMISSIONER NYDEN: Yes, we just did this for about five minutes. Yes.

MR. DUNKLEY: Okay. We did, at our last Zoning Committee meeting, we did walk through the first set of proposed changes to the Zoning Ordinance. And there were some questions, there were some requests for additional information, and I'd like to walk through that again with you. And I need a little bit of guidance as far as how much detail you'd like me to go for those members who were absent because we would hope to take some action on these items this evening.

So, it seemed like most of them were fairly self explanatory. I think we spent most of our time just really talking through the intent of each of them so that in taking questions, the most, those that had the most concern I think were item A-3 which is the two appendices to the ordinance, and then air conditioners. We had two Council members show up to speak on this subject and had a good discussion. I think we've managed to synthesize a lot of that and I have some
update for you tonight. I don't believe there was
really much, many questions or concerns about the other
item.

COMMISSIONER OPDYCKE: There wasn't, that's my
recolletion, with the exception of the air conditions.

MR. DUNKLEY: So, Mr. Chairman, how would you
like to proceed? I'd certainly be happy reading through
the items for the members who were not at the last
meeting. Or if, like I said, they read the transcripts
I've distributed, they may feel like that they have a
good handle on those items and maybe just want to ask
questions if you have them.

COMMISSIONER FREEMAN: You know, I wouldn't --

MR. DUNKLEY: Why don't we look through them?

COMMISSIONER FREEMAN: I wasn't here. I've
read through the stuff. I've read through the stuff, I
skimmed as I did not read this in detail. I skimmed.

MR. DUNKLEY: Well, let me give you a --

COMMISSIONER FREEMAN: So, specifically I was
searching for the expletive deleted, whatever they are
towards the meeting. I didn't find any. I didn't read
carefully though.

COMMISSIONER NYDEN: Are you trying to, do you
have a controversy --
COMMISSIONER FREEMAN: I'm just trying to --

MR. DUNKLEY: Actually they'll be hidden in
the new Zoning Map, as an exercise to the newbies. Why
don't I just, why don't I walk through, you know, at a
fairly good clip?

COMMISSIONER FREEMAN: A good clip, yes.

MR. DUNKLEY: Okay. Item A-1 is purely a,
it's an error, it's a semantic error that believe or not
is actually in the original ordinance. It has to do
with B-1A District setbacks for the rear yard. And it
turns out that items G and H specify exactly the same
condition. Item G specifies the rear yard setback when
it is abutting a residential district and H does the
rear yard when not abutting a non-residential district.

I think it should be clear to everyone that
the larger setback should be one abutting a residential
district and we should make the correction as such. So,
it's a straightforward correction. We removed the word
'not' from item H which cleans it all up and makes it
actually say something.

Item A-2, this is more --

COMMISSIONER GALLOWAY: A, just A. I have the
B agenda, I don't have the A.

COMMISSIONER FREEMAN: Could I have that, too?
MR. DUNKLEY: Item A-2 is an interesting, it appears to be an interesting section which is buried and hidden in this title, but it's an important section in the ordinance. It has to do with the condition under which an office use is permitted in the residential districts R-4 through R-6. It's in the back of Section 8-S of Chapter 4 which is the General Provisions section which is intended for provisions that apply to R Districts across the City. However, it only applies to residential districts and only a subset of those to boot.

It's also titled, the title of the section is Office, not Office Use in Residential or anything that would indicate what the content is. I myself didn't know this section even existed for about six months when I had a few extra seconds before a meeting and decided to look up that thing that said Office at the end of Chapter 4.

What we propose to do is what we think we would do if we were making this addition, and that is to put in the same text, not to change the content at all but just move it to where it should be which is Chapter 8, the residential districts chapter, to Section 1 which is the general residential requirements. And we'd also
propose actually to make a slight change, and that is to
correct an error which is the R-4A District was excluded
from the double cross reference because each of the
districts refer back to that section as well. So, what
happened when R-4A, we believe what happened when R-4A
was added after this section was added, there was never
a thought to connect it up to the new district.

COMMISSIONER GALLOWAY: They probably couldn't
find it.

MR. DUNKLEY: So, we would propose to actually
take out the reference from the boilerplate section, the
section that we propose moving that refers to the
districts to which it applies and have the district
sections merely apply, merely refer back to that section
which is how it would be used in any case. You would
always start by reviewing the specific district
regulations and then you would cross reference back to
identify the conditions under which the office use could
be, would be compliant. And thus, if we add any more
residential districts, we may, we won't run into this
problem with leaving out the reference back.

Does that make any sense?

COMMISSIONER FREEMAN: Yes.

COMMISSIONER GALLOWAY: So, this is just
merely a reference. This is where this thing is located. We're not talking about its content, revising its purposes. It's just putting it in the proper place so we can find it.

COMMISSIONER FREEMAN: And retitling it.

CHAIRMAN WOODS: And retitling.

MR. DUNKLEY: And retitling it.

COMMISSIONER GALLOWAY: And retitling it, got it.

MR. DUNKLEY: And we propose to title it from Office to Conditions for Office Use in Residential Districts.

COMMISSIONER GALLOWAY: Just like it says in this paper, wonderful. Good.

COMMISSIONER FREEMAN: Special Conditions, not Conditions. It says Special Conditions.

MR. DUNKLEY: I'm sorry, you're right. You're right. Yes.

All right. Item A-3, this is kind of an odd duck because it deals with Appendices A and B in the current Zoning Ordinance. Now, you might think that the appendices are part of the Zoning Ordinance. In fact, they are not.

COMMISSIONER FREEMAN: Well, wait, wait, wait, wait.
MR. DUNKLEY: Although it's distributed, they are distributed with the ordinance, they are not a formal part of the Code because there is no new information in them. They only repackage regulations that already exist in the text of the ordinance itself. And the other thing is that --

COMMISSIONER FREEMAN: So, when you say repackage, reword them?

MR. DUNKLEY: If we're making --

COMMISSIONER FREEMAN: Just so it's the exact same text? There is no additional clarification or --

MR. DUNKLEY: They are, for instance, Appendix E is merely a restatement verbatim from the Building Standards Code that identifies the purview of the SPARC Committee. That's all it is.

COMMISSIONER FREEMAN: Doesn't this fall under like the, some kind of government act of reduction of paperwork? Maybe we shouldn't --

MR. DUNKLEY: No, it's part of the things we're trying to read. Also, the other items that are in there that actually might have new information are items that are delegated to procedure and to policy such as what are the requirements for application submission of different types. So, those are intended to be updated
as needed.

However, what we found is that stuck at the end of the ordinance as appendices with very attractive names such as Use Matrix, they're not found very often and they're not used. And what we would like to do is to take the first two appendices which are highly, highly useful, the Use Matrix and the Bulk Matrices, and to pull them out as separate documents. Actually, first to correct them so that they include all the districts just like the last example, as we've added districts we haven't updated those appendices, so they're incorrect. They omit large pieces. And to make them more user friendly so that they are actually useful to our citizenry.

Every time we pull out the Use Matrix for someone who is looking to try and locate a business somewhere where it's either permitted or a special use, that document itself lights up their eyes because otherwise they have to go through every district to find the information they're looking for. So, we've also proposed retitling it to something that's a little more informative. We want to call it Allowed Uses by Zoning District, something that kind of sticks to --

COMMISSIONER FREEMAN: Wow, we might actually
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understand.

MR. DUNKLEY:  Yet another challenge that I must say I am proud to say that Dominick, one of our crack zoning team, has actually listened to and that was the challenge to actually take the definitions of the uses, actually why don't you pass that down here, and actually put them in the document. It was said it can't be done. There is no way. It's not possible.

Well, in fact it has been done and it's less than four pages. It's actually readable, and this would be the last several pages of that matrix that was handed out --

COMMISSIONER NYDEN:  It's like a menu.

COMMISSIONER GALLOWAY:  I'll take a commercial and/or recreational and have a commercial shopping center at the --

COMMISSIONER NYDEN:  With a side of retirement community.

MR. DUNKLEY:  And you may find a few uses in there that you've never known before. I found that we had a pawn shop use.

MR. ARGUMEDO:  And as well, for example, we've been dealing with a citizen that's trying to open a daycare center, a couple of uses, they've just been in

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the wrong area. I've sent them the updated use matrix
and a copy of the Zoning Map, so they were like this
helps tremendously, I now know what area to go to, I
know now where it's allowed.

COMMISSIONER FREEMAN: Open board?

Scoreboard?

COMMISSIONER GALLOWAY: Really? Wow.

MR. ARGUMEDO: We can work on the
definition --

COMMISSIONER GALLOWAY: Can I have a

scoreboard in my front yard?

MR. ARGUMEDO: No.

CHAIRMAN WOODS: A stadium?

MR. ARGUMEDO: Yes, there is.

MR. DUNKLEY: -- stadiums before. All right.

So, we'll leave this to -- I'm sorry?

MR. McGONAGALL: I've got a couple of
comments. The use matrix, I think you need to look
first at the classification over and then the
descriptions.

MR. ARGUMEDO: Just for our transcript, could

you --

MR. McGONAGALL: My name is Andrew McGonagall.

I'm a resident of Evanston, 2526 Princeton. I'm here as
a private individual this evening.

MR. ARGUMEDO: He's still having trouble with that --

CHAIRMAN WOODS: Andrew, why don't you come up to the table here? Step to the microphone.

MR. McGONAGALL: Yes.

CHAIRMAN WOODS: Since there's such a huge crowd.

MR. McGONAGALL: I'm not sure if I'm allowed.

COMMISSIONER OPDYCKE: You'll be deputized.

MR. McGONAGALL: My name is Andrew McGonagall, I live at 2526 Princeton Avenue. I'm here as a private resident this evening.

This is following up from the last meeting that we had, a couple of observations. This is actually very useful. It would have been nice to have actually had this on the agenda so I could have actually read it before I came along with the package. But that's just an observation.

I think on the use matrix you need to read careful the descriptions and the location as to where they are because I think there may be a couple of minor errors. So, I just want to bring that to your attention.
COMMISSIONER FREEMAN: Do you want to point out those minor errors?

MR. McGONAGALL: I think you'll find that university office use in a residential area, I don't think that's actually included.

MR. DUNKLEY: So, it's omitted entirely.

MR. McGONAGALL: Yes.

COMMISSIONER WIDMEYER: So, there's a difference, you're saying between office use and university office use in a residential area?

MR. McGONAGALL: I think that we currently have an understanding that we actually are allowed to do that and to have it in numerous buildings, that it's actually allowed. And I don't think I see it in the current use matrix.

MR. DUNKLEY: We'll jump on that, get the research on that.

MR. McGONAGALL: Because they'd certainly be very upset in the residential area.

COMMISSIONER GALLOWAY: Not that we know any of those individuals.

MR. DUNKLEY: Any others you can think of then?

MR. McGONAGALL: Not at the moment. I'll sit
back down.

MR. DUNKLEY: Okay, thank you. Well, it's possible that the staff member that pulled together the use matrix, because we do have slightly different use terminology, this process actually helped us to find out where that is, where that's, where we may need to look at, the uses which are intended to be the same and those which really are different. It may be a case where the staff assumed that these were both just office use. But we'll sort that out.

CHAIRMAN WOODS: Administrative office for college and university would be the first category in the list.

MR. DUNKLEY: Are you comparing it to the --

CHAIRMAN WOODS: No, I'm just looking at this list and noticing that the administrative office in footnote 1 says college and university.

MR. DUNKLEY: Okay.

CHAIRMAN WOODS: And this is currently allowed in the R-1 Districts according to this.

MR. DUNKLEY: Okay. Well, we will focus specifically on that, on the office use and office universities.

MR. McGONAGALL: I understand it's not an easy
thing to do.

MR. DUNKLEY: Well, yes, and it is going through this process that has identified areas that we need to work on. We would never have been able to know what they were unless we had actually done this. We think that this will be a lot more useful as a stand-alone document and we would take the onus of updating it whenever the ordinance changes upon ourselves. And it's something that I guess fell in between the cracks of what our codifier does and what Zoning office staff does.

So, really this item is, you could call it a non-ordinance item although it's part of, distributed as part one. So, we wanted to get as much feedback from you as we could to make this thing useful and an error-free set of information.

The second, Appendix B, is a similar set of information to the first. It is the bulk criteria for each district given in tabular form. It is useful in similar circumstances. However, one of the new documents that we've introduced, and they were, you all got copies of them in the first packet, what we call the reg sheets or the district regulation summaries. They're one page summaries for each set of district.
Those actually contain all of the information that is in the bulk matrix.

So, what we propose is actually substituting those documents for the bulk matrix so that they become, again, stand-alone documents. They're very useful as an overview of the most useful information for each district and make those available still in the appendix but also as --

COMMISSIONER FREEMAN: When you're saying substitute, so you're saying get rid of the tables for this?

MR. DUNKLEY: well, we would have the same, whenever the district regulations change, we would have to do update of the supplemental material as we are. We'd rather only do it in one place. And frankly, we think that those sheets are a lot more useful than that matrix.

Now, there was a comment that, last month that if we're going to do that we should include all of the districts as well as the overlay districts, and we agreed to that. So, we will add, we will make the set complete so that the thing is, nothing is missing. So, the sum total of the information will include everything that's on the bulk matrix and then some.
COMMISSIONER FREEMAN: So, I mean I'd prefer having something that's small and concise instead of having a whole bunch of sheets for each individual item.

MR. DUNKLEY: Well, also keep in mind the way that these are used.

COMMISSIONER FREEMAN: How are they used?

MR. DUNKLEY: They're used by someone who has a particular use in mind, they have a particular type of use and they want to know in what districts they should be looking.

COMMISSIONER FREEMAN: So, you don't have a situation where you're going to have to have a table to have all of them --

MR. DUNKLEY: You do want a table to look at, for instance, the different transitional manufacturing districts or the different industrial districts and what are the regulations among them.

COMMISSIONER FREEMAN: Right.

MR. DUNKLEY: But I can't imagine a situation where you're looking at residential --

COMMISSIONER FREEMAN: Cross residential and --

MR. DUNKLEY: And commercial and industrial all at the same time.
COMMISSIONER FREEMAN: Yes. Yes, okay.

MR. DUNKLEY: So, in fact, what you would need, all you would need is one page rather than the whole use matrix. So, we really are I think getting closer to the way these things are used.

COMMISSIONER FREEMAN: Right.

COMMISSIONER WIDMEYER: I guess you lost me on that last one.

MR. DUNKLEY: The way that this --

COMMISSIONER WIDMEYER: I mean this we use a lot in various, this comes out in various cities.

MR. DUNKLEY: Right.

COMMISSIONER WIDMEYER: So, I have a client that says I want to do something in Chicago or in Evanston. We figure out about where they fit and we'd say, okay, we can look in these areas.

MR. DUNKLEY: Right. The next question is, well, I have this much floor area or this much of a, sort of a building that I will need to do this thing in. For that you want to go to the counterpart of that, the bulk matrix.

COMMISSIONER WIDMEYER: Yes.

MR. DUNKLEY: You have a set of districts identified.
COMMISSIONER WIDMEYER: Then you'd go to this
and that's what you're saying.
MR. DUNKLEY: Right.
COMMISSIONER WIDMEYER: Okay. And that's --
MR. DUNKLEY: You'll probably not say, well,
if I don't find it in commercial I'll do some
residential.
COMMISSIONER WIDMEYER: And then apply for --
CHAIRMAN WOODS: That would be the developer
who's looking to find the zoning district to apply.
MR. DUNKLEY: Okay. So, moving on to A-4,
okay, this is a re-presentation of existing content
although again, going through this process has caused us
to find some areas that needed to be fixed, where
information regarding parking was frankly missing; we
couldn't figure out what the regulation was supposed to
be. We have prohibitions and limitations on parking.
We've put them within the required yards section of each
of our districts. That may have been a convenient place
when we needed a bin or some place to put this
information about parking, but when you approach the
ordinance initially, it's jarring to see that there are
statements such as parking prohibited while you are
specifying required yards. What does it mean?
COMMISSIONER WIDMEYER: Which means you can't park in the front yard.

MR. DUNKLEY: And then, what does it mean when you have no statement of any parking prohibition? In some cases you can try and figure it out, but it's never easy and it's not explicit.

COMMISSIONER WIDMEYER: Some of the things we looked at, there were two issues that came up over time. One was prohibiting parking in the front yard. I mean, you know, like, which becomes an issue for someone who has a circular drive. The second --

COMMISSIONER FREEMAN: Any driveway or just a circular driveway?

COMMISSIONER WIDMEYER: Well, even in a driveway --

CHAIRMAN WOODS: In a driveway coming in off the street, yes.

COMMISSIONER WIDMEYER: And the other one was in the construction of attached garages and where they are allowed to align to the house in that if you look at the number of houses, I don't know there's any in Evanston but you go to other areas, the garage actually becomes a side structure in front of or towards the street from the house. So, those were the two issues
that we have discussed in the past.

I believe the intention at the time was that we didn't want that type of structure, so that we said that the garage itself had to be parallel to or an extension of the front line of the house, something to that effect -- you may have found that. But the other question that was way up in the air was what do you do with people who have driveways and circular driveways and things of that nature.

MR. DUNKLEY: That would ostensibly be used as part of, but when they also provide --

COMMISSIONER WIDMEYER: Yes, the thought was initially when it was discussed before, you know, we don't want everybody parking on their front lawn.

CHAIRMAN WOODS: I agree with that.

COMMISSIONER FREEMAN: There's cars on the lots in the front lawn.

COMMISSIONER WIDMEYER: Yes. You know, so it came up in that regard. But the other issue that came up later is there are people with driveways as I said with circular drives and how do you balance the two. So, that was the question that came up then.

MR. DUNKLEY: Well, a circular drive would be an exception. They are categorically prohibited. If
you've got, you know -- and sometimes you have to have
that type of access. But that's only after long
consultations with our traffic engineering and only
grudgingly do you get that, that circular drive. But in
that case, there is the opportunity to probe. And then
the garage, the attached garage that is treated as just
part of the primary structure, how do you keep that from
moving forward and --

COMMISSIONER WIDMEYER: That was our question,
what about the side driveway. But the other one is a
side driveway. I've got six cars, I want to get them
off the street, you know, and pretty soon because I've
got --

COMMISSIONER FREEMAN: Well, I'm guilty. One
of my cars always is generally in front of my house.

MR. DUNKLEY: And what's your address?

CHAIRMAN WOODS: Yes, we'll tow that away.

