

**City of Leawood
Planning Commission Work Session
F.A.R. Bonusing
January 14, 2014**

In attendance:

Commissioners: Mike Levitan, Kelly Jackson, Lisa Rohlf, Len Williams, Marc Elkins, Kip Strauss.

Staff Members: Mark Klein, Justin Peterson, Franki Shearer, Richard Coleman and David Ley

Mr. Klein: We would like to address F.A.R. bonusing. We haven't had a lot of cases come through lately pertaining to F.A.R. because there hasn't been a lot of development. The biggest area with F.A.R. bonusing is Park Place, which had the standard F.A.R. on MX-D of .25 and an approval of .84. The Villaggio also received a bonus. It was split into office, retail and a portion where independent living was supposed to be located on the south side of 137th Street. The only portion that received a bonus was the office portion, and it was not very large. With the 135th Street Corridor coming through and the 135th Street Community Plan, there may be opportunities for bonusing to take place. I would like to bring up issues we have had with bonusing in the past and get input for potential changes.

Per Section 16-3-9(a)4 in the Deviation Section of the Leawood Development Ordinance allows bonuses to F.A.R., provided that the bonuses meet the criteria established for the bonus:

- The amount of the bonus shall be at the sole discretion of the city.
- The maximum F.A.R. for any development, including all bonuses, shall be .45 unless approved by a $\frac{3}{4}$ super majority vote by the Governing Body.

Prior to this ordinance, deviations were available. It seemed that developers would request the deviation, but we didn't have criteria asking them to give anything back in exchange. Often, the deviation would be granted with on increased open space or extra amenities in exchange for it. This ordinance was meant to call for amenities to make the project superior and justify the deviation. The only place that has ever exceeded the maximum of .45 is Park Place, which had .84.

The available F.A.R. bonuses and criteria were for increased open space at 10% maximum increase in F.A.R., provided that not less than a 1-1 ratio of increased floor area to increased open space. This worked well because it was fairly easy to calculate and verify they were providing it. Len and Lisa might really remember that the developer originally would come and give extra open space, but it might be a few square feet in parking islands, which really didn't do anything to provide meaningful open space to the project. The Planning Commission became adept at not supporting the broken up nature of it rather than an amenity for the public. We started requiring the open space be located close to the public right-of-way or along a sidewalk to draw the public into the site and provide an amenity both for the development and for the general public.

The next bonus is for superior site planning. This also had a 10% maximum increase and provided that the quantity of landscaping is not reduced, and the maximum F.A.R. is based on a 1-1 ratio of the construction value for allowable floor area to the construction value of those qualities deemed to be unique to the project and superior to the required and existing landscape developments in the city. We struggled with this one because it is difficult to apply. Park Place is the only development to use it. There are a number of components of this that staff had to do and that Planning Commission and City Council had to decide. One was what portions of the development were unique and above and beyond as far as the general requirements for any development within the City of Leawood. Once those areas were identified, what was their construction value and then the construction value of adding additional square footage of building area? The struggle is in trying to determine the construction value of components. The developer would give a number, but ultimately, they would hike that because the higher it was, the more square footage they would get because of the construction value. The only way to get around that was to call around to get quotes, which is very difficult.

The next is architectural significance and superior environmental design. This also has a 10% maximum increase, and then based on the 1-1 ratio of construction value for allowable floor area to the construction value of those qualities deemed unique to the project and superior to required or existing developments in the city. This is also tied to construction value, so we got into those same issues of identifying what was unique as opposed to what would be required by any development within the City of Leawood and under the standard requirements and then determining the construction values.

Pedestrian amenities allow a maximum of 10% increase based on a 1-1 ratio in value of added amenities to increased floor area. This was a little easier but only in the fact that some of the amenities were a little easier to determine as far as value. For instance, if they are providing a fountain, they can submit a cost estimate.

Comm. Elkins: On this one where you talk about 10% increase, let's assume we're in an area where the maximum F.A.R. is .25. Does the 10% take it up to .275, or is it .35? What do you mean by 10%?