MR. ARGUMEDO: And A-4 doesn't deal with the
content again, going back, it's more a separation of
what's existing right now in the zoning code so that --

CHAIRMAN WOODS: Future --

MR. ARGUMEDO: Yes, future building officer
who comes in or this resident can go, oh, that's my yard
setback, this is my permitted parking setbacks.
MR. DUNKLEY: I think what we'd like to do though is maybe consider putting that on the next agenda, the next update agenda because I think we need a little more discussion and certainly we need to do a little more research on what the possibilities are. So, driveways on that.

MR. McGONAGALL: Two observations. One that came out of Historical Preservation last night is that there is historical precedent in this town and has in other towns of a circular driveway related to the birth of the motorcar and port cochere and how that actually works. So, you need to very carefully consider how this dovetails in with the historic district because you could in theory knock down a house in the historic district and maintain your two circular driveways because the curb cuts are already there. Or you could put a house up in the historical manor that actually reflects that when it's in keeping with the historic district. So, to take out circular driveways per se I think is a dangerous thing based upon this town and it relates back to when the car was first invented and it didn't have a reverse gear. So, the only way you could get in was to drive in and drive out through your property. That's the first issue.
The second issue is that you just gave permission for a house on Emerson in which the garage actually projects past the front of the house that has a porch over the front door, a protected area. In my mind, that's a perfectly acceptable thing. So, the house was set far enough back I think for the setback to be met, but the garage that was existing, actually you couldn't park a vehicle there because it wasn't deep enough. So, the person actually asked for the demolition of the garage and the garage to be extended to the front.

So, again, you need to be very careful and cognizant of how that fits in with the overall setback requirements in the parking.

COMMISSIONER WIDMEYER: Well, that was a special use. I think in general the opposition was to new construction where there was deliberate construction of a garage in front of the house which is a style that was being built. I don't want to see any more built in the next 20 years but that was definitely a style and that was decided that just as a matter of architectural whatever, that that wasn't -- we don't consider that desirable.

MR. MCGONAGALL: Right. I'm going to guess
and I'm going to predict that you might find that coming back. And when you start looking at the climate action plan and the reduction of our carbon footprint, if you can reduce the amount of parking in the surface area which is hardscaping your garden and by bringing the garage forward, there's actually a benefit to that in terms of urban design. I'm just raising that --

COMMISSIONER GALLOWAY: That may be the only benefit.

MR. McGONAGALL: I understand but it's something that the city has looked at very carefully in terms of its carbon footprint. And if you take a regulation and actually go in the opposite direction to that where there is a potential, I'm just raising that as an observation.

COMMISSIONER WIDMEYER: One of the problems was the size of the lots, the typical size of lots in Evanston. Where you see most of that construction, you've got much wider lots, cities with much wider lots than we have.

MR. DUNKLEY: There also is a policy of encouraging alley access for automobiles and covered parking in the rear yard. So, that's probably a fairly minimal paving, amount of paving. And one of the items
that we'll go through today is prohibition on crossing
front property line for garage access. So, we're pretty
well set for not having many new front yard driveways.

COMMISSIONER NYDEN: Is there a way for you to
figure out how many parcels or lots in Evanston don't
have alley access?

MR. DUNKLEY: No -- yes, there is. I'm sure
there must be a way because we have all the information.

COMMISSIONER NYDEN: Right.

MR. ARGUMEDO: You mean more like a
percentage?

COMMISSIONER NYDEN: Well, I mean just how big
of a problem is that?

MR. DUNKLEY: If I were to think through all
of the, and I'll ask the question to staff on Monday, in
our experience, we have a pretty wide range of
experience with properties all across the city and it's
rare that you find parcels with no alley access. There
might be a corner parcel that's kind of shoehorned in.

MR. McGONAGALL: All Northwest Evanston is
exactly that.

COMMISSIONER FREEMAN: Come over to my
neighborhood.

MR. McGONAGALL: The area between Gross Point,
Old Orchard and Crawford has no alleys whatsoever. It's all front driveways. And if you're trying to tell me that I can't park my car there when I come home at lunch, I'd have to put it in the garage, I'd be very upset.

COMMISSIONER FREEMAN: And if you come over to Lake and Wesley, if you come all the way over around there on Wesley and Lake Street, there are lots of --

COMMISSIONER NYDEN: There's alleys but they don't, some of the houses --

COMMISSIONER FREEMAN: Don't have access to the alleys.

COMMISSIONER NYDEN: Don't have access to the alleys because it's like a long line.

MR. DUNKLEY: Yes.

COMMISSIONER GALLOWAY: Well, all your Lake front residences don't have alleys obviously.

CHAIRMAN WOODS: Yes, pick up boats.

MR. McGONAGALL: You visit Venice.

COMMISSIONER GALLOWAY: We don't need -- I guess.

MR. DUNKLEY: Is this something that, would we use this information or any of the --

COMMISSIONER NYDEN: I mean, if it's not too,
I mean, if you could just figure out how many people get their garbage picked up on the street, I don't know if that's a number that can be quickly pulled but it's --

MR. DUNKLEY: We can get you some anecdotal information.

COMMISSIONER NYDEN: Yes.

MR. DUNKLEY: So, you know, a round number where --

CHAIRMAN WOODS: But my understanding of what we're talking about is there's two separate issues here.

COMMISSIONER GALLOWAY: Yes, right.

CHAIRMAN WOODS: One of which is ease of reading issue.

MR. DUNKLEY: Right, and that's all this is about.

COMMISSIONER GALLOWAY: It's what this is about.

CHAIRMAN WOODS: Which is separating the parking requirements into a separate table.

MR. DUNKLEY: Correct.

COMMISSIONER GALLOWAY: Right.

CHAIRMAN WOODS: And the other which has to do with parking setbacks and zoning districts which is a much bigger and more complicated discussion.
MR. DUNKLEY: Yes.

MR. ARGUMEDO: Outside of the sugar pill aspect of --

CHAIRMAN WOODS: Yes.

MR. DUNKLEY: Low-hanging fruit.

CHAIRMAN WOODS: Okay. So, I like the fact that we're organizing the stuff in an easily readable manner.

COMMISSIONER FREEMAN: So, help me read this here. So, this says on the yard, so the right table there that says on the interior side, is that, so if you had a driveway going down the side of your house, there is no requirement for parking. Meaning I can park there? On the side but on the front of that yard where the driveway is, you can't park?

MR. DUNKLEY: That is right, that is correct. In many cases, it's not possible for you, when you actually look at how all of the other regulations that come to bear, it's not possible, that parking on the interior side yard because, it's for different reasons in different places. However, it's not explicit and what we'd like to do as we move through after we pull the information out, the same information that there's currently, is to go through and then identify where we
need to add text to make that explicit.

MR. McGONAGALL: Could I ask a question? How do you define the difference between a driveway and a parking area?

MR. DUNKLEY: By how it's used.

MR. McGONAGALL: So, I'm just trying to think of the people that, where I live for instance, you know, I have a party on Saturday afternoons, baseball game or so, so I can drive in to my garage and I can probably one vehicle in front of it. But if I park another vehicle next to it behind it, I'm actually in contravention to the regulations?

MR. DUNKLEY: No. No, that's a temporary use, that's not something that you're going to be doing day in and day out. If, for instance if we have a, you can have both covered and open parking spaces. If you were to for instance have a one-car, specified in the plan a one-car garage with a long driveway that had maybe a widened area, it's pretty obvious that you may be planning to be parking in tandem. We can in most cases assume how that parking space is going to be used. You can't forbid someone from parking temporarily on the driveway. It's just not feasible.

COMMISSIONER FREEMAN: What's temporarily?
MR. DUNKLEY: So that it's not --

COMMISSIONER FREEMAN: It's up to the interpretation of the --

MR. DUNKLEY: -- to have two off-street parking spaces on a single family residential lot. So, at least we can control at the design base --

COMMISSIONER FREEMAN: When you say parking spaces, side by side or this way?

MR. DUNKLEY: It can be either way.

COMMISSIONER FREEMAN: Okay.

MR. McGONAGALL: So, then do you define the parking space as the size pertaining to what's actually in the zoning code which is -- I mean, I'm just trying to --

MR. DUNKLEY: You have to have those spaces, two spaces identified, this is just for single family districts, identified and they have to be of the proper dimensions and they have to have reasonable access to either street, alley or private alley that's documented with a recorded easement. That's the baseline. But we try and be reasonable, we try to understand what it is we're looking at and how it will be used. If you're going to propose that one of your parking spaces is actually part of the driveway, that's not a reasonable
thing.

COMMISSIONER NYDEN: Okay. So, what about if you have the house that abuts one street and you're on a corner and a driveway comes from the side street? So, technically, and let's say you're parking in front, you're still behind your house but you're technically in front of other houses on that side street, that parking in your --

MR. DUNKLEY: And the, you said the driveway is actually your property?

COMMISSIONER NYDEN: The driveway is essentially perpendicular to the length of the house, so it's like here is one street, here is another street.

CHAIRMAN WOODS: It's the side yard.

COMMISSIONER NYDEN: Yes, it's basically --

COMMISSIONER GALLOWAY: Typically it comes out the side yard.

COMMISSIONER NYDEN: It comes out there. So, you're here but then maybe the houses are here for the rest. So, you're --

MR. DUNKLEY: So, you're actually crossing the side property line?

COMMISSIONER GALLOWAY: Right.

COMMISSIONER NYDEN: Right.
MR. DUNKLEY: There's no problem with that.
The only prohibition is from crossing this front
property line.

COMMISSIONER NYDEN: But you're not, but
you're crossing the front property line --

COMMISSIONER GALLOWAY: Of your neighbor.

COMMISSIONER NYDEN: Of this street. So, your
house fronts here.

MR. DUNKLEY: But not of that parcel?

COMMISSIONER GALLOWAY: But not of the parcel
of the parking lot.

COMMISSIONER NYDEN: Not of the parcel, okay.

COMMISSIONER WIDMEYER: You only have one
front yard.

COMMISSIONER NYDEN: Okay.

MR. DUNKLEY: But, I mean otherwise --

COMMISSIONER NYDEN: But if it's a different
street --

CHAIRMAN WOODS: Otherwise, that corner lot
would be largely unbuildable. They're pretty tough as
it is.

COMMISSIONER WIDMEYER: 10 by 10 by 10.

COMMISSIONER GALLOWAY: You park your car on
the top.
COMMISSIONER WIDMEYER: Vertically, yes.

COMMISSIONER NYDEN: What if?

MR. DUNKLEY: Okay. Let's move on. Table 16-B is a reorganization which is a bit of, I'd say it's overdue and it's going to be a little more of a challenge. Chapter 16, Parking Requirements, is a mess. It's been added to over time, it's been cobbled together. We have a situation where we have the major information, the major requirement is our table of parking requirements for various uses. It's Table 16-E. It's almost at the end of the chapter, it's actually not referred to by any of the text and it doesn't look like a table.

COMMISSIONER GALLOWAY: Oh, jeez! Wow.

MR. DUNKLEY: It really took me --

COMMISSIONER GALLOWAY: Other than that --

MR. DUNKLEY: -- a while to find where the parking requirements are in the district. It immediately follows a subsection that has no relationship to, I think it's loading, one of the loading -- So, if you were first coming to this chapter, you'd really have to wonder what the thought process was to arrange it in this way.

COMMISSIONER GALLOWAY: Got you.
MR. DUNKLEY: Before in the chapter are Tables 16-B, C, well, you have to go through several of the earlier letters in the alphabet before you get to Table 16-D. And we realized why that was, those tables were added afterwards and our table numbering scheme forced us into that.

So, what we would like to do with A-5 is to move the off-street parking requirements table closer to the front of the chapter to actually add some brief text at the very beginning in the initial text of, well, it's actually Subsection 2-6-16-2, General Off-Street Parking Requirements, to actually identify that this table is to be used for the general off-street parking requirements, something which has just really been assumed. And to actually format it so that it looks like a table and is more functionally useful.

MR. ARGUMEDO: And not within ten pages into the chapter before you get to the table. Going back to what you said, you come to the use matrix, where can I build? You go to the bulk matrix, what can I build? Then Table B, like how much parking do I need? We want to get there as soon as possible.

CHAIRMAN WOODS: It's like where you stand in the process sheet as opposed to something you're
expecting to find as a table.

MR. DUNKLEY: Yes.

COMMISSIONER GALLOWAY: It was before they invented Excel.

MR. DUNKLEY: So, it's a fairly straightforward change. We think it makes a lot of sense. It will certainly make this chapter more useful. It's going to mean some reorganization, and along the way I think maybe before this comes back to the Plan Commission, we may if we can maybe do some other rationalization of saving the table number in that section. Because if for instance you're looking for handicap spaces, it's going to take you 20 minutes to find where that is. I take 10 minutes every time I'm looking for it. I know it's there, I can visualize it but it seems to move around --

COMMISSIONER FREEMAN: No electronic copy to do search through?

MR. DUNKLEY: I'm sorry?

COMMISSIONER FREEMAN: No electronic copy for you to do a search through?

MR. DUNKLEY: Oh, I could, well, yes, handicap is referenced all over it basically.

COMMISSIONER FREEMAN: But you're shaking your
head.

COMMISSIONER GALLOWAY: That would be great.

COMMISSIONER FREEMAN: This all should be --

COMMISSIONER GALLOWAY: Yes.

MR. DUNKLEY: Item A-6 --

COMMISSIONER GALLOWAY: Farm it out, have

somebody do it.

MR. DUNKLEY: It has a sweeping kind of a,
it's really pretty specific, minor variances. We just
want to eliminate variances -- no, that's a joke. Make
my job easier. But we do have an idiosyncrasy in the
code that identifies a --

COMMISSIONER FREEMAN: If only we got that,
huh?

MR. DUNKLEY: It's only a joke. Identifies
that lot depth is eligible for a variance, a minor
variance, when in fact we have no regulations that
identify regulations regarding lot depth. Maybe it was
anticipated that we would at some point but we just
don't. And it's been a while since this code has been
written this way.

The downside is that we have had a couple of
instances where we've had applicants who have assumed
and have made, spent quite a bit of energy arguing that
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because width and depth are listed separately as eligible for minor variances, that of course width times depth or lot area should be eligible for a minor variance as well. And that's something I've --

COMMISIONER GALLOWAY: It's pretty creative.

MR. DUNKLEY: Yes. I've always held to be, has to receive really the most scrutiny in terms of minimum lot area. So, we propose really just to remove lot depth to take away the possibility of that argument reaching some sort of sympathetic ears and really to get rid of something that doesn't provide any use.

A-7 is a very straightforward correction to an error. There is an incorrect cross reference that takes you to some place that has nothing to do with historic preservation, it has to do with the hospital overlay district. We hadn't found a connection.

COMMSSIONER GALLOWAY: Just a little cynical joke.

MR. DUNKLEY: And so, we propose putting in the correct cross reference. Actually we've got two of them here, they were both not meaty enough to be their own items. The second portion is to change the text to Section 6-1-2 in a small way but really improving the meaning. We currently identify the purpose and intent
of the ordinance as to regulate and limit the intensity
of use of lot areas regulating and determining the area
of open spaces within the surrounding buildings. We
don't really know what that means. It sounds like
courtyards. And we propose that it be changed to
between and among which we think is really the intent.
That's a fairly minor change.

Okay. Item A-8 is a little more substantive.

Air conditioners. We do a lot of business in variances
for air conditioners and a lot of them go to the ZBA
because of that 35 percent rule that gets you to a major
variance. We also have a very simple, some would say
simplistic regulation, that is that we don't permit air
conditioning units --

COMMISSIONER GALLOWAY: Condensers?

MR. DUNKLEY: It's actually the air
conditioning unit or air conditioning equipment, its
condensers, anywhere within 10 feet of any property
line. It's a pretty heavy hammer and we've identified
certain situations where actually it doesn't --

COMMISSIONER GALLOWAY: It doesn't work.

MR. DUNKLEY: Relaxing this rule wouldn't do
any harm.

MR. ARGUMEDO: And just before Bill speaks
about those, we were requested by the Committee just to
do some benchmarking, best practice checking around for
other communities, going through Google search, typing
air conditioning best practices, air conditioning
requirements, and then finally just going to various
cities and just looking at air conditioning
requirements. We found a range of regulations, I just
want to go over that very briefly for the type that's on
those.

Skokie and Wilmette, just being very closely
has the same regulation as we do, 10 feet from any yard.
Looking nationally, some are very lax. There is this
county in South Carolina that says any heating or air
conditioning unit in terms of where should we put it, so
long as such unit is located as close as reasonably
possible to the wall of the building it serves, so it is
very flexible. Others had various measurements.
Downers Grove does, when it comes to air conditioning
units, you are allowed to go close to the lot line as
the density of the zoning districts increases. For
example, R-1 is seven feet. When you get to R-3, it's
six feet, and then industrial districts, it's five feet.

COMMISSIONER FREEMAN: So, right now if my
neighbor has their condenser on the property line, that's not --

COMMISSIONER NYDEN: Unless they're going with a variance.

COMMISSIONER FREEMAN: Unless they go to a variance, they can't do it.

MR. DUNKLEY: Unless there are objections.

COMMISSIONER FREEMAN: I doubt it.

COMMISSIONER NYDEN: You've got to check out the 1400 block of Wesley. There's a lot of stuff going on there.

CHAIRMAN WOODS: There's a lot of stuff going on there.

COMMISSIONER FREEMAN: Well, the lots are just real strange and it's like, you know, like mine is --

COMMISSIONER NYDEN: So, it's the lot's fault.

COMMISSIONER FREEMAN: Well, my next-door neighbor is like, you know, his windowsill is over my property, you know. I mean, because it's like built to the property line, you know. And so there's, so I guess if he had an air conditioner hanging out his window, that would be on --

COMMISSIONER GALLOWAY: That would be, you would own it.
COMMISSIONER WIDMEYER: Or you can always charge him rent for the space.

COMMISSIONER GALLOWAY: Air rights.

COMMISSIONER WIDMEYER: Air rights.

MR. ARGUMEDO: And the final one I wanted to talk to you on is in Denver, Colorado where they did propose, unfortunately I'm not sure these had passed, but the Department, the Community Planning & Development Department had four conditions where they were trying to exempt air conditioning units and they are one of the few or the only one I really saw that actually did bring in noise.

COMMISSIONER GALLOWAY: I was going to say where is noise in all of this because that's really the culprit.

COMMISSIONER FREEMAN: Isn't that the whole reason why you want it not --

COMMISSIONER GALLOWAY: Yes.

COMMISSIONER FREEMAN: Denver said specifically the air conditioning unit must not generate more than 75 decibels of noise according to the manufacturer specification. Again, looking at New York, looking at Berkeley and college towns, large towns, this is like one of the few that stood out that actually just
had that noise requirement in there.

MR. DUNKLEY: Now, there is --

CHAIRMAN WOODS: I like the way that's phrased, 75 decibels according to the manufacturer --

COMMISSIONER GALLOWAY: Yes, that's -- if you don't maintain it and it goes up to 110, that's okay, right?

MR. DUNKLEY: We did, and thanks to Andrew for help in moving us along, look at the current state of the art in noise measurement. And Andrew was kind enough to come over and show us the machinery, the equipment that they use in Northwestern to do measurement of noise and sound level in interior spaces and exterior.

MR. McGONAGALL: Sure.

MR. DUNKLEY: Cool little --

COMMISSIONER FREEMAN: Devices --

MR. DUNKLEY: Yes.

COMMISSIONER NYDEN: The City doesn't have one of those?

MR. DUNKLEY: We have one that's not really effective. They are not cheap. We're still trying to get a cost on the --

COMMISSIONER FREEMAN: Yes, but --
COMMISSIONER NYDEN: -- as they're allowed.

MR. DUNKLEY: We did come to a better understanding though that it is more complicated than just identifying the decibel level. Decibels are only meaningful at a frequency and noises generate at a whole spectrum of frequencies. What frequency do you want to control? Is it the high ones or the low ones or all of them? What is the range of sound at what levels that's been produced?

Manufacturers only give you specs for what their machine produces at ground zero. How is the noise attenuated over time, over a space? It changes by temperature, by air pressure --

COMMISSIONER FREEMAN: That's probably why --

MR. DUNKLEY: It probably changes by how much sleep you've had in the night before. It's not an easy thing to operationalize.

COMMISSIONER FREEMAN: Right.

MR. DUNKLEY: The measurement piece is, it was interesting but we didn't see how it would fit in except as an enforcement mechanism. And that had, it was problematic because once you're at that point, the equipment has been installed. And an out-of-range measurement, would that lead to their having to remove
the unit or move the unit? We don't want to wait that long and we want to try and be able to as effectively as we can catch problems evenly, consistently at the design phase. We might be able to envision a table of permitted distances based upon the noise emission when new. How does that change over time? Certainly the --

COMMISSIONER FREEMAN: -- to do with noise.

MR. DUNKLEY: It's hard. It's difficult to, once we think through the steps of how will this work.

CHAIRMAN WOODS: Okay. Well, are these primarily dealing with the R zones?

MR. DUNKLEY: That's where we had almost all of the applications.

CHAIRMAN WOODS: Because I know that in various planned developments there have been specific requirements about sound not exceeding certain levels at property lines. And that has been a source of complaint and debate with some of the developments in terms of mechanical rooms and other types of things, internal generators, whatever, that produce noise. So, there are sound --

MR. DUNKLEY: I couldn't vouch for the effectiveness of those, you know, of those. They say it's a compelling piece of legislation. It sounds
reasonable.

CHAIRMAN WOODS: Yes, it was part of, like for example, I think most of the Optimum projects had specific regulations attached to them, especially the sound.

MR. DUNKLEY: Perception of noise and what's irritating noise and what's not changes dramatically. Many times you'll be measuring ambient noise level that is actually higher than what's prohibited by the code. So, when we turned on the measuring device in our conference room, it was up around 65-70 or so. And what we've seen in the few places where there are noise limits is they're on 50-60 decibels. So, that's equal to the ambient noise where we work and frankly it sounded pretty quiet. But we have a great tolerance to --

CHAIRMAN WOODS: To all of those, yes.

COMMISSIONER FREEMAN: It all depends on how tired you are, right?

MR. DUNKLEY: How tired you are and the intermittence of the noise. Apparently, we get --

COMMISSIONER FREEMAN: A lot of it is like going on and off?

MR. DUNKLEY: Apparently, a lot of the problem
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with air conditioners, it turns out they turn on and
off.

CHAIRMAN WOODS: Yes, well the mechanical
units for example on the roof of a building in general
shapes where their zoning ordinances do have noise
regulations, it's almost impossible to get the unit to
meet the regulations unless you build a sound wall
around it.

MR. DUNKLEY: So, in an effort to at least
keep the number of, the cases that don't have to go to
ZBA or -- variances to keep them, to allow them to be
continued by right where we felt there was general
agreement that it's not going to cause an issue, we
proposed an update to the code that makes it a little
bit more responsive to particular circumstances. And
I'd like to hand this out. And there's also some
explanatory graphics along with this one to --

COMMISSIONER GALLOWAY: Good.

MR. DUNKLEY: One of the challenges here is
that as an accessory structure in Table 4-A, you also
have to note that air conditioning unit machinery or
equipment is not permitted in the front yard, ever. And
then you would go on to look at any other regulations.
So, I actually included this under proposed to
incorporate into the regulations. We propose that a
section of text be added just as it is for satellite
dishes, for solar reflectors, for air conditioning
equipment, and that it be stated. This incorporates
actually the good comments that we got from the alderman
who spoke into as concise a set of regs as we could.

So, air conditioning equipment would not be
permitted to be located: (a) in the front yard; (b)
closer to any other dwelling on adjoining properties and
the dwelling it will serve. So, similar to this, and
that seems to make a lot of sense. And we have found
instances where air conditioners were proposed to be in
positions where they are actually closer to a neighbor's
house than they were to the house they served.

MR. ARGUMEDO: That takes into consideration
Alderman Moran's comment I believe.

MR. DUNKLEY: Correct. Right, almost
verbatim. And they also would not be allowed within 10
feet of any lot line with the following exceptions. And
there are three that we found that didn't seem to cause
much consternation when we reviewed them internally.
First, the rear of your property line. Now, technically
it was never possible to go that far with your condenser
line. However, that's changing and it is now possible
in many circumstances. So, we found that there
generally wasn't any problem locating within 10 feet of
the rear property line except when that rear property
adjoined the side yard of an adjoining house. So, it's
if a reverse corner lot was next to it. In most cases,
that would be abutting an alley or another rear property
or rear yard.

So, if you turn to the graphics, I've showed a
couple of examples where we have for some interior lots,
the two that are identified in the left-hand side would
be allowed within 10 feet of the rear yard if they're
not, there's no way you can get them close to any
dwelling unit. However, where you have a turned corner
lot, that could be right next to the side yard of your
adjoining property owner, so that would not be allowed.

COMMISSIONER FREEMAN: Do people really put
air conditioning units that far away?

MR. DUNKLEY: They do now. One of our
aldermen --

COMMISSIONER FREEMAN: At the back of the lot?

MR. DUNKLEY: Yes.

COMMISSIONER FREEMAN: So, they wouldn't hear
it now, is that why?

MR. DUNKLEY: Correct. However, in most cases
you wouldn't hear it in your neighbor's house, your neighbors wouldn't hear it as well.

COMMISSIONER WIDMEYER: There should be -- an exception.

MR. DUNKLEY: There you have it.

COMMISSIONER NYDEN: So, this wouldn't require any kind of hearing or any kind of approval or notification of neighbors?

MR. DUNKLEY: Correct. It would be by right, it would be allowed.

COMMISSIONER NYDEN: So, this person could put something back here and I could have a nice little patio back here where I hang out --

MR. DUNKLEY: Most of the complaints we have are at night when you're trying to sleep. However, I see your point.

COMMISSIONER NYDEN: Because, I mean, I appreciate that it's away from the house, but you don't know what somebody is doing in their backyard the way they have them set up. And that can be, I mean, there's people who have gorgeous yards where they have something in the middle, or what if, again this isn't, I mean we have lots in Evanston that this isn't the back of somebody's house but this is somebody's side yard, you
know, like this. I mean, would that --

COMMISSIONER FREEMAN: But that's what's right here, that's what that --

MR. DUNKLEY: Yes, that's what you can't do.

COMMISSIONER NYDEN: Oh, okay, okay. All right. That's good.

MR. McGONAGALL: If the rear yard becomes your neighbor's side yard, you could --

COMMISSIONER WIDMEYER: But you would have a problem with this.

MR. McGONAGALL: If the lot behind it isn't residential --

COMMISSIONER NYDEN: Yes, I would have a problem with that, I think. I mean there's people who have really big yards and people who use their yards.

COMMISSIONER FREEMAN: You know, why should that be right on my lot line if I want to hang out back here and I have a patio?

COMMISSIONER NYDEN: Right.

COMMISSIONER FREEMAN: Why would I want to have --

COMMISSIONER NYDEN: Or a pool or --

COMMISSIONER FREEMAN: Why should I have somebody's condenser at the back of my yard?
COMMISSIONER WIDMEYER: That's the one problem. That's the one problem.

COMMISSIONER FREEMAN: You know, I would have a real problem with that.

COMMISSIONER WIDMEYER: But not if the property across from it is not a residential.

COMMISSIONER NYDEN: Yes, that's, I agree.

COMMISSIONER WIDMEYER: I'd go with that.

COMMISSIONER NYDEN: Yes.

COMMISSIONER FREEMAN: Which one are you talking about? Here?

COMMISSIONER NYDEN: If that --

COMMISSIONER WIDMEYER: If this was non-residential.

COMMISSIONER FREEMAN: If this was non-residential, I guess I wouldn't have a problem with that, right. But I mean, you know, if I have a patio right off by the back of my yard, I wouldn't want my neighbors putting a condenser right there.

COMMISSIONER NYDEN: So, if a grocery store is on the other lot?

COMMISSIONER FREEMAN: I have a big problem with that one.

COMMISSIONER NYDEN: No, you wouldn't have a
problem.

COMMISSIONER FREEMAN: If they put a condenser right there, I would.

COMMISSIONER NYDEN: No, no, but you wouldn't have a problem. Hopefully it shouldn't have a problem with you putting a condenser there.

CHAIRMAN WOODS: I'm sure you would.

COMMISSIONER FREEMAN: No, it's like this Whole Foods --

MR. McGONAGALL: Could I make an observation?

CHAIRMAN WOODS: Sure.

MR. McGONAGALL: I think there is a ten-foot zone at the rear of properties for utility access. I know there is on mine. I wonder if --

COMMISSIONER WIDMEYER: That's because you don't have an alley.

CHAIRMAN WOODS: That's right.

MR. McGONAGALL: That's correct.

COMMISSIONER WIDMEYER: That's the substitute for an alley.

MR. McGONAGALL: Right, right. But --

COMMISSIONER WIDMEYER: Typically is a utility easement.
MR. McGONAGALL: Right. Let's continue that thought. That ten-foot then equates to the ten-foot setback on the side. So, what I'm suggesting is that you take that utility easement and say that you can place your condenser not closer than ten-foot to your property line which equates --

CHAIRMAN WOODS: Which is the ten-foot rule --

MR. McGONAGALL: Right.

COMMISSIONER NYDEN: Yes.

MR. McGONAGALL: Which equates to your issue in terms of the adjacent property.

COMMISSIONER NYDEN: Right.

MR. McGONAGALL: -- because that already exists as a parameter in --

COMMISSIONER WIDMEYER: So, if there is an alley back here, that's a different situation.

MR. McGONAGALL: Right. Right, that's what I -- this sketch does not show any alley --

COMMISSIONER WIDMEYER: Right, that's correct. They can bring their truck in and drive it right over here by right.

MR. McGONAGALL: Right.

COMMISSIONER WIDMEYER: And drive it right over your condenser.
COMMISSIONER FREEMAN: If there's an easement there. But my house doesn't have an alley, there is no easement.

COMMISSIONER WIDMEYER: Well, yes. But the only situation where --

COMMISSIONER FREEMAN: There is pole that they can have access to but they have no rights to dig or anything else.

MR. McGONAGALL: Mine actually has an easement.

COMMISSIONER FREEMAN: Yes, yours. Ours doesn't. You see ours doesn't. We know this because we've talked about burying lines, we have a whole bunch of lines feeding and once you do that, then an easement is created and they could come in and dig all they want on your property. So, we don't have an easement.

MR. DUNKLEY: Well, but --

COMMISSIONER GALLOWAY: The point here is that essentially this sketch except moving them both ten feet away from the property line, right?

MR. McGONAGALL: Right. And show it with an alley.

CHAIRMAN WOODS: -- what the rule says --

COMMISSIONER GALLOWAY: Yes, I'm just getting
back to this.

MR. McGONAGALL: But also show it with an
alley. And then there's no, you know, after --

MR. DUNKLEY: The way this is written is that
the only time in which the rear property line would have
the ten-foot prohibition would be if it adjoined the
side property of another property. However, what I'm
hearing is that there also may be situations where the
two rear yards abut.

COMMISSIONER NYDEN: Yes.

MR. DUNKLEY: So, what if we turn this around
and make it less, no --

CHAIRMAN WOODS: Make it more --

MR. DUNKLEY: More unrestricted? In other
words, identify that the exception, stay with the ten-
foot included in the rear property line, however grant
an exception that within ten feet is allowable when your
rear yard property line abuts an alley.

MR. McGONAGALL: Or a non-residential area.

COMMISSIONER GALLOWAY: Or a non-residential
area.

MR. DUNKLEY: Right, or a non-residential
area.

MR. ARGUMEDO: Well, I think, can't we just go
with non-residential use?

COMMISSIONER GALLOWAY: No, because an alley is a residential use. It's in the district.

COMMISSIONER FREEMAN: When you say non-residential, what happens if it's a park? Do you still want to have a condenser right on the property line?

COMMISSIONER GALLOWAY: Yes, no one is going to complain. Kids will play anywhere.

COMMISSIONER WIDMEYER: Yes, let the squirrels be bothered.

COMMISSIONER NYDEN: But that doesn't affect, I mean my issue with where this is in relation to the park is that affects the value of your property. If I'm looking at a house and I go, I say, oh, God, that's a beautiful garden but look at that big condenser in the yard next to you, I would never want to sit down and no wonder you're selling this house.

CHAIRMAN WOODS: Build a fence.

COMMISSIONER NYDEN: Yes. I'm not going to be like I'm not going to this park, there's a condenser in the yard next to it. It doesn't affect my enjoyment necessarily.

CHAIRMAN WOODS: It shouldn't --

COMMISSIONER NYDEN: Right, of the park.
Right.

COMMISSIONER FREEMAN: -- AT&T boxes up all over the place.

MR. DUNKLEY: Let's not make our job more difficult.

COMMISSIONER GALLOWAY: So, we're going to change that, this, right?

MR. DUNKLEY: Correct, non-residential or alley. Should we say, to be consistent with what we're going to propose, that it has to be an alley of at least ten feet?

COMMISSIONER NYDEN: Yes.

COMMISSIONER GALLOWAY: Yes.

MR. DUNKLEY: Because we do have some --

COMMISSIONER NYDEN: -- that's true.

COMMISSIONER WIDMEYER: An alley is less -- problem to begin with.

MR. DUNKLEY: The next exception that we propose is that on a street side yard, so in a corner property, that this would only be a consideration where there is an existing nonconforming setback that was of course less than that 15, the normal 15 feet, actually if it was approaching 10 feet more or less. It generally doesn't seem to be an issue if they're to
locate within 10 feet of a street side property line if
two things were met. First of all, the equipment is
located next to essentially the principal structure so
it's not hanging out there, you know, near the sidewalk.
It should be right next to the house. And it was
requested that we actually specify a distance there, so
we thought two feet was, you know, within two feet of
the principal structure made sense. And that the
equipment is landscaped, so there is something visually
surrounding the --

CHAIRMAN WOODS: What is the definition of
landscaping?

COMMISSIONER GALLOWAY: Yes. Petunias?

MR. DUNKLEY: We started going down that
route.

COMMISSIONER WIDMEYER: Would screen be a
better word?

MR. DUNKLEY: Yes.

CHAIRMAN WOODS: I think screen would be a
much better word.

COMMISSIONER GALLOWAY: Screen with
landscaping or --

MR. DUNKLEY: Thank you, I was searching for
that.
COMMISSIONER NYDEN: How close can they be to
the sidewalk?

COMMISSIONER FREEMAN: There can't be a fence
because you can't put a fence --

COMMISSIONER NYDEN: Okay. So, if this air
condition condenser can go next to the side, basically
next to the sidewalk next to the street, if it's within
two feet and all that stuff, what about, how do we know
it's not going to be right up against the sidewalk?

MR. DUNKLEY: We don't.

COMMISSIONER NYDEN: Okay. So, can we put
something in there like must be at least two feet or
something from the sidewalk?

MR. DUNKLEY: I'd be comfortable with three
feet, that's what we have under accessory structures.

COMMISSIONER NYDEN: Okay, that's great.

CHAIRMAN WOODS: Yes.

MR. McGONAGALL: Why wouldn't you put five
feet which equates to the overhanging air conditioner --

COMMISSIONER FREEMAN: That makes sense.

MR. DUNKLEY: Well, I make the same argument
for when are you, should we be restrictive on the street
side yard as we are for other property boundaries?

COMMISSIONER FREEMAN: Restricting use of
window air conditioners on the street side, no. Because now you're going into health issues, all sorts of other issues if you try to --

COMMISSIONER WIDMEYER: Some people, some rooms only have a street side window.

COMMISSIONER FREEMAN: Right.

COMMISSIONER GALLOWAY: You can't do that.

COMMISSIONER NYDEN: Condo associations do that.

COMMISSIONER FREEMAN: That's correct. Well, they'll regulate not just, I mean what you can have and what you can't have and how far they can go out, how much of a window, you know, all about the uniformity stuff. Condos.

COMMISSIONER NYDEN: And I think in a place like Evanston where you have so many old houses that rely on window units, it would be an administrative nightmare to have to start like really --

COMMISSIONER FREEMAN: I don't think you can.

I don't think legally you could do that.

COMMISSIONER NYDEN: Yes.

COMMISSIONER GALLOWAY: It's not that objectionable anyway.

COMMISSIONER FREEMAN: What?
COMMISSIONER GALLOWAY: It's not that objectionable anyway.

MR. McGONAGALL: You haven't been to Historic Preservation.

COMMISSIONER GALLOWAY: Really? Well, they don't want, well, I guess they probably don't want window air conditioners anywhere. I can understand that.

CHAIRMAN WOODS: What about --

COMMISSIONER GALLOWAY: How about a fan? An oscillating fan is okay as long as it's within the period.

MR. DUNKLEY: Historic Preservation has a very tough --

MR. ARGUMEDO: You were saying how close.

MR. DUNKLEY: Yes.

COMMISSIONER CREAMER: I heard bids of 3 and a 5. Is there a decision?

COMMISSIONER WIDMEYER: Oh, the sidewalk?

COMMISSIONER CREAMER: Yes.

COMMISSIONER FREEMAN: 5.