Mr. Klein: We work with a consultant with the LDO, and we talked about this and if .25 would go another 2.5%. Ultimately, we decided not to, and actually on the next slide, I'll go through how we calculated it.

Comm. Pateidl: We have 10% and 10%; are they cumulative?

Mr. Klein: They are cumulative.

Comm. Pateidl: In essence, we are saying we could increase 50% of the F.A.R.

Mr. Klein: Yes; and I did a spreadsheet that shows amenities with bonuses. Within MX-D, it is about .45 F.A.R., which is probably what led to the .45 maximum without a super majority vote.

Comm. Pateidl: That answers Marc's question because 10% on top of .25 would take it to .35. If they get all these cumulative and it goes to .44, there are some other factors involved.

Mr. Klein: Yes, and on the next slide, you'll see how we calculate it and will show why it makes sense as to why we didn't just increase the F.A.R. itself. We had integrated storm water detention with a 10% maximum increase. That was based on a 5-1 ratio of additional allowable F.A.R. to wet basin area. Park Place had feature ponds shown on either side of Rosewood as it went on to Town Center Drive, which were the wet basin areas. That is what we want to talk to you about. Park place took a while to develop out, and as it evolved, those wet basin areas were removed.

Parking structures above ground are eligible for 10% increase, and then below ground for a 15% increase. Those were easy for staff to apply. Based on a 1-1 ratio of additional open space to additional allowable floor area, if surface parking was located on the ground and took a parking deck above or below, that's not eating up additional land on the surface, so the additional square footage could be calculated as far as what was being saved. Then, we can get to the 10-15%. It was a pretty straightforward calculation. There was a limitation of 15% for below and 10% for above ground. The reason for the difference is the below ground is more expensive to build.

Comm. Jackson: Mark, I'm assuming what's a pedestrian amenity couldn't also be calculated as increased open space.

Mr. Klein: We might want to talk about that, too. Maybe some of these categories could be changed, combined or split out. In addition to the F.A.R. bonuses available in all districts are bonuses available within the MX-D, which had all the bonuses we just saw and two others: increased open space with a 15% maximum increase and based on a not less than 1-1 ratio of increased floor area to increased open space

and then cultural use with a 10% maximum increase based on not less than 1-1 ratio of increased floor area to square footage of cultural use.

Comm. Pateidl: Could you define cultural use, please?

Mr. Klein: The LDO tried to clarify what that meant. "Cultural use projects which include a minimum of 10% of the total square footage for cultural uses may receive up to 10% increase in applicable maximum F.A.R." We talked about a library, museum or amphitheatre. It would something the public could be invited in.

Comm. Pateidl: For clarification, Town Center is looking at putting that pedestrian walkway through the one section between Bravo and the tailor shop with a stage area. Were that to be a new development and were we looking at F.A.R. on that, would we consider something of that nature, even though it's outdoors, a cultural use and look at that square footage accordingly?

Mr. Klein: I think it's what we want to talk about. Right now, if it were included as a culture use, it would have to be a permanent structure that was located there for regular events for the general public; whereas, what they are talking about is a temporary stage. We don't know if they'll continue the concert series, and then a bonus would have been granted for something temporary.

Comm. Pateidl: It's good to get some of these clarifications out.

Mr. Klein: Actually, we're looking to the Planning Commission to help work through these because as the 135th Street Corridor projects come in, projects will most likely include some of this. The intent is to see some bonusing going on to increase the density. We hope to have something very clear for the developer, clear for the Planning Commission, Governing Body and staff.

There was question with regard to increased open space in MX-D and whether it was added on to the 10% from the previous one.

Mr. Coleman: I would think it would just be a substitute for it because one is 10% and this is 15%.