COMMISSIONER NYDEN: I'm cool with that.

MR. ARGUMEDO: What do you think about, having reviewed so many?
4/15/09 Zoning Committee of the Plan Commission

09PLND-0014 Zoning Ordinance Update, Phase 1-A

1
COMMISSIONER CREAMER: Well, I'd go for 5.

2
COMMISSIONER NYDEN: 5 it is.

3
COMMISSIONER WIDMEYER: Does 5 work on a 35-foot long?

4
COMMISSIONER CREAMER: It's going to be a small number now because you've got, it's two feet from the house.

5
COMMISSIONER GALLOWAY: Right, the thing is probably two to three feet wide.

6
COMMISSIONER CREAMER: It's five feet from the sidewalk.

7
MR. DUNKLEY: There's not that many circumstances --

8
COMMISSIONER GALLOWAY: So you're already up to 10 feet.

9
COMMISSIONER CREAMER: Well, just about. 9 and a quarter.

10
MR. ARGUMEDO: And if you wanted to go within, in that five-foot setback, an additional 1.70 into the setback, that would still be a minor variance. So, again that helps us with not clogging up the --

11
COMMISSIONER CREAMER: But it would never be within three though, five beating three.

12
COMMISSIONER WIDMEYER: Right.
COMMISSIONER GALLOWAY: Got it.

MR. DUNKLEY: And the screen landscaping, I think that makes sense. Continuing that idea on the other side or on an interior side of property lines, we generally found, this is the last one, that there wasn't, really there doesn't seem to be much probably with locating on an interior side of property line in the case where it abutted an alley. That's still considered an interior side yard if there is a minimum ten-foot alley that separates you from the next property over. No one seemed to have much heartburn about putting an air conditioner there within ten feet of the property line because you have that ten-foot alley there as the buffer. But again, we would want it to be next to the house and we would want the equipment to be screened with landscaping.

COMMISSIONER NYDEN: And what about again at least a few feet from, five feet from the alley?

MR. DUNKLEY: From the alley?

COMMISSIONER NYDEN: Yes.

MR. ARGUMEDO: I understand that on the sidewalk.

COMMISSIONER FREEMAN: Why on the alley?

Because if we're saying you can go to the property line
on a, you said you can go to the property line on a non-
residential line, what's the problem with the property
line on the alley if you're ten feet from the neighbor's
house?

COMMISSIONER NYDEN: Oh, I thought we said --
COMMISSIONER FREEMAN: I would like --
COMMISSIONER NYDEN: No, I just, I mean I
think you need to have some space from the public right
of way like there has to be something --
COMMISSIONER FREEMAN: That's the ten feet.
COMMISSIONER NYDEN: For any kind, I mean, --
space, you have to, you know, we get snow, snow gets
pushed --
COMMISSIONER FREEMAN: But that's their issue,
that's not our issue.
CHAIRMAN WOODS: That's their problem.
COMMISSIONER FREEMAN: That's their problem.
If they're going to put a condenser on their property
line and the alley gets plowed and the snow ends up
knocking over the condenser, that's their problem, not
ours, isn't it? I don't have my, I mean I'd love to
have my --
COMMISSIONER NYDEN: Yes, but --
COMMISSIONER FREEMAN: -- my driveway plowed
out every time, you know, the four times a day that I have to go out and shovel it because the plows come through, that doesn't happen.

COMMISSIONER GALLOWAY: And you can put a fence up. You can cover it with those plastic covers. Which they should anyway.

COMMISSIONER FREEMAN: No, you're not supposed to cover them. In the winter, no.

COMMISSIONER CREAMER: Okay. So, just to follow up on Johanna's question because I think it's a good one, we're saying that you can put it on the property line if the property line is on an alley.

MR. DUNKLEY: Yes. That's what's been proposed.

COMMISSIONER CREAMER: Is everybody cool with that?

COMMISSIONER GALLOWAY: What was that again?

COMMISSIONER CREAMER: What this says is that you can put it on the property line if the property line is on an alley.

COMMISSIONER GALLOWAY: On the property line?

COMMISSIONER CREAMER: Yes.

MR. ARGUMEDO: Well, right now we have no language saying it could be off of it, I don't know if
you want to revisit that or not.

COMMISSIONER GALLOWAY: But it says if landscaped, so how do you landscape if there's only a quarter of an inch between the edge of the --

MR. ARGUMEDO: They were talking about this.

COMMISSIONER CREAMER: Number 3.

COMMISSIONER GALLOWAY: -- the edge of the condenser and the alley, you can't landscape that.

MR. DUNKLEY: I think the point was that, I think you got to it with the word screened, landscaped or screened or in this situation if you could have a fence along the property line there, put the condenser just inside the fence, that's screened and it's also at least ten feet away from any of the property line.

COMMISSIONER WIDMEYER: I don't think I'd worry about that one.

MR. McGONAGALL: Why don't you use the phrase up to the -- gives them the flexibility to get the -- to get in rather than saying on because on --

MR. DUNKLEY: I'd prefer we don't say anything if we're not going to specify a required distance from the property line.

COMMISSIONER CREAMER: Is there any place in the code that would allow somebody to --
COMMISSIONER FREEMAN: Yes, because you need to be able to make --

MR. DUNKLEY: On the property line? Fences.

COMMISSIONER CREAMER: Other than a fence.

MR. DUNKLEY: Well, no, you can't do anything on the property line because once you're on the property line you're over it.

COMMISSIONER CREAMER: Yes, right.

COMMISSIONER GALLOWAY: And you need to be able to make some kind of a rational subject of judgment as to what constitutes the landscaping that someone is putting around this thing if it's vegetative landscaping as opposed to fence screen. So, there's only six inches there --

MR. McGONAGALL: To throw one other question that's off the wall but could be related, does the City allow propane gas to residential properties? The reason that I ask that is if you're permitting an air conditioning unit in these locations and somebody chooses to use propane as their heating method rather than natural gas, having already established a precedent for allowing a piece of equipment at that point?

MR. DUNKLEY: No. We have a permissive ordinance which means if it's not in here you can't do
it. So, if it's not specifically identified as allowable, it's not permitted.

COMMISSIONER FREEMAN: -- my propane tanks.

COMMISSIONER OPDYCKE: I've never seen --

propane tank.

MR. DUNKLEY: The only way for instance we can get around that is by deeming the characteristics of an item to be so close to another one which is permitted that we treat them the same way. That's how we have allowed emergency electrical generators because they are so similar to air conditioning units. Well, we'd actually like to be explicit about that in the next round of updates to include emergency electrical generators. If it's an issue that we want to permit propane tanks in the yard --

COMMISSIONER FREEMAN: No.

COMMISSIONER WIDMEYER: We don't have any knowledge --

MR. DUNKLEY: Now, ponds are a different story, we'll get to those in just a minute. Okay. With that, would someone care to make a motion on Group 1-A?

COMMISSIONER CREAMER: Could we wait to vote on A-8 until we see the new language? Mr. Chair?

CHAIRMAN WOODS: Absolutely.
COMMISSIONER CREAMER: Thank you.

COMMISSIONER FREEMAN: Isn't there one other one? There was an other one.

COMMISSIONER NYDEN: I think it was the parking. The parking.

COMMISSIONER FREEMAN: The parking was another one. So, I would say --

COMMISSIONER WIDMEYER: Which parking?

COMMISSIONER FREEMAN: A-4.

COMMISSIONER WIDMEYER: A-4?

COMMISSIONER FREEMAN: Right.

CHAIRMAN WOODS: Absolutely.

COMMISSIONER WIDMEYER: -- locating it. I think we've -- locating it to a new place.

COMMISSIONER FREEMAN: Isn't that all we're doing here?

MR. DUNKLEY: No, no, that's A-5.

COMMISSIONER WIDMEYER: That's A-5?

MR. DUNKLEY: A-4 is removing, separating out parking restrictions in the district requirements themselves.

COMMISSIONER WIDMEYER: You're right, right.

CHAIRMAN WOODS: Personally, I think we're fine and we can -- A-8.
COMMISSIONER FREEMAN: Yes.

COMMISSIONER OPDYCKE: So, we can move for 1 through 7 -- that would be my motion, yes.

CHAIRMAN WOODS: Can I have a second?

COMMISSIONER NYDEN: Second.

CHAIRMAN WOODS: All in favor?

(Chorus of ayes.)

MR. DUNKLEY: Great. And we will have, even though it's sooner than we normally do, we'll have draft text for the Plan Commission meeting, something to look at. And we will, A-8 as well. Oh, no, I'm sorry, we won't bring that to Plan Commission.

COMMISSIONER FREEMAN: What, A-8?

MR. DUNKLEY: A-8.

COMMISSIONER FREEMAN: Let's come back here first.

MR. DUNKLEY: Let's come here.

CHAIRMAN WOODS: Yes.

MR. DUNKLEY: All right. Mr. Chair, would you like to move on to 1-B?

CHAIRMAN WOODS: Absolutely.

MR. DUNKLEY: Or would you like to take a quick break?

CHAIRMAN WOODS: We're going to New Business.
COMMISSIONER GALLOWAY: I need to get some water. I shall return quickly.

CHAIRMAN WOODS: Okay, quick break. Five minutes break.

(Off the record.)

(Whereupon, the hearing in the above-titled cause was concluded at 8:22 p.m.)
4/15/09 Zoning Committee of the Plan Commission

PLND-0031 Zoning Ordinance Update, Phase 1-B

CITY OF EVANSTON

ZONING COMMITTEE OF THE PLAN COMMISSION

CASE NO.: 09PLND-0031

RE: 2009 ZONING ORDINANCE UPDATE, PHASE 1-B.

Consideration of amendments to the Zoning Ordinance as part of the General Zoning Ordinance Updates, Phase 1-B, including but not limited to codifying definitions for undefined uses, clarification of existing definitions where a use has evolved, adding language to reiterate existing regulations in order to increase clarity and comprehension, reduce errors of interpretation, and increase user-friendliness to the Evanston community.

Transcribed Report of Proceedings of a public hearing on the above captioned matter, held April 15, 2009 at the Evanston Civic Center, 2100 Ridge Avenue, 2nd Floor, Evanston, Illinois, at 8:22 p.m. and presided over by J. Woods, Chairman.

PRESENT:

J. WOODS, Chairman      D. GALLOWAY
S. FREEMAN      L. WIDMEYER
R. CREAMER      S. OPDYCKE
J. NYDEN

STAFF:

B. DUNKLEY      D. ARGUMEDO

LeGRAND REPORTING & VIDEO SERVICES  (630) 894-9389
CHAIRMAN WOODS: -- on the B's.

MR. DUNKLEY: And for this half of our presentation, I'm going to turn the show over to Dominick to talk about the new stuff.

MR. ARGUMEDO: Item B-1 is the only car and truck rental definition not as it says in the current situation -- carriage truck rental. This came about --

CHAIRMAN WOODS: They're from Boston.

MR. ARGUMEDO: This came about because one of us received an application for a car and truck rental and we do not have a definition in our Zoning Ordinance. We researched how previous car and truck rental operations had been approved. They had been approved as a retail establishment or a retail services establishment which under our present code is allowed in all B, all commercial districts which just seems a little loose if we were to allow a B, and downtown districts for that matter, to allow a giant car rental operation with surface storage allowed there. So, we wanted to be able to create a definition for automobile and truck rental after again benchmarking across the, through the internet, we found a very simple definition that says rental or vehicles that includes storage and incidental maintenance of vehicles.
We have this definition because we do not want to take away from places that you just show up, you rent. --

COMMISSIONER GALLOWAY: Like I-Go or something like that.

MR. ARGUMEDO: I-Go cars but also --

CHAIRMAN WOODS: Or somebody in a hotel.

MR. ARGUMEDO: Yes.

CHAIRMAN WOODS: Like Hertz in a hotel or something.

MR. ARGUMEDO: Exactly, where they rent a car to you. We don't want, they would still be licensed, or I'm sorry, approved under and defined as a retail services establishment and still allow that type of access which is great to have in the downtown districts, you could just take the train and rent. So, this is to cover your typical airport, your typical, that type of service which we have seen some interest in and we want to again be proactive about it rather than reactive. So, that would be the definition right there, retail vehicles that includes the storage and incidental maintenance of vehicles. Again, incidental maintenance because we don't want people to take the backdoor to have an automobile service repair shop.
MR. DUNKLEY: We talked to, we've actually had several inquiries and applications for car and truck rental facilities. These things seem to come in waves and hopefully we're not reacting in a way that we'll never use again. But what we found is that in the industry there are essentially two models, sometimes there's three operational models. One is what they call the budget calls, the airport model which is large service parking and the rental location, service location right there on site. That's what we're controlling for here.

The other is the urban model which is the storefront retail. It requires very little space actually. Cars, the fleet is stored in structured parking somewhere within a reasonable distance.

CHAIRMAN WOODS: General proximity.

MR. DUNKLEY: Yes. And it is, apparently the number of cars that are stored, the number of spaces required compared to the actual fleet and the actual inventory that they have is surprisingly small. And that is because if there is a car parked in the lot, they're not making money off of it. So, all efforts are spent to get cars off the lot. So, they can actually get by with about a fifth the number of spaces as they
have vehicles. They need a little bit of expansion room there for things like Monday morning but it's very sporadic. That is the type of, that model we would still permit under retail services.

MR. ARGUMEDO: So, that --

COMMISSIONER WIDMEYER: How many of these do we have now?

MR. DUNKLEY: Well, we have a U-Haul on Howard or -- yes, there's one on Dempster. This, we have an application for Budget that's being displaced by the AMLI development.

COMMISSIONER WIDMEYER: Right.

COMMISSIONER OPDYCKE: Enterprise --

MR. DUNKLEY: Yes.

COMMISSIONER WIDMEYER: Enterprise has got a couple. They've got one up on Greenbay.

CHAIRMAN WOODS: Greenbay, too.

COMMISSIONER WIDMEYER: Yes, but those are service ones.

MR. DUNKLEY: Yes.

COMMISSIONER WIDMEYER: So, those would consist of --

MR. DUNKLEY: Most of them are, most of them are. And in fact, we'd be surprised if we actually had
COMMISSIONER OPDYCKE: Chicago --

MR. DUNKLEY: There's just not, the land is not really available. However, the way that we have handled, the precedent that we've set is to handle car and truck rental under retail services which opens the door for real, if the land were ever to be -- a real problem. And we'd hate to have to --

CHAIRMAN WOODS: I'm thinking of some empty lots right now.

COMMISSIONER OPDYCKE: Yes, there's one over on Chicago Avenue and Main Street I think.

MR. DUNKLEY: Interestingly enough, when we asked, there are some car rental, the companies that are kind of moving more towards the fleet cars or the I-Go zip car type of thing, Budget I think is staying away from it, we don't have a definition for that type of use. Do we need one, I don't know. We probably will at some point. We don't have one for coffee shops yet, maybe we have a little bit of time. But that is very different from the short-term car rental.

COMMISSIONER GALLOWAY: So, that horse is out of the barn.

COMMISSIONER NYDEN: That's more parking.
That's just more how many parking spaces are per unit or
per square feet because there is no service, there is
no, I mean a transaction isn't taking place.

COMMISSIONER WIDMEYER: It's just back to
finding a spot.

COMMISSIONER NYDEN: A space, yes, it's just
occupying space.

MR. DUNKLEY: It's a different type of
service.

COMMISSIONER NYDEN: At Enterprise, I go, I
sign the paper, I get my thing and he gives me a car,
like that happens --

MR. DUNKLEY: Yes, there's no retail aspect
involved.

MR. ARGUMEDO: Employees are coming there.

COMMISSIONER NYDEN: Right. And I go to I-Go,
I wave my card in front of the car and that's it. There
is no, I've made my reservation online or on my phone.

COMMISSIONER WIDMEYER: If that's just, you
know, parking cars, I'm not sure we'd want to discourage
that.

MR. McGONAGALL: There's actually one other
model that you have not looked at that does exist. The
university rents cars to its own faculty. So, for
departmental use, we don't rent them to go out onto the
public street to do public business. That's not --

CHAIRMAN WOODS: That's just, well, you can't
rent them for private use.

MR. McGONAGALL: We can't rent them for
private use.

CHAIRMAN WOODS: Basically that's a company
car, isn't it?

MR. McGONAGALL: Right.

CHAIRMAN WOODS: No matter whose budget it
comes out, it's a company car.

MR. McGONAGALL: Right.

CHAIRMAN WOODS: Maybe that's an issue.

MR. McGONAGALL: Well, the concern about that
is to how, you know, we're going to see one district I
think where we currently have that located. So, I'm
just a little cautious.

COMMISSIONER WIDMEYER: It would seem to me
that that's a parking issue and everything else is just
internal to your company. It happens to be a university
but it could easily be All State or --

MR. DUNKLEY: -- we have fleet cars as well
that, you know --

COMMISSIONER GALLOWAY: Yes, don't sweat it.
MR. McGONAGALL: Let me get my piece of paper.

MR. ARGUMEDO: Is there any other discussion on the definition?

COMMISSIONER FREEMAN: I kind of like that it goes back and forth though.

MR. DUNKLEY: We should have a podium.

CHAIRMAN WOODS: Okay, next.

MR. ARGUMEDO: The second one again results from interaction with a real life application, that is, the definition of a community center and clearing that up. In a residential district, we have community center-public. In other districts, we have just community center. In our definition section, we define community center, we do not define community center-public. And of course the word public can be used for a host of interpretations. Public means, well, I let anybody in or anybody can join our group to become a member so we are open to the public right there. That is something that's been confusing us.

As you can read, the current community center definition is very wide open. It says a place, structure, area or other facility used in providing programs. It's very wide open. A community center-public, the intent there is that it is a building or
facility owned by a government agency and here is my example of this.

When we were debating with this one applicant what a community center-public was, they submitted a list of what they considered you allow these community centers into these districts to look at. They were all Evanston-owned recreation centers. They were all Evanston and I'm like you're helping my own case here, that these are government-owned entities rather than open community centers. And again, that goes back to the fact that community centers are allowed into R-4 through R-6 residential districts, community center-public that is, are allowed in residential districts. Again, catering to the more residential nature of that where the community would be.

So, that's why we wanted to change the proposed definition, kind of meld community center-public and community center into one definition.

COMMISSIONER FREEMAN: Who's the applicant?

MR. ARGUMEDO: In this case, it is --

MR. DUNKLEY: We really shouldn't discuss that.

COMMISSIONER FREEMAN: Oh, okay.

MR. DUNKLEY: Because its case is still open.
MR. ARGUMEDO: But this, to the definition below, but mainly the phrase is in the first sentence where it says under the jurisdiction of a public agency. That's why we're trying to emphasize that community centers, what is meant by the Evanston Zoning Code are community centers owned by the City or perhaps state, but they are government entities. We're not trying to shut out other types of facilities because we believe they are still able to come into Evanston by cultural facilities, cultural facility membership organizations, student and religious organization meeting houses, so we have those definitions that meet what others are considering a community center.

MR. DUNKLEY: We just couldn't conceptualize a community center that was not a public community center.

COMMISSIONER FREEMAN: Meaning owned by the public.

MR. DUNKLEY: Owned by the public. We couldn't imagine, we can't conceptualize an entity that is owned by a private organization, by a company that is a community center as we know it. I mean, there are recreation centers that are for instance operated by the Salvation Army but those are not community centers. And our definition for community center is 12 lanes wide.
And so, we have a lot of challenges in explaining that some of the uses that are proposed as community centers are not what is intended by the definition. So, we'd like to tighten it up.

COMMISSIONER FREEMAN: I do have a question on this proposed language here where you do say provide a range of activities including health and wellness, but then it should not have an examination room or a treatment room. So, if you're going to provide health and wellness, how do you do that without having a place to provide some type of examination or treatment?

COMMISSIONER GALLOWAY: Nutrition, yoga.

MR. McGONAGALL: The Levy Center for instance does flu shots and stuff like that. They bring in medical practitioners. They sit them there, they screen you. I mean --

COMMISSIONER GALLOWAY: Like a blood pressure, the Y has a blood pressure day.

COMMISSIONER FREEMAN: But it has a room where you're getting treatment. You're getting treatment and that treatment is you're getting an injection.

COMMISSIONER WIDMEYER: This says regular use. That wouldn't mean a medical facility.

COMMISSIONER FREEMAN: Okay. Yes, okay.
MR. DUNKLEY: Then let's be blunt. The point here is to keep out, you know, rehab, drug treatment centers and all that, that those should not fall under community center.

CHAIRMAN WOODS: Absolutely.

COMMISSIONER GALLOWAY: Right, right.

MR. DUNKLEY: Which should really be controlled more closely than a community center.

COMMISSIONER FREEMAN: Sure.

MR. ARGUMEDO: And just I'd like to pass out, our old district use maintenance demonstrates the difference between community center-public where it has the S's, and the community center where it has the permitted use. You can see the difference on here. We just don't have a definition for community center-public and that was --

MR. DUNKLEY: And the last part is really an effort to ensure that shelters, transitional shelters are not dumped into this community center use as well.

MR. McGONAGALL: The thing that I have a problem with is your definition of kitchen. The Levy Center for instance has, I don't think you could operate the Levy Center with its current layout under this description. And I know that's totally different from...
the food kitchens and stuff like that but I think you have your, you've boxed yourself into your own corner for facilities that you actually own and operate with your own definition.

MR. DUNKLEY: So, you're saying the Levy Center would not pass this test?

MR. McGONAGALL: Yes.

MR. ARGUMEDO: Is there a suggestion on how we can rectify that?

COMMISSIONER CREAMER: Well, what's the purpose of the limitation on kitchens?

COMMISSIONER FREEMAN: So you don't have a food, you don't want to have a food kitchen, a food pantry that's feeding hundreds of people a day.

MR. DUNKLEY: Correct.

COMMISSIONER FREEMAN: Soup kitchen.

MR. DUNKLEY: That's my, yes --

COMMISSIONER FREEMAN: That's what you don't want to have.

COMMISSIONER CREAMER: And what's wrong with that?

COMMISSIONER WIDMEYER: A soup kitchen could be an ancillary.

COMMISSIONER FREEMAN: Yes, what is wrong with
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that?

COMMISSIONER CREAMER:  What's wrong with that?

COMMISSIONER FREEMAN:  I don't think there is anything but that's what you're saying here.

COMMISSIONER CREAMER:  Yes, well, I want to know why that's a problem in a community center-public because wouldn't --

MR. McGONAGALL:  I mean, for instance, this is a --

COMMISSIONER FREEMAN:  Hang on, hang on.

COMMISSIONER CREAMER:  Well, if the United States of America or some other world government wanted to create a facility to feed people, then it wouldn't meet this definition. And wouldn't that be a good use for a community center type build? And I actually don't, I mean --

MR. DUNKLEY:  I would agree with you.

COMMISSIONER NYDEN:  Was there any reason why at some point that somebody said, you know what, there is a reason why we don't want foods or is it because of like some kind of truck that would be delivering the food? Is there some other reason why --

COMMISSIONER FREEMAN:  Code that has to be, you know --
COMMISSIONER NYDEN: Like health code.

COMMISSIONER FREEMAN: Health codes. Are there issues then associated that, you know, with costs for the community?

MR. ARGUMEDO: I guess this definition was probably gathered from several different existing definitions through municipalities. I think this is a part -- I added on. I can't say beyond a specific example where I said we needed this. I just thought it was just trying to limit it a little more. So, but I'm very open to that.

MR. McGONAGALL: As an example, my mother in England goes three times a week to a community center run by the city. They bus her there, they provide her two meals, they provide her entertainment, they have doctors that come in if she has to see them. And that is all run by the town.

MR. DUNKLEY: And that's a community center.

MR. McGONAGALL: It's a community center.

There are 200 senior citizens from the age of 65 to, you know, 95.

MR. DUNKLEY: Well, there have you it. Two cultures that are a divided by a common language.

COMMISSIONER FREEMAN: Yes, but that's an
appropriate use for a community center and this would
say you can't do that.

    MR. McGONAGALL: Right.

COMMISSIONER NYDEN: Well, it seems, and it
seems to me, too, with Evanston and its aging
population, we might need more than one Levy Center at
some point and this might prohibit us from building
another such facility that would provide meals.

    MR. McGONAGALL: And from my perspective --

COMMISSIONER FREEMAN: -- put a pool on it,

    too? Sorry.

COMMISSIONER NYDEN: Seriously though.

    MR. McGONAGALL: But from my perspective, if a
private institution wants to come in and financially run
a function like that and you pay a membership to it, I
don't see, there's nothing wrong with that whatsoever.
Or if a church wants to do something like that.

    COMMISSIONER FREEMAN: But that's not a
community center then. There is nothing wrong with that
but then that's not a community center.

    CHAIRMAN WOODS: It comes under another, it
comes under a different type.

    COMMISSIONER WIDMEYER: Because it's
membership, it's not open to everyone.
COMMISSIONER FREEMAN: That's right.

COMMISSIONER GALLOWAY: How often does the Levy Center serve meals?

COMMISSIONER NYDEN: Every week I think.

COMMISSIONER GALLOWAY: Do they?

COMMISSIONER NYDEN: At least, yes. They have, there's --

COMMISSIONER GALLOWAY: Do they serve regular prices?

COMMISSIONER NYDEN: Oh, yes, they have like $3.25 lunches or something.

MR. McGONAGALL: They have a clear bay area outside as well where you can go there and sit down and get coffee and that is an ancillary use.

COMMISSIONER CREAMER: Or they might want to serve a large group on an occasional basis.

COMMISSIONER FREEMAN: So, I think we all agree that we want to take this out.

CHAIRMAN WOODS: Yes.

COMMISSIONER CREAMER: I think so.

COMMISSIONER NYDEN: Yes.

COMMISSIONER FREEMAN: Right? So --

MR. DUNKLEY: I think the categorical exclusion of any of this activity is, I think you're...
right. I think if we can word it such that this
definition does not include those uses where the primary
activity is --

COMMISSIONER FREEMAN: Primary activity, there
you go.

COMMISSIONER NYDEN: Yes.

COMMISSIONER FREEMAN: Yes, right.

COMMISSIONER NYDEN: That's good.

MR. DUNKLEY: I think that would be --

operational.

COMMISSIONER FREEMAN: Yes. I mean, to me,
you know, a community center is anything the community
wants it to be and to fill the need of a community. And
I think by doing this, you're actually, you're
restricting some obvious needs.

COMMISSIONER NYDEN: Is there some way to
maybe put in, too, if it, and I don't know what the
right level would be but just something that, you
wouldn't have, you know, food being, fresh vegetables
being delivered at 3:00 in the morning or something.
You know, like there is not a big food delivery
everyday.

COMMISSIONER FREEMAN: Well, why not, if
you're having -- but first of all, you shouldn't be
restricting that by this. But if you are going to be
serving meals everyday to 200 elderly people residents
of Evanston, there should be delivery of fresh food
everyday.

COMMISSIONER NYDEN: Yes, but then that would
be a primary, that seems -- what I'm wondering is what
determines its being a primary use? I mean, if you're
serving 200 people a day, that seems pretty, you're like
a McDonald's at that point or something, I don't know.

COMMISSIONER FREEMAN: No, you're not.

COMMISSIONER NYDEN: But no, you're serving
people and that's a big deal. And that's, what I'm
saying is if you're going to put this in a residential
area potentially, next or adjacent to a residential
area, you could have the impact in the use that a
restaurant would have.

MR. DUNKLEY: Yes. That's where our jobs get
interesting, determining what the primary use is.

COMMISSIONER FREEMAN: But at the time of
creation of a new media center, those type of issues
would come into play, right?

MR. ARGUMEDO: It would still be a special
use.

COMMISSIONER FREEMAN: That's right.
MR. ARGUMEDO: And those type of conditions can be applied to that special use, limiting hours, limiting --

CHAIRMAN WOODS: Right, good.

COMMISSIONER WIDMEYER: A community center is defined by what the community feels it needs.

COMMISSIONER FREEMAN: Yes, absolutely.

COMMISSIONER WIDMEYER: I can understand the medical thing that says regular use because I'm not sure we want to set up a hospital in there with all that's implied and all the expense that's added. But that doesn't mean you can't bring a doctor in twice a week to check out people or something that's not regular. So, that works.

COMMISSIONER FREEMAN: Right.

COMMISSIONER WIDMEYER: I think it's just the food thing that is probably going beyond. If the community maybe -- want at some point in time in more than one community center, you know, things are getting tough, we may decide that serving lunches in three or four locations around the city is a good thing for a year or two.

COMMISSIONER FREEMAN: But when you say regular -- then we go back to the regular use again, so
you go back to giving shots or, you know, doing the, you
know, listening for pneumonia or whatever it is, you
know. So, maybe once a week you have a doctor there or
a nurse so that the elderly --

COMMISSIONER WIDMEYER: Yes, but that's not a
regular use.

COMMISSIONER FREEMAN: But it's regular, it's
regularly every week.

COMMISSIONER NYDEN: It's like Andrew having a
baseball game and his friends are over and they're
parked in his driveway. It's not --

MR. DUNKLEY: The way we would look at that
is, is it an accessory use or not. The accessory use
means it's dependent upon the primary use.

COMMISSIONER FREEMAN: Right. So, let's
define it.

MR. McGONAGALL: In my mind, the primary use
is the community center.

COMMISSIONER FREEMAN: That's correct.

MR. McGONAGALL: The ancillary use is the
kitchen, the medical.

COMMISSIONER FREEMAN: The medical.

MR. McGONAGALL: And you'd say subject to
ancillary uses because they are incremental to the
community center.

COMMISSIONER FREEMAN: Fine, yes. That's good, that's good.

MR. DUNKLEY: That's right. And they wouldn't exist if the community center wasn't there.

COMMISSIONER FREEMAN: Wasn't there, right.

MR. DUNKLEY: And they'd be becoming the primary use of their own right. That's the determination that we would make.

COMMISSIONER FREEMAN: You didn't put up the building to have a doctor's office.

MR. DUNKLEY: Correct, right. So, will take this back and we'll work it so that it does exactly what you want. But it won't include the part that says a community center is whatever the community wants it to be. I can live with that.

COMMISSIONER FREEMAN: Well, we both agree here. It is what it is. I mean that's what a community center is.

MR. DUNKLEY: Yes.

COMMISSIONER FREEMAN: But you don't have to put that in there.

MR. DUNKLEY: Okay. Do you want me to take this one?
COMMISSIONER WIDMEYER: You can say it's -- if the whole community agrees upon then we'd never build another one.

COMMISSIONER FREEMAN: I'm sorry, what was that?

COMMISSIONER WIDMEYER: I said we could just determine it to be what the whole community agrees --

COMMISSIONER FREEMAN: And then we wouldn't have one, that's right.

MR. DUNKLEY: B-3 is a situation where we're a little bit further ahead of the curve, and that is live/work units. We have a rise in the number of developments that propose this type of product, this type of living/working arrangement. And we don't have a definition for it and we sometimes find ourselves in an interesting position. We talk about live/work units and sometimes we find more towards the end of the discussion than towards the beginning that we're talking about different things.

What is a live/work unit? We don't have any body of material that helps us with that so that we can then define it but then work with the concept. And we have pulled a definition that we thought was workable. What the source of this is, do you remember?
MR. ARGUEDO: I think it may be New York, I'm not sure.

MR. DUNKLEY: New York City. We propose that a live/work is a structure or a portion of a structure that, number one, combines a commercial or manufacturing activity that is allowed in the district with a residential living space. The implication is that the dwelling units are allowed as well for the owner of the commercial or manufacturing business and that person's household.

COMMISSIONER FREEMAN: So, does that mean that excludes then somebody renting the house or renting the --

MR. DUNKLEY: Right.

COMMISSIONER FREEMAN: The commercial space?

MR. DUNKLEY: Correct. That's right.

COMMISSIONER FREEMAN: It's got to be the same person.

MR. DUNKLEY: So, it's more than a home occupation and it's less than a business, a true, you know, business, that is, you know, leasing space in its own right.

COMMISSIONER CREAMER: Why is that distinction important?
COMMISSIONER FREEMAN: Why? Yes. Well, the first or the second one?

COMMISSIONER CREAMER: Between an owner and a lessee. Why are you limiting this to the owner and not somebody else where they --

MR. DUNKLEY: Well, if they lease the dwelling space, then that's probably fine, if they're leasing the live/work portion. But to then separate the live part from the work part, that's where it gets problematic. To separate that into two different proprietorships I guess.

MR. McGONAGALL: I would say owner or lessee of both, you have to rent both units contingent.

COMMISSIONER CREAMER: Yes, you have to be both the liver and the worker.

COMMISSIONER GALLOWAY: And the worker, right.

MR. McGONAGALL: Right.

COMMISSIONER GALLOWAY: Well, yes, we don't want a boarding house. I get it.

CHAIRMAN WOODS: Because this says the owner of the commercial or manufacturing use.

COMMISSIONER WIDMEYER: Now, how does this differ from just the multi-use --

COMMISSIONER GALLOWAY: But it could be the
lessee, it could be a lessee. It would have to be the owner.

MR. DUNKLEY: That is a good question.

CHAIRMAN WOODS: The owner of the business.

MR. McGONAGALL: Not the property.

COMMISSIONER GALLOWAY: Got it.

MR. DUNKLEY: That's, yes, that's what makes it workable. And the question was how does this differ from a mixed use development where we have retail --

COMMISSIONER GALLOWAY: What if it's a partner?

COMMISSIONER CREAMER: Or an LLC? There's got to be a better word than just owner considering I think it would exclude a lot of legitimate situations.

COMMISSIONER FREEMAN: Unless you want to exclude them. So, I have a, you know, that mixed use, that live/work unit going up around the corner from me. Do you want to encourage, an LLC doesn't necessarily use --

CHAIRMAN WOODS: That's just a technical term for somebody who is a --

MR. DUNKLEY: Live/work unit and LLC are not, I mean they're --

CHAIRMAN WOODS: Stockholder or owner.
COMMISSIONER WIDMEYER: A lot of people buy a unit like that as an LLC.

MR. DUNKLEY: If your LLC is yourself and/or your immediate --

COMMISSIONER WIDMEYER: Yes, but it's still, legally it's an LLC.

MR. DUNKLEY: Right.

COMMISSIONER CREAMER: But if the person isn't, if the individual human being is not the owner --

COMMISSIONER FREEMAN: It's the LLC that's the owner.

COMMISSIONER CREAMER: It's some other entity.

COMMISSIONER WIDMEYER: Or you could make it the primary member of --

MR. DUNKLEY: So, we use a term that's a little bit less legal, maybe the proprietor. The person who is responsible for the business should be the same person as --

COMMISSIONER CREAMER: Yes, I hear you. The person who is running the business, but it may or may not be the owner.

MR. DUNKLEY: Yes.

MR. McGONAGALL: It could be a manager, it could be --
CHAIRMAN WOODS: Operator.

COMMISSIONER CREAMER: Operator, I like that.

COMMISSIONER FREEMAN: Wait a second. So, the person managing the business around the corner from me could also be the person living in that structure. So, not the owner.

COMMISSIONER GALLOWAY: Right. They rent from the owner.

COMMISSIONER CREAMER: Or you could say the owner or operator.

MR. DUNKLEY: That's hard to imagine.

COMMISSIONER CREAMER: No, not really.

COMMISSIONER FREEMAN: Maybe in those spaces it may be hard to imagine. In others, it probably wouldn't be.

COMMISSIONER GALLOWAY: Why not? Why couldn't there be somebody that wants to lease a space and live and work in it? That's very understandable.

MR. DUNKLEY: But that's not the situation that I think the sentence is getting at. If you are leasing the work space and the living space, it's assumed you're the proprietor of whatever business is going on there.

CHAIRMAN WOODS: The operator.
MR. DUNKLEY: What situation really wouldn't you be in charge of that business and the person that --

COMMISSIONER WIDMEYER: Well, you're running the business. You're probably running the business. It may be an employee of a, you know, regional chain of stores and I'm going to bring --

COMMISSIONER FREEMAN: But I don't want a regional chain of stores --

MR. DUNKLEY: Around the corner from you.

COMMISSIONER FREEMAN: Well, we do have an option because I don't know that we actually allow it in for the usage of the --

MR. McGONAGALL: Could you say employer/employee of the business? The employer covers the person that owns it or is a maximum shareholder, employee could be a manager or individual employee.

MR. DUNKLEY: If you have shares or that sort ownership in this business, is it appropriate for a live/work unit?

COMMISSIONER FREEMAN: No.

COMMISSIONER NYDEN: You're not getting the traffic that you need.

COMMISSIONER WIDMEYER: Live/work is just a matter of size, how big it is or how big the store is,
you know, in this location.

MR. McGONAGALL: You could have three people working, for instance, at a desk running computers, doing computer programming, okay. The guy who has the business may not want to live there but one of his employees may, you know. There is nothing wrong in my mind that that would take place. He's not running a huge printing press or a car repair business.

COMMISSIONER FREEMAN: I think that goes against what a live/work unit is.

COMMISSIONER NYDEN: Well, what if --

COMMISSIONER FREEMAN: A live/work unit to me is a structure in which I can run a small business out of with or without a storefront, depending on what the neighborhood allows in terms of the zoning perspective on what type of retail can go there, so that I can have a business out of my home. But it's a little bigger than using my office for business or the basement for business.

MR. McGONAGALL: Well, we've got 1801 Maple which used to be Burrough which was basically startup businesses related to the university, I mean that's the way it started. Now, most of those uses have moved on because of things that happened within the building.
But when I was managing that building, we had several businesses that were Evanston based that all had office functions that were too big to be in a house but couldn't afford major office space. So, they grew and fluctuated depending upon the grants and stuff like that that they had. So, they could go from one employee maybe to five employees.

COMMISSIONER FREEMAN: Were they living in that building, too?

MR. McGONAGALL: They weren't living in that building but I can see the validity of a business growing from working in your basement or converting your garage or whatever, before you can actually start paying the serious rents for, you know, class A or class B office space that you're going to a live/work unit and you're in that expansion mode.

COMMISSIONER GALLOWAY: But I think you need to be the owner of it. An employee can't be, an employee of yours can't be the one that lives in the unit. I think my feeling is you have to have a single source of responsibility for that unit.

MR. DUNKLEY: And that's in here.

COMMISSIONER GALLOWAY: And that is either the owner or lessee of the residential unit is the same as
the working unit.

MR. McGONAGALL: So, to take the example that I've -- Seth does a whole bunch of programming and sets his business up and he's got to a point where he's got two employees, okay. He's got a nice equity in his house but he says, well, I need to expand so I go and buy one of these work/live units because that satisfies a function. So, now I have to sell my house in Evanston which I've got all my equity in to move into a work/live unit because I want to expand my business?

COMMISSIONER FREEMAN: Yes, I do, otherwise I would go find some other place to expand my business into. So, I mean, if I can go out and afford to spend $800,000 on a live/work house unit, why couldn't I then afford to go out and spend rent? So, I'm to buy, you know --

COMMISSIONER NYDEN: I think there's a problem because the way this is such a new product, housing product, the only instances we're seeing in Evanston are expensive high end. Like I think the AMLI is going to have live/work and I bet that won't be cheap. And these new units at Ashland and Lake, they're very expensive, they're almost a million dollars to buy. So, I don't know if for those, they're exactly the, you're going to
have that problem. Like I don't think somebody is going
to go I'm going to need to expand my business, let me go
buy this.

MR. DUNKLEY: There is this light
manufacturing version --

COMMISSIONER NYDEN: Right.

COMMISSIONER FREEMAN: That's correct, but

that's --

COMMISSIONER NYDEN: But those weren't coming
under this --

COMMISSIONER FREEMAN: It's in a different --

COMMISSIONER NYDEN: Yes, it's in the

transitional zone.

MR. McGONAGALL: I mean, the way that I see
the, there's a European model where --

COMMISSIONER FREEMAN: So, it is, they're by

zone. I'm sorry.

MR. McGONAGALL: The way I see it is the
European model where you have a bathroom, you have a
kitchen, you have a living room and a bedroom or the
living room and bedroom is one unit and the rest of it
is your work space. And that is not the $800,000 --

COMMISSIONER FREEMAN: No, it's not. I
understand that. But that's --
COMMISSIONER NYDEN: So, is the problem, why is there a problem with ownership? Wouldn't it be better to talk about like how many trips would be generated? I mean, we have a metric for figuring out parking. I mean, why is it, I just don't understand, why is the ownership -- I mean, we allow people to rent.

COMMISSIONER CREAMER: I think --

COMMISSIONER GALLOWAY: I think it keeps coming back to a source of responsibility. And I guess for me the derivation of this type came about, I don't know if you're familiar with Peacock Lofts --

COMMISSIONER NYDEN: Yes.

COMMISSIONER GALLOWAY: Those are live/work units and some of them are artisans, some are photographers. And then as a city, you have one individual you talk to, he's the person that owns it, that lives there and/or rents it, the living space and operates the business. And I think what you don't want would be to have the person that's living there be an employee, say, of the business.

COMMISSIONER FREEMAN: Right, I agree with that.

COMMISSIONER WIDMEYER: Why not?

COMMISSIONER GALLOWAY: I don't know. I don't
know why.

COMMISSIONER NYDEN: But I mean, like we have, it's just because it's like a foreign territory because we have people all over the place who work in a building, operate a business there, an employee of a business and they don't own the building. And so, if like the city wants to go complain to them about --

MR. DUNKLEY: But that's not what's stated here. It's the owner of the business is the --

CHAIRMAN WOODS: Not the owner of the building.

COMMISSIONER NYDEN: Right, but I guess I'm like, I'm having a hard time wrapping around why that person has to --

CHAIRMAN WOODS: I think that some of it has to do with the fundamental derivation of the concept which to my mind is more like Soho loft where you have a person who is an artist, a person who is an artisan, and maybe they have a small business that's producing furniture where they have two or three employees that might come in and work on a daily basis in the studio space but they are living there.

MR. DUNKLEY: I think it gets at the difference between live/work and mixed use.
COMMISSIONER NYDEN: Right.

COMMISSIONER FREEMAN: Absolutely.

MR. DUNKLEY: And it's an attempt to prohibit the separation of the commercial piece and to allow that commercial part to be rented or to be operated by someone that doesn't have proprietorship over the residential piece. Because then you know it's a mixed use and you have --

COMMISSIONER FREEMAN: That's correct.

MR. DUNKLEY: A separate commercial or manufacturing use that's independent from the residential part. And most of these units are for both. Generally they have one entrance, they don't have separate entrances. They have combined facilities.

COMMISSIONER FREEMAN: Right.

MR. DUNKLEY: They're really a hybrid.

COMMISSIONER FREEMAN: That's right.

MR. DUNKLEY: They're different from mixed use which is some of this and some of that. This is --

CHAIRMAN WOODS: It's all one.

MR. DUNKLEY: It's all one.

COMMISSIONER CREAMER: Okay. But does this owner have to be a sole proprietor then?

CHAIRMAN WOODS: No, I don't think so. It
could be a partnership.

COMMISSIONER CREAMER: Well, the way I read it, it's got to be, what I hear you guys saying is it's got to be the sole owner.

CHAIRMAN WOODS: Okay. So, you say for an owner.

COMMISSIONER CREAMER: Yes.

COMMISSIONER GALLOWAY: Yes. If you're partners, one of your partners owns and lives there.

COMMISSIONER CREAMER: That would be better.

COMMISSIONER FREEMAN: So, owner or owners?

COMMISSIONER WIDMEYER: Well, nobody in their right minds would open a business today as a sole proprietorship.

CHAIRMAN WOODS: Corporately or legally, yes.

COMMISSIONER WIDMEYER: They'd be an LLC, they'd be something that gives them protection.

COMMISSIONER FREEMAN: But this might not even be a, it might just be an artist living in a work space for an artist who --

COMMISSIONER WIDMEYER: Might be.

COMMISSIONER FREEMAN: Who is not even in business, who is just using it to paint.

COMMISSIONER WIDMEYER: Might be a shoe repair
COMMISSIONER FREEMAN: It could be a whole host of things.
COMMISSIONER WIDMEYER: It might be a bar.
COMMISSIONER FREEMAN: No, I don't think we would allow that. Well, I guess in my neighborhood, could I have a bar please?
MR. ARGUMEDO: So, right now we have, we would change it to with a residential living space for an owner instead of for the owner in part one. That would --
MR. DUNKLEY: Let's eliminate --
CHAIRMAN WOODS: Larry, the person who creates the LLC, how would you refer to them as?
COMMISSIONER WIDMEYER: Member.
CHAIRMAN WOODS: Member?
COMMISSIONER WIDMEYER: Well, he's a member of the LLC.
COMMISSIONER GALLOWAY: Yes, with LLC it's a member.
CHAIRMAN WOODS: So, for an owner or a member of an LLC?
COMMISSIONER GALLOWAY: You can call them the managing member.
CHAIRMAN WOODS: Managing member?

MR. DUNKLEY: We will find just the right term --

COMMISSIONER CREAMER: If they're the primary owner of the LLC?

MR. DUNKLEY: It might be -- that expresses an ownership interest like proprietorship.

CHAIRMAN WOODS: Yes --

COMMISSIONER FREEMAN: We're going to revisit this one. Can we move on please?

MR. DUNKLEY: Okay. Shall we move on?

COMMISSIONER FREEMAN: Yes.

COMMISSIONER GALLOWAY: Until the next controversial one.

MR. DUNKLEY: B-4. Why don't you take it, Dominick?

MR. ARGUMEDO: B-4 is clarifying the rooming house definition. What we're clarifying is bringing the Zoning Department's definition of rooming house into compliance, not compliance but --

CHAIRMAN WOODS: Make them the same?

MR. ARGUMEDO: Making them the same with property standards, the people that were making what we approve and the people that enforce it have the same
standard which seems to be --

COMMISSIONER FREEMAN: It makes sense.

COMMISSIONER CREAMER: Why would you want to
do that?

MR. ARGUMEDO: So, that's why we're changing
it.

CHAIRMAN WOODS: Move on, next.

MR. ARGUMEDO: Item B-5 is even easier.

Bench/pew --

MR. McGONAGALL: No, it's not.

MR. ARGUMEDO: Well, bench/pew and --

COMMISSIONER GALLOWAY: It's not? It depends
how wide you are?

MR. ARGUMEDO: We don't have any kind of
measurement for bench/pew seating, anything in the
zoning code. So, what we went with to find out that
measurement --


MR. ARGUMEDO: Is with the International
Building Code.

COMMISSIONER GALLOWAY: IBC.

MR. ARGUMEDO: -- measured chairs around here
and it's 18 inches seems to work. But we seem to have
some other feedback that we would like to get. But
that's why we wanted to get, we're going to have some --

COMMISSIONER FREEMAN: What's wrong with this?

CHAIRMAN WOODS: Andrew?

MR. McGONAGALL: It actually relates very specifically to the parking requirements in establishments.

COMMISSIONER FREEMAN: Yes, right.

COMMISSIONER GALLOWAY: But that's the reason you're doing this, right?

COMMISSIONER FREEMAN: That's why we're doing it, right?

MR. McGONAGALL: I understand. But what standard have you currently held religious establishments in their parking requirements?

MR. DUNKLEY: Number of seats. We ask them for the number of seats.

MR. McGONAGALL: Right. But if you're changing the width dimension of that, then you're going to change the number of parking requirements. So, you --

COMMISSIONER FREEMAN: So, today there is no, so say they've got 20 seats and if that's --

MR. DUNKLEY: They could have 400 lineal feet of bench seating and tell us there's 20 seats there.
MR. McGONAGALL: And that's my concern is that you've got, what is it, 200 churches or whatever currently in this town --

MR. DUNKLEY: But we don't change what --

COMMISSIONER FREEMAN: But we don't change it back, right?

MR. DUNKLEY: Yes, if you're --

COMMISSIONER FREEMAN: If they're already there --

COMMISSIONER GALLOWAY: If they're already there, they're grandfathered in, is that what you're saying?

MR. DUNKLEY: -- subject to changes we make now, there is no retrofitting the existing.

COMMISSIONER FREEMAN: Right. If somebody wants to put in a new church or rehab the church and put new seats I'm assuming.

MR. DUNKLEY: This doesn't change parking requirements --

MR. ARGUMEDO: We're not going to change it for Northwestern --

COMMISSIONER GALLOWAY: Just don't put in new pews.

COMMISSIONER WIDMEYER: -- is 18 inches
enough?

MR. DUNKLEY: It's an incentive. Now, 18 inches is fairly standard.

MR. McGONAGALL: I think that's what we used in Ryan Field if I'm not mistaken --

CHAIRMAN WOODS: Right. It's the typical way that this is established.

MR. ARGUMEDO: I think you want --

CHAIRMAN WOODS: Next?

MR. DUNKLEY: Next is, okay, this is one of my favorites, as a favor to me. This is probably my biggest personal issue. But don't, but that's beside the --

MR. ARGUMEDO: I would preface that by we're not changing any of the content, we're changing the title.

MR. DUNKLEY: Yes. This is, yes, an item which is repeated, it's boilerplate in districts R-1, R-2, R-3 and R-4A but not R-4. And that is reasonable when you look into it. It's a very important part of our code and it has to do with implementing our policy of rear alley access to residential properties as opposed to street access. It has to do with walkability, it has to do with urban form, it has to do
with a lot of why Evanston is a very attractive place. And it's implemented through this paragraph which is titled, which has a title that has nothing to do with --

CHAIRMAN WOODS: With what it's doing.

MR. DUNKLEY: What is a garage door setback? I don't even know what that is.

COMMISSIONER NYDEN: So, you just want to change the name.

CHAIRMAN WOODS: How far it's set back in the frame.

COMMISSIONER NYDEN: I like it.

CHAIRMAN WOODS: Good.

MR. DUNKLEY: Okay. We want to call it access to onsite parking.

COMMISSIONER NYDEN: Wonderful.

COMMISSIONER FREEMAN: Besides that, everything else stays the same?

MR. DUNKLEY: Yes.

COMMISSIONER CREAMER: That's good.

CHAIRMAN WOODS: Next?

MR. ARGUMEDO: B-7 -- may want to discuss, it has to do with the fact that we're getting a lot of calls about pods, dumpsters and how we govern them. Right now they're not, we don't have them in the zoning...
code but they are coming into the neighborhoods and being used. And we want to govern them by making pods, I'm sorry, portable moving containers and dumpsters to allow temporary uses and then putting, for right now we kind of just threw this number out, we weren't sure, but we wanted to limit them to two weeks.

COMMISSIONER FREEMAN: So, you'd have to reapply, so if you're doing a construction job on your house and you have a dumpster and that construction job is going to, let's say take you three months --

MR. DUNKLEY: No, a construction is a different matter.

COMMISSIONER FREEMAN: It's a dumpster.

MR. ARGUMEDO: We have a separate code that allows temporary exemptions to the zoning.

MR. McGONAGALL: So, how do you deal with all of the dumpsters that the university has, the hospital has, all the residential units, all the trash that's located behind the buildings? The Float Brothers, you know, the ordinance that we just passed through municipal and then through all the, how --

MR. DUNKLEY: Are those associated with construction projects?

MR. McGONAGALL: No.
MR. DUNKLEY: Okay. We may want to separate
out the PMC's and dumpsters because they really do have,
they're really different uses. So, that may --

COMMISSIONER FREEMAN: And it's also where
they are, right? So, here it doesn't say where they
are, so --

MR. DUNKLEY: It doesn't say where they're
allowed, yes.

COMMISSIONER FREEMAN: Right. So, I mean if a
dumpster is on an alley, why are you saying it can only
be two weeks versus, I understand the pods sitting in
somebody's front lawn or on somebody's driveway that's
being used to, you know, store things before they move.

COMMISSIONER NYDEN: I can say, I mean
speaking from experience, I think a dumpster in an alley
can be a really big pain if you're trying to pull into a
garage and all of a sudden --

COMMISSIONER FREEMAN: Especially with your
parents' neighbors, I understand. But --

COMMISSIONER NYDEN: Flat tires, I'm not --

MR. DUNKLEY: The real issue here is not so
much the dumpsters. It's really the pods.

COMMISSIONER GALLOWAY: What are pods by the
way?
COMMISSIONER FREEMAN: They're these things that appear on people's front lawns or on driveways --

COMMISSIONER NYDEN: So you can store your crap in them.

MR. McGONAGALL: They're normally two pallets in size and about seven feet tall. They're removed off the back of a flatbed with a forklift truck that's actually attached to the --

COMMISSIONER FREEMAN: And you put all your stuff in it and then they come and pick it up and they move you somewhere.

MR. McGONAGALL: Well, they do and they don't. I mean, as an example --

COMMISSIONER FREEMAN: Or they just leave it there while they're rehabbing the inside of the house and then they're going to use that to --

MR. McGONAGALL: Right. And to me that's a perfectly valid position to be --

COMMISSIONER FREEMAN: But should it be in your front lawn?

MR. McGONAGALL: What I'm thinking of is actually in the driveway which is the side --

COMMISSIONER FREEMAN: Yes.

MR. McGONAGALL: But also going back from
that, it's a big issue for the university. We have a large number of pods with incoming students and leaving students at the end of each year where they come in and they are put onto our parking lots. And it allows the parents to actually bring their children to university --

MR. DUNKLEY: In the pod.

MR. McGONAGALL: In the pod, yes. But bring their possessions to the door --

COMMISSIONER FREEMAN: But this is on private property on parking, private parking.

MR. McGONAGALL: Yes.

COMMISSIONER FREEMAN: So, again this doesn't specify anything about location. All right?

COMMISSIONER NYDEN: Whether driveway or --

MR. DUNKLEY: Only applies to private property.

COMMISSIONER FREEMAN: What?

MR. DUNKLEY: All of zoning only applies to private property.

CHAIRMAN WOODS: Right, but it doesn't say front yard, side yard.

COMMISSIONER FREEMAN: Okay, yes. Can't Northwestern basically do whatever they want on their
parking lots?

MR. DUNKLEY: We don't, you wouldn't say that out in the open.

MR. McGONAGALL: You know, we are very careful --

COMMISSIONER FREEMAN: I said, not can't they,
don't they?

MR. McGONAGALL: We are very careful as to what we do on our property and very cognizant about students and the public.

COMMISSIONER NYDEN: But wait, I thought you were here as a private citizen?

COMMISSIONER FREEMAN: So, Bill, my issue with this is that the locations and --

COMMISSIONER WIDMeyer: All those pods come in on day one and three days later they're gone.

MR. McGONAGALL: No, they're normally there two to three weeks because they're normally here before the kids come in. The kid then gets -- they get their stuff into the dorm. And what then happens is --

COMMISSIONER WIDMeyer: You're going to have to, during orientation you're going to have to explain to them that they arrive closer to the time the kid arrives.
MR. McGONAGALL: But it depends upon when the company can actually come in. They come in en masse and pick them up and take them up. It's not something that an individual --

CHAIRMAN WOODS: The ones that I have a problem with quite frankly are the ones that aren't even related to a construction project. They suddenly appear on somebody's driveway and they are there for months. There is no construction -- What the heck is going on?

MR. DUNKLEY: This can solve a lot of this. We have two things in our ordinance. One is temporary uses which is what we are talking about here. The other is temporary exceptions. Temporary exceptions are allowed during time of construction. They're for the length of construction. So, if a pod was necessary during construction, it could be there for the length of construction. That's fine.

It's those that are not construction projects that are the issue. And those, what we're proposing is that they be added as an allowable temporary use as, you know, yard sales and all these other temporary things, and that they be limited to a reasonable amount of time. What we thought that made sense was that a few days to a
week was not enough time and a month was probably too
long.

MR. McGONAGALL: Right. Well, maybe what you
should do is identify two categories. One is the pod is
acceptable when it is related to a construction project
and permitted under the length --

MR. DUNKLEY: It is.

COMMISSIONER FREEMAN: But that's already
there. This is a different --

MR. McGONAGALL: Right, okay. And separately
relate it to university move-in and move-out.

COMMISSIONER FREEMAN: Well, let's not just
say university, let's just say move-in/move-out because
people use this for their homes as well.

MR. McGONAGALL: And I'm making an
observation.

MR. DUNKLEY: Yes, I mean I could be, I'm
still moving in.

CHAIRMAN WOODS: Just moving in for a year and
a half.

COMMISSIONER GALLOWAY: You're going to have
people living in these things.

MR. DUNKLEY: Well, that's, you know --

MR. McGONAGALL: There's no insulation and air
conditioning. The condenser --

COMMISSIONER WIDMEYER: You haven't seen the

new ones. They have bathrooms I hear.

COMMISSIONER GALLOWAY: And Plasma TV's,
cable.

COMMISSIONER CREAMER: I have a question about

-- you say here two weeks. Normally -- talk about days
instead of weeks.

COMMISSIONER WIDMEYER: Unless you're going to

say fortnight and then --

COMMISSIONER CREAMER: But I was just

wondering if you should use 14 days or 20 days or 21
days or something.

MR. DUNKLEY: Yes. That's fine.

COMMISSIONER CREAMER: That's just drafting --

COMMISSIONER FREEMAN: And again, anything

about location or no?

MR. DUNKLEY: Well, let's do a length of time

and do location.

MR. McGONAGALL: Say 21 days.

COMMISSIONER CREAMER: 21 days, Andrew says 21
days.

MR. DUNKLEY: I think that's reasonable.

Going once. Now, we all have the same --
COMMISSIONER FREEMAN: That helps the Northwestern students.

MR. McGONAGALL: I think so.

MR. DUNKLEY: Now, as far as location, we certainly can regulate where pods can be allowed.

CHAIRMAN WOODS: Not in the front yard.

COMMISSIONER NYDEN: Not visible --

COMMISSIONER FREEMAN: My only problem I have is just like, you know, when -- front yard and they're sitting there for weeks.

MR. ARGUMEDO: When you say yard, do you mean the lawn, not the driveway?

COMMISSIONER FREEMAN: Oh, I've seen them on lawns, I've seen them on driveways, yes, absolutely.

MR. McGONAGALL: You have to remember how they get to where they go. And that is why --

COMMISSIONER FREEMAN: Yes, by truck.

MR. McGONAGALL: -- lift truck. The truck part is in the street, it has to go on to a hard surface to be able to get to --

CHAIRMAN WOODS: My problem is that, you know, somehow they didn't get that thing into the back of damn driveway but putting it right at the street.

MR. McGONAGALL: Well, that's because of the
highly intellectual level of the drivers that
actually --

MR. DUNKLEY: If it's only there for a maximum
of 21 days, do we care?

COMMISSIONER NYDEN: Can you say that again?
MR. DUNKLEY: If it's only there for a maximum
of 21 days, do we care?

COMMISSIONER OPDYCKE: Yes, do we care, that's
the point. I don't think we do. I wouldn't. If it's
next door --

MR. McGONAGALL: The 21 days position I don't
care about. If he's going to go there for three
applications --

MR. DUNKLEY: You mean continuous?
MR. McGONAGALL: Continuous.
MR. DUNKLEY: Can't do that.

COMMISSIONER FREEMAN: Do you even have to
apply or is this just --

MR. DUNKLEY: Yes. Yes, you've got to get a
sticker --

COMMISSIONER NYDEN: So, you have to get a
sticker?

MR. McGONAGALL: So, then what you need to do
is --
MR. DUNKLEY: Yes, certificate of zoning --

COMMISSIONER FREEMAN: You have to go actually

say I'm getting a pod, mother may I and then you get a

certificate?

MR. DUNKLEY: You don't have to say the mother

may I part.

COMMISSIONER FREEMAN: Okay.

MR. DUNKLEY: Just give us the fee.

COMMISSIONER NYDEN: Why don't we do two weeks

full on --

COMMISSIONER FREEMAN: So, wait a second, wait

a second. Hang on. So, the Northwestern students that

come in have to pay a fee to put a pod on the --

COMMISSIONER NYDEN: Remember, you're here as

a private citizen.

MR. DUNKLEY: As a temporary use, there is a

fee associated with it.

COMMISSIONER OPDYCKE: Yes, $3,000 is a little

high --

MR. DUNKLEY: Yes. This way --

COMMISSIONER FREEMAN: Who enforces this fee?

And why is there a fee for the right for you to put a

pod on your front lawn for three weeks?

COMMISSIONER GALLOWAY: Because someone has
got to administer it.

MR. DUNKLEY: Someone has to administer it.

COMMISSIONER GALLOWAY: You're going to administer it for free?

MR. DUNKLEY: If you're making --

COMMISSIONER FREEMAN: Who is administering what? Do we have the pod police going around writing tickets? I want to understand who administers. Or is it somebody --

COMMISSIONER NYDEN: It's Bill.

COMMISSIONER FREEMAN: Or is it neighbor coming, making a call going, hey, Seth next door has had a pod for three weeks, can you do something about it?

MR. DUNKLEY: Can we do the discussion of zoning enforcement on the next Zoning Committee agenda? I would be glad to go through in detail how it happens.

COMMISSIONER NYDEN: Yes.

MR. DUNKLEY: And it's not this great zoning eye in the sky that many people think with instant notification of --

COMMISSIONER FREEMAN: You know, I just feel that it's onerous to have Northwestern students have to apply for a, any student, doesn't have to be Northwestern, any student to have to apply --
COMMISSIONER NYDEN: Well, I think we just need to -- this for now a little more before we make this decision.

COMMISSIONER FREEMAN: Do you have a problem with that?

MR. McGONAGALL: I really have a problem and it is the bigger issue. Primarily the people that come to our dorms are freshmen. And the message that we are sending to somebody that is sending their child here for a minimum of four years, that the City is nickeling and diming them to get a pod to --

COMMISSIONER WIDMEYER: We can raise it so it's not nickels and dimes if that helps.

MR. McGONAGALL: Okay.

COMMISSIONER WIDMEYER: Then we'll all be happy.

COMMISSIONER GALLOWAY: You're absolutely right, Andrew.

COMMISSIONER WIDMEYER: Alternatively, we could have Mr. Sunshine, you know, get a hundred of these at a time for --

MR. DUNKLEY: Let's put it this way --

COMMISSIONER FREEMAN: Even if it was me myself for my house, I think, I got to go down and
apply --

COMMISSIONER NYDEN: I think the, hold on, I think the issues of private citizens like our neighbors versus Northwestern I think is, you know, we're turning this into a Northwestern versus --

COMMISSIONER FREEMAN: -- pay $15-$20 for the right of putting a pod on my driveway.

MR. DUNKLEY: -- the answer to that.

COMMISSIONER FREEMAN: No, I don't.

COMMISSIONER GALLOWAY: Now, when we're differentiating from Northwestern and from Evanston, are we differentiating from where the property is located as opposed to Northwestern students that are renting a house next to my condo? Do they fall into the Evanston side of this or the Northwestern side of this?

COMMISSIONER WIDMEYER: I'm not trying to pick on Northwestern.

COMMISSIONER GALLOWAY: I mean, I'm thinking that --

COMMISSIONER WIDMEYER: I think a lot of the community problem is when we start differentiating.

COMMISSIONER NYDEN: Right.

COMMISSIONER FREEMAN: Agreed. You're right.

MR. DUNKLEY: Well, many of our ordinance
COMMISSIONER WIDMEYER: We shouldn't differentiate but there should be a way that Northwestern as a bulk, if this is an issue, can handle the issue.

MR. DUNKLEY: Much of what we, you know, the text that differentiates that there are large university specific uses and they do differ from the uses and the community defines the two by if visible from the public way. Now, if we were to have lots of pods lined up along Sheridan Road, that would probably be an issue. But I have a feeling that these are not, they're more internal to the campus.

COMMISSIONER FREEMAN: Yes, like the quads.

MR. McGONAGALL: And probably the one that's closest to the public ways is the parking lot at 1908 Sheridan which feeds Foster Walker which is our main freshman dorm. And from Emerson you can see through the alley the parking area, but there is nothing back there.

MR. DUNKLEY: And we could always exempt the U-3 district.

MR. ARGUMEDO: And in terms of temporary uses, we make people come in for an application for a garage sale on a date and we limit that for --
MR. DUNKLEY: And they like to.

COMMISSIONER FREEMAN: You know, it's tea bag day, okay, I'm sorry.

MR. ARGUMEDO: So, we'll flesh out B-7 some more and then we'll --

MR. DUNKLEY: We'll talk about garage sales and --

COMMISSIONER FREEMAN: I understand, I understand.

COMMISSIONER NYDEN: So, B-8.

MR. ARGUMEDO: So, we'll flesh out B-7 and come back to --

CHAIRMAN WOODS: Yes.

MR. DUNKLEY: And are we excluding dumpsters? I think we get into a different area --

COMMISSIONER FREEMAN: Well, you have to make a separate --

CHAIRMAN WOODS: Separate thing about dumpsters.

COMMISSIONER GALLOWAY: Yes, yes.

MR. ARGUMEDO: That leads us to B-8. This shouldn't be, this is, planned developments are a type of special use. A special use --

COMMISSIONER GALLOWAY: Like it or not.
MR. ARGUMEDO:  Pardon?

COMMISSIONER GALLOWAY:  Like it or not.

Sorry.

MR. ARGUMEDO:  Yes, it's a type of special use and they expire within a year if certain conditions have not been met: the issuance of a building permit and construction being enacted on. Unfortunately, either we're not conveying to people who have planned developments, they are not understanding it, they don't remember or something like that, and we're constantly in this environment especially needing to give extensions.

CHAIRMAN WOODS:  You could put this new proposed language in here and there will still be the same problem. They all, they are choosing to ignore it.

MR. DUNKLEY:  Well, no, some of them really, really don't know.

CHAIRMAN WOODS:  I can't believe that.

MR. DUNKLEY:  Because if you look at the process, there is no point, we have no collateral material for planned developments. We have no application form on which it's listed.

CHAIRMAN WOODS:  But there is an ordinance.

MR. DUNKLEY:  It's not written in the ordinance. The expiration date is nowhere in the
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ordinance.

CHAIRMAN WOODS: Why not?

MR. DUNKLEY: Because to change the expiration date would then require a change to the ordinance which would be a, you know, multi-week legislative process. It can be done now by a motion by Council which is one night. That is done by policy. So --

COMMISSIONER WIDMEYER: Have you looked at the ordinance for, not every one but a number of planned developments?

MR. DUNKLEY: Yes, sir.

COMMISSIONER WIDMEYER: And in the ordinance for the planned development, it's not in there?

MR. DUNKLEY: No, it is not.

COMMISSIONER WIDMEYER: And under the definition of planned development, it's not in there.

MR. DUNKLEY: It is not anywhere under the planned development section, in many sections, many of them in the ordinance, nowhere in there does it say there is an expiration date. You only have --

COMMISSIONER WIDMEYER: -- individual ordinance for the individual planned development?

MR. DUNKLEY: Correct. It is not in there.

As a matter of fact, you have to note that it is a form
of special use, and then go to the special use portion where it is identified. That's the only place where it's identified.

MR. McGONAGALL: Where is your definition for planned development?

MR. DUNKLEY: It's all over the place.

MR. McGONAGALL: There should be one concise definition for what a planned development is, and in that description should be that from the date of issuance the planned development lasts for 365 calendar years.

MR. DUNKLEY: And that's what we're --

CHAIRMAN WOODS: Calendar years?

COMMISSIONER WIDMEYER: You and all your ancestors.

MR. DUNKLEY: You have cut to the incisive heart of the matter because that's what we would like to do. It's a little bit of duplication but we think it will be worth it because we can't be reminding every planned development --

COMMISSIONER FREEMAN: Do it.

COMMISSIONER OPDYCKE: I'm very confused about this language here of where it says proposed. It makes, frankly it doesn't make any sense to me.
COMMISSIONER WIDMEYER: Which?

COMMISSIONER OPDYCKE: Pick up where it says "specifically an applicant should note a building permit is issued, construction" --

COMMISSIONER CREAMER: Possibly this is ordinance language?

COMMISSIONER OPDYCKE: Should it not say that specifically an applicant should note that no building permit for a planned development shall be valid for a period longer than one year unless a building permit is issued --

CHAIRMAN WOODS: No, it's not the building permit.

COMMISSIONER WIDMEYER: It's not the building permit.

MR. ARGUMEDO: The planned development.

COMMISSIONER OPDYCKE: Aproved planned development.

COMMISSIONER WIDMEYER: Right.

MR. ARGUMEDO: Right, we are missing a phrase before we go into that definition. You're correct.

MR. DUNKLEY: Yes.

COMMISSIONER GALLOWAY: Yes, that's pretty squirrelly.
MR. McGONAGALL: And it should say what, one calendar year from date of issuance?

MR. DUNKLEY: Yes, from the date of issuance, yes.

COMMISSIONER GALLOWAY: Which is the date that City Council says okay, we approve your planned development.

MR. DUNKLEY: So, we'll polish the language to make it clear because that's the point is to --

COMMISSIONER OPDYCKE: Yes.

MR. DUNKLEY: And we'll also include that language in our new application for planned development which we'll have online very shortly.

COMMISSIONER GALLOWAY: You'd be surprised at how many planned developments you don't have as a result of that.

MR. DUNKLEY: Well, you know --

COMMISSIONER GALLOWAY: And especially in this climate.

MR. DUNKLEY: Right now we spend way more time extending and amending ordinances.

COMMISSIONER GALLOWAY: Oh, yes.

MR. DUNKLEY: Than we are creating new ones.

And we have a --
CHAIRMAN WOODS: New ones? Hardly new ones.

MR. DUNKLEY: Yes, it's over for a little while. Maybe for a while. And we are marking our own Outlook calendars to remind us to remind the applicant that it's going to expire. And it's in no one's interest to let them expire really, no matter how you look at it 15 different ways, it's in no one's interest to let them expire.

MR. McGONAGALL: Should you have in view of the --

CHAIRMAN WOODS: Unless it's something you truly want to end.

MR. McGONAGALL: Probably what you should include there is the City actually will provide notice within 11 months of the expiration, because then there is no get out.

COMMISSIONER WIDMEYER: But then if the City doesn't, if for some reason a change of staff or something and the City doesn't provide that, they got an out.

COMMISSIONER OPDYCKE: The burden should be on them or we'd have a lawsuit again.

CHAIRMAN WOODS: That's right, then you got a lawsuit and they'll go on for years.
MR. DUNKLEY: So, at least let's let everybody know what comes with a planned development, that they're sometimes surprised by. Restaurants, way back from the dawn of recorded history, actually in the dawn of fast food restaurants --

COMMISSIONER FREEMAN: 2005? Is that what the dawn was here?

MR. DUNKLEY: No, it wasn't actually, well, we were a bit behind on that.

COMMISSIONER FREEMAN: Okay, I thought so.

MR. DUNKLEY: There was the idea that we no longer have a single type of restaurant. We now have these other things that are the fast food type part of the spectrum that are being called restaurants but they don't really fit under our understanding of table service or sit-down restaurants or tablecloth restaurants, however you want to call them, whatever you want to call them. And the big difference, the big impact is that those that are the new kind of restaurants, the fast food type, are contributing to a rise in street trash, in litter. And that's pretty indisputable. That is undisputable, and that is the essence of the bifurcation of the restaurant definition.

Now, over time we found that the whole gap
between the two uses has really filled in. We have a lot of restaurant uses that are really difficult to classify as a type 1 or type 2. We have added to the definitions to give additional indicators but we have not gotten to the point where we can consistently make that determination. Now, in some uses this may not be that important, but in this use it's the difference between a by-right use and a special use. So, it's the difference between a sure thing and a full month legislative process that can lead anywhere.

So, being able to make this determination is pretty important, well, as to the sanity of the Zoning office staff if nothing else. But it's a big economic decision or determination. And so, we also worked other departments, we worked with Health and Food Services, and we have found a real, just a problem area with who makes the determination. Even the users themselves given the definitions have a hard time checking one box over the other.

So, what we propose is to go back to really the heart of the matter that we have obscured over time, and the heart of the matter is that it's the portion, the element of use that allows meals to walk out the front door with all the accessory stuff that they come
with. It's the bag, the straw, the paper cup, the paper cup top, the whatever. It's not the disposable flatware that's in there. It's not some of the other items that are identified as indicators of that type 2 restaurant use that turn out to make our jobs more difficult.

The drive-through facility is an indicator, so we wanted to keep that. But we just wanted to cut right down to what portion of the use is the primary use that is oriented towards takeout commuters. So, we've kind of cut the definition down to that and then added to that some of what we felt were some reasonable considerations. Seth?

COMMISSIONER FREEMAN: Burger King. That's a type 2, would you say? Do you think really 50 percent of the stuff is taken out?

MR. DUNKLEY: Absolutely.

COMMISSIONER FREEMAN: Are there situations where it doesn't have a drive-through, it's got a large seating area, my concern is that if you are eliminating the bags, the stuff, the garbage that is created with takeout food as determining a restaurant type, I mean, to me if a hundred percent of it is consumed, you know, in the place it's bought but it's given to you in takeout containers and plastic and paper bags and
everything, that should be a type 2 restaurant.

COMMISSIONER GALLOWAY: As opposed to

delivered on a plate where the only thing you throw away

is your napkin.

COMMISSIONER FREEMAN: Right. So, I mean if I
go to a sit-down restaurant and everything is brought to
me, you know, in disposable crap like --

MR. DUNKLEY: Do you walk out --

COMMISSIONER FREEMAN: -- or something, right?

To me that's a type 2 restaurant. That is not a type 1

restaurant.

COMMISSIONER GALLOWAY: Why?

MR. DUNKLEY: Do you walk out the door with

that trash?

COMMISSIONER FREEMAN: No.

MR. DUNKLEY: Then why is it type 2? Is it

generating street trash?

COMMISSIONER GALLOWAY: That's the thrust of

your differentiation.

COMMISSIONER FREEMAN: So, the issue is the

street trash, that's all? Not the additional trash

going into landfill.

MR. DUNKLEY: Correct. That's controlled and

it all goes into, it all is -- there is an ownership of
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that trash.

MR. McGONAGALL: What's actually happening in England right now is that those types of restaurants are actually charging for the takeaway container, the knives and forks, the plastic bags. Even the grocery stores are now charging you X amount of pennies for the privilege of taking a bag and taking the stuff out.

COMMISSIONER FREEMAN: And there are restaurants here in Chicago who do the same thing. If you want to take it with you, they'll charge you for the plastic container.

MR. McGONAGALL: If you go to Heathrow Airport and you buy a newspaper and a bottle of water, the person says do you want a bag, and if you say yes you pay for it right there on the spot.

COMMISSIONER FREEMAN: 15 --

MR. McGONAGALL: Right. And it's at that point you -- and go, wow, I don't need that bag, I can live without it.

MR. DUNKLEY: But the Burger King model doesn't work without providing all of that disposable stuff. They don't have a business if they don't do that. There is no other option.

COMMISSIONER FREEMAN: I understand. I was
just saying that you took it away from your definition of --

COMMISSIONER WIDMEYER: That's what we were, we weren't trying to control that. They weren't trying to control that, they were trying to control the trash outside. My only concern I think is 50 percent.

MR. DUNKLEY: Yes, that's only the starting point.

COMMISSIONER FREEMAN: So, how do you get --

COMMISSIONER WIDMEYER: Well, you know, I think you could say if you raised --

MR. DUNKLEY: No, not at all. Restaurants know their receipts, they know --

COMMISSIONER FREEMAN: So, why even make it a percentage? Why don't you make it that if your delivery method is in a bag it's a type 2?

MR. DUNKLEY: Because there are restaurants out there that span the range of, well, we have this much delivery, we have this much consumed in-house, we have this much takeout, and some other kind of delivery that we don't have, the unanticipated. That's the problem. There is no all takeout or all eat-in restaurant.

COMMISSIONER FREEMAN: But there is a, in
general a type 2 restaurant delivers in a bag for you to
take it out, right?

MR. DUNKLEY: And we have to have a way of
being consistent about deeming this a type 2 and a type
1. That's the point.

COMMISSIONER WIDMEYER: Okay. My only problem
was I would raise it to something like 60 or 70 percent.

COMMISSIONER NYDEN: Yes, I would agree.

MR. DUNKLEY: Sounds like you're thinking the
opposite -- I mean at what point does an operation
generate street trash so that, enough street trash that
has to be controlled through the special use process? I
don't have the answer to that.

COMMISSIONER FREEMAN: But it's less than 50
percent.

MR. DUNKLEY: Less than 50 percent.

MR. McGONAGALL: Yes, it's going to be --

MR. DUNKLEY: Would you say that 10 percent
is --

MR. McGONAGALL: Which one is less --

COMMISSIONER NYDEN: Yes, which is going which
way?

COMMISSIONER WIDMEYER: Yes, which is going
which way I guess is what we're saying.
COMMISSIONER FREEMAN: The type 2, I would say that it is 25 percent, 30 percent is out the door.
You're saying here that, hey, it's got to be 50 percent before it's type 2.

MR. DUNKLEY: Right.

COMMISSIONER FREEMAN: Whereas I think, no, it's like 25-30 percent.

MR. McGONAGALL: A small percentage out the door gives you a problem.

MR. DUNKLEY: That's what I would have thought that you --

COMMISSIONER GALLOWAY: What do you mean by that, Andrew? Gives who a problem?

COMMISSIONER FREEMAN: It's the garbage.

MR. McGONAGALL: The garbage. I mean that's what you're trying to control.

COMMISSIONER GALLOWAY: Okay, yes, right.

MR. McGONAGALL: You know, if you go out saying half the people eat in and only half the people eat out, well, to me that's the wrong way. I would say 20-25 percent walking out the door give me a problem.

COMMISSIONER GALLOWAY: Yes.

COMMISSIONER FREEMAN: Well, I think if you even put it in a bag, if you're at a counter and you are
being served and it comes to you in a bag --

CHAIRMAN WOODS: I was looking at 70 percent that eat in --

COMMISSIONER NYDEN: Yes, that's right. We're in agreement there.

COMMISSIONER GALLOWAY: Okay, so you're saying the same thing.

COMMISSIONER WIDMEYER: So we're saying the same thing, yes.

COMMISSIONER GALLOWAY: That's amazing.

CHAIRMAN WOODS: Restaurant type 1 is 70 percent in this thing and type 2 is 30 percent just to use the numbers.

COMMISSIONER NYDEN: Right. All right, I like it.

MR. DUNKLEY: I'm sorry, what did you like?

MR. ARGUMEDO: 70-30?

COMMISSIONER NYDEN: 70-30. So, type 1 is 70 percent.


COMMISSIONER NYDEN: 70 and 30 makes --

MR. DUNKLEY: So, you mean 30 percent or more takeout business is a type 2?
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1. COMMISSIONER NYDEN: Correct.
3. COMMISSIONER FREEMAN: I'm like hearing 80-20.
4. COMMISSIONER OPDYCKE: What's the impact? I mean, are some special uses --
5. COMMISSIONER FREEMAN: And takeout is not delivery, right?
6. MR. DUNKLEY: Delivery is excluded because if you're delivering food --
7. COMMISSIONER FREEMAN: Okay, so therefore, a place like Dave's or Domino's, fine.
8. MR. DUNKLEY: Yes, you're passing on the ownership of that trash directly to someone else. At no point is there non-ownership of the trash and that's the problem.
9. COMMISSIONER OPDYCKE: What's the impact of this though on somebody who wants to -- is one a special use and one not?
10. COMMISSIONER WIDMEYER: Yes, type 2 is a special use.
11. COMMISSIONER OPDYCKE: Okay.
12. MR. DUNKLEY: They're exclusively special uses for type 2 restaurants.
13. COMMISSIONER NYDEN: So, this could also, this...
isn't just a McDonald's or a Burger King, this is a Subway, this is a Quizno's --

MR. DUNKLEY: Anybody.

MR. McGONAGALL: Let's just ask one more question before you settle on 80-20 or 70-30. I'm saying that you need to look and talk to the economic office or whatever you're calling that to make sure that we're not shooting ourselves in the foot and saying to businesses we don't want you because that's not the message.

COMMISSIONER OPDYCKE: Precisely.

MR. McGONAGALL: Okay, and you've got to be very, very careful about what you do based upon the state of the economy right now. And what I'm just hearing, from what I've just read this week based upon Evanston is the percentage of businesses that are actually doing very well in the current downturn --

COMMISSIONER GALLOWAY: Are the type 2 restaurants.

MR. McGONAGALL: One of them is fast food restaurants. It's not the sit-downs, it's the fast food because --

CHAIRMAN WOODS: Because it's cheaper.

MR. McGONAGALL: It's cheaper. So you know --
MR. ARGUMEDO: I think that it's good to talk to the economic development, I appreciate that and we will. I think we don't -- on that because right now -- point in restaurant type 1 where we're saying you have to use non-disposable flatware to be considered type 1 right now under the current definition. If you're using disposable flatware, by this definition we're going to kick you to type 2 already. And we're eliminating that part --

COMMISSIONER WIDMEYER: And quite frankly, we don't do a good job of policing the mess from a city standpoint anyway.

MR. DUNKLEY: No, we put the, one of the requirements of, the conditions almost ubiquitously in this special use is that you police the area within 250 feet of your restaurant.

COMMISSIONER WIDMEYER: And how many have we denied because they haven't?

MR. DUNKLEY: Oh, they have to come back every, well --

COMMISSIONER WIDMEYER: How many have we denied because they haven't?

MR. DUNKLEY: We'll find out.

MR. McGONAGALL: So, that's where I go back to
the original statement about putting a charge for
putting who walk out the door with bags and stuff like
that and that money goes to the city --

COMMISSIONER WIDMEYER: It's cheaper for me to
take my french fries, coke and hamburger without the bag
and walk out with it. Now I don't even have anything to
consolidate the trash in.

COMMISSIONER FREEMAN: In fairness, in Europe
and in San Francisco and in other cities now, it's
plastic, it's not paper. So, at the airport, their
plastic bags are paid for, they don't give you an option
of a paper bag.

MR. McGONAGALL: Right, that's true.

COMMISSIONER FREEMAN: So, you know, we're
talking about biodegradable paper bags, right?

COMMISSIONER OPDYCKE: But it's trash in the
streets, too. It's visual.

MR. McGONAGALL: It's Styrofoam. Styrofoam
comes out of Burger King because they --

CHAIRMAN WOODS: -- suggesting that the city
should institute a --

MR. ARGUMEDO: Is that a zoning prerogative?

CHAIRMAN WOODS: No, it's not a zoning
prerogative. I'm just curious. We're saying --
MR. McGONAGALL: I'm saying that that's, right, that that should then go towards the removal of the trash on the street.

COMMISSIONER WIDMEYER: That's a good point. But it's a little beyond the scope of what we're talking about here.

MR. McGONAGALL: Right, but that's what I'm saying is that we're constantly talking about being environmentally friendly and the process that Europe has instigated is that what you're doing is not an environmentally friendly process. If you want to be part of that unfriendly process, then you're going to pay for it. And that lets people sit back and take note. And that money then goes to the city and then we police the streets and we clean up our streets.

MR. ARGUMEDO: And it's coming to Evanston anyway because of, in some limited fashion because I think Aldi's is going to charge for bags, the one that's going on Oakton and they charge for bags.

MR. DUNKLEY: I just today, late yesterday, had a conversation explicitly on this concerning a Papa John's. And a relocation for Papa John's actually very close to here, and apparently this location is the only location where it's primarily delivery which is kind of
a different thing. But it's the only one where they
actually sell pizza by the slice because they've got a
lot of foot traffic --

COMMISSIONER FREEMAN: Yes. It's right over
Benson and Clark.

MR. DUNKLEY: And the franchisee I guess, the
proprietor said if it is an issue with determining
between type 1 and type 2, they will easily remove the
pizza by the slice part of their business. So --

COMMISSIONER FREEMAN: How much extra is it
for type 2?

MR. DUNKLEY: It's a process that's risky that
is not, it could end with no special use, it could end
with nothing.

COMMISSIONER FREEMAN: And so, in this case
where it says 50 percent, or even 25 percent, 25 percent
of Papa John's business is not slices. So, therefore
that wouldn't --

MR. DUNKLEY: That's, yes, you're right.

COMMISSIONER FREEMAN: Right?

MR. DUNKLEY: You're right. But the message
was if that in any way jeopardizes, if that part of my
business jeopardizes the determination, we'll change the
business.
CHAIRMAN WOODS: Right, because they don't want to go through the onerous --

MR. DUNKLEY: Right.

MR. McGONAGALL: But they're also sufficiently sophisticated enough in corporate to actually understand what it is. A lot of other businesses aren't. I mean, the Burger Kings of the world are sophisticated enough.

The smaller operations --

MR. DUNKLEY: Don't know whether the receipts --

COMMISSIONER FREEMAN: Okay. Coffee shops, the impact on coffee shops?

COMMISSIONER WIDMEYER: They're all type 2 right now.

COMMISSIONER FREEMAN: So, it doesn't matter if we make it 20 percent or 80 percent because there's still coffee shops of type 2. Because --

MR. DUNKLEY: Today.

COMMISSIONER NYDEN: Right, but today.

COMMISSIONER WIDMEYER: Under current zone.

COMMISSIONER NYDEN: Under current. But maybe there, I mean, Bros. Coffee on the corner of Main and --

COMMISSIONER FREEMAN: My favorite coffee shop in Evanston.
COMMISSIONER NYDEN: There's a lot of people that stay and drink there.

COMMISSIONER FREEMAN: That's right.

COMMISSIONER NYDEN: And so, and they keep drinking coffee. So, I don't know what their receipts look like. I'm sure they have a much larger business that walks out the door but --

MR. McGONAGALL: I mean, for instance, like there's a Caribou on Central --

CHAIRMAN WOODS: -- it can be a type 1.

MR. McGONAGALL: The one opposite the Bank & Trust, what's that? Castille. Castille Coffee, I mean they sell coffee. Is that a restaurant or is that a store? Because most of their business is actually walk-in by the coffee beans grinder and walk out.

CHAIRMAN WOODS: That's probably a store.

COMMISSIONER GALLOWAY: That's a retail store.

MR. McGONAGALL: I mean I don't know what that classification is. And I'm guessing Pete's is very similar to that, too.

CHAIRMAN WOODS: No, Pete's is just like a Starbucks.

MR. McGONAGALL: Not when they came in for permission. I remember sitting through that.
COMMISSIONER WIDMEYER: Right.

MR. McGONAGALL: Yes, about how they said most of their sales --

COMMISSIONER FREEMAN: They sell a lot of beans.

COMMISSIONER NYDEN: But should we get back to what the percentage --

MR. DUNKLEY: We'll do some research --

COMMISSIONER NYDEN: Can we do some -- against places like --

MR. DUNKLEY: Yes, what would Panera downtown be?

COMMISSIONER NYDEN: I mean, yes, what would Panera be, what would Starbucks be, independent coffee shops be.

COMMISSIONER WIDMEYER: Well, Starbucks have been type 2, Panera's have not for some -- I've never seen a Panera that --

COMMISSIONER NYDEN: Because they have real silverware.

COMMISSIONER GALLOWAY: Yes, real silverware and it's also a function of how many square feet you have for seating.

COMMISSIONER NYDEN: Yes.
COMMISSIONER FREEMAN: So, what are going to do here?

MR. DUNKLEY: Yes, we'll do some research on this to get, to test it against some real world cases. I was actually thinking that 30 percent is probably about right.

COMMISSIONER FREEMAN: About right? Okay.

MR. DUNKLEY: But, you know, that's --

COMMISSIONER CREAMER: And could you tell us a little bit more about how you measure 50 percent of food and beverages? Do you measure by the cash register, the number of bags?

MR. DUNKLEY: Well, we deliberately left that open-ended. Most businesses that do food service know where their receipts are going. And it's --

COMMISSIONER FREEMAN: It's up to them to tell us?

MR. DUNKLEY: It's dollar --

COMMISSIONER NYDEN: Here is what I can see happening is if it's dollars versus transactions and you have a place that serves booze, that's going to be a high dollar item so it's going to make it look like there's a lot of dine-in versus somebody actually going, I mean like That 17, they sell, it's a bar but I imagine
they also do a lot of carry-out there because it's sort of a sandwichy type of place.

COMMISSIONER CREAMER: It's a deli, yes.

COMMISSIONER NYDEN: So, you could have somebody say, oh, well, no, we're a type 1 but we're carrying --

MR. DUNKLEY: And that's why we left it open-ended because if we feel that there's a better way to characterize that mix, then we could use, we could ask to use a different determination.

COMMISSIONER WIDMEYER: Is there not a taxing difference whether you eat it there or take it out?

MR. DUNKLEY: I don't know.

COMMISSIONER WIDMEYER: If you take it out, isn't it grocery? And if you eat it there, there's a sales tax on it?

MR. DUNKLEY: I don't know the answer to that.

MR. McGONAGALL: I think in Europe there is. They only have it in some places --

CHAIRMAN WOODS: But I'm not sure there is in Illinois.

MR. DUNKLEY: But in our research that we will do, we will determine whether, because in my experience every restauranteur knows how much of their receipts are
walking out the door and how much are served at a table and how much are delivered. That's got to be your basic information about how your --

COMMISSIONER GALLOWAY: Well, they would want to know.

MR. DUNKLEY: Yes.

COMMISSIONER GALLOWAY: Because they would want to gauge their business.

MR. DUNKLEY: Exactly.

COMMISSIONER GALLOWAY: Their advertising --

MR. DUNKLEY: We could get number of customers served, number of meals served, but that's not information --

COMMISSIONER FREEMAN: And how does this compare to other municipalities?

MR. DUNKLEY: We know it's not working now.

COMMISSIONER FREEMAN: Understood.

MR. DUNKLEY: We know that, it's not all over the board but there are a lot of uses that are just difficult to call because of these other things that we have baked into the definitions.

MR. ARGUMEDO: I did initially locate, I don't have it down and I think it requires more research, but the restaurant definitions were kind of around the map.
I'll definitely look at it more but it wasn't as clean cut as we were talking about -- I know we debated but I mean --

MR. DUNKLEY: A kind of corollary to this is what do we do with the Domino's Pizza that has no retail, that is all delivery? Is it even a restaurant use?

COMMISSIONER NYDEN: No, they must have those sandwiches.

MR. DUNKLEY: What's that?

COMMISSIONER NYDEN: They're selling those sandwiches I think retail.

MR. DUNKLEY: There are, I mean there are operations that have sort of a retail storefront but it's really only manufacturing pizzas. And if you try to buy something, it doesn't work.

COMMISSIONER FREEMAN: Well, where?

MR. DUNKLEY: Well, Domino's is --

COMMISSIONER FREEMAN: On Dodge --

MR. DUNKLEY: I'm not sure.

COMMISSIONER FREEMAN: You can walk in and you can buy pizza at the counter and you can --

COMMISSIONER CREAMER: Isn't that a type 2? I think I remember that.
MR. DUNKLEY: We would handle it as a type 2. But my question is, is it really even a restaurant? Isn't that more of a catering function? 

MR. McGONAGALL: I would say the same thing, what is Hackley's classified as. 

CHAIRMAN WOODS: It's a store. 

MR. DUNKLEY: Okay. I just need to -- 

CHAIRMAN WOODS: So, could I have a motion on B-1, B-4, B-5, B-6? 

COMMISSIONER OPDYCKE: Move to refer it to the Plan Commission, those four sections. 

COMMISSIONER NYDEN: Second. 

COMMISSIONER FREEMAN: Yes. 

CHAIRMAN WOODS: All in favor? 

COMMISSIONER FREEMAN: B-1? 

CHAIRMAN WOODS: B-1, B-4, B-5 and B-6. 

COMMISSIONER FREEMAN: Yes, okay. 

CHAIRMAN WOODS: All in favor? (Chorus of ayes.) 

MR. ARGUMEDO: Thank you. 

COMMISSIONER GALLOWAY: You're welcome. Going to have a lot of work, you guys. 

MR. DUNKLEY: There's more to come. 

COMMISSIONER NYDEN: Move to adjourn.
CHAIRMAN WOODS: All in favor?

(Chorus of ayes.)

(Whereupon, the hearing in the above-titled cause was concluded at 9:52 p.m.)