Mr. Klein: That was discussed as to whether it's a substitute or an addition. F.A.R. is calculated based on the total gross building square footage, generally excluding structured parking and the site square footage. That is why, with Park Place, we haven't been including the square footage where the parking garage is located. That would penalize them for doing the parking structures, and that is straight out of the LDO. All bonuses will be added together, which is what you were asking about being applied to the base F.A.R. of the district calculation.

The maximum bonus permitted would be determined as far as 10% of the allowable square footage. When we went through this, we tried to decide which direction to go. We decided if we kept adding it to the F.A.R, we could get close to 1, and it would make a big difference. The maximum bonus may be further limited based on the requirements of the LDO. That is referring to the 1-1 ratio. In other words, if a developer is looking for a bonus for increased open space but doesn't provide enough open space to get to the 10%, they would have the limitation. An example would be the gross site square foot of 100,000 square feet with a F.A.R. of the district of .25. That would allow a maximum square foot of building permitted of 100,000 times .25, so 25,000 square feet without any bonuses. A 10% bonus would then be an additional 2,500 square feet they could then add to the 25,000 square feet. The bonuses would be cumulative.

Comm. Strauss: Are the number of floors not calculated? Is it just the footprint of the building to the footprint of the site?

Mr. Coleman: No, it's the total square footage.

Mr. Coleman: It doesn't matter how many floors. It could be the same square footage on one floor or on five floors. It would still be the same F.A.R.

Comm. Levitan: You could do five stories at 5,000 feet.

Comm. Pateidl: Mike, how does that compare to other communities?

Comm. Levitan: 25 is about right. You see 27, 30 sometimes, but 25 is at least what I calculate when I'm looking at a site.

Comm. Pateidl: I'm thinking about the multi-floor situation. Is that pretty much standard?

Comm. Levitan: That's right.

Comm. Elkins: In my mind, I've been trying to figure out how to get a bonus for open space because the more open space you create, the smaller the footprint, but you make it up vertically when you do it. I can't do the algebra in my head anymore, but it seems like – I mean, I think that approach makes a great deal of sense. I don't think that's what's actually written in here, so we probably need to take a look at it. The algebra may make it irrelevant; it may come to the same point. The language in the ordinance talks about an increase in the F.A.R. It's not talking about an increase in the allowed square footage or whatever the right term is. Again, the algebra may make it so it comes out the same way in either direction.

Comm. Strauss: It sounds like the math could work out to where it could be more than .45 F.A.R., but it's capped there, right?

Mr. Coleman: Unless Governing Body says it can go to .8. I think we're comfortable with that.

Mr. Klein: Some of the issues we've encountered with past developments are bonuses being granted at the time of Preliminary Plan, when the square footage and uses are approved. In the past, not much detail has been provided at that time. For instance, the feature ponds were part of the Preliminary Plan with, perhaps, an asterisk that qualified it as a site amenity. At the time of Final Plan, they would detail it out. That created a number of issues because the site evolves a little bit, and at the time of Final Plan, the expectations for the amenity have changed. If the Planning Commission and City Council had seen the final presentation earlier in the process, they may have thought of it differently. The only recourse at that time would be to say that the amenity doesn't meet the bonusing and request to see something else. Another issue we've had is sometimes the development slowly evolves, and open spaces change. Suddenly, where an amenity may have been shown now has a building. Some of the bonuses are based on subjective criteria and not requirements that are more objective and measurable. Sometimes, determining whether a fountain or piece of statuary deserves a percentage increase is subjective. Some of the bonuses were based on information that was difficult to obtain and validate, getting back to the value of pieces. For instance, landscaping may cost \$50,000 to do what the LDO requires, but if they are going to put in more, how much is its value, and how much does it compare to the square footage being added? The wording of the requirements for some bonuses is not specific enough to communicate the desired result. It would be nice to make sure if we're looking for something particular, such as open space that does need to be attached to the public right of way or accessed by pedestrians, it would be helpful to both staff and the developer to be clearer as far as what the city is looking for.

We have discussed ways to start addressing the issues, and we would like to talk more about that. First, we would like to get your impression of what we currently have now. Marc's had some excellent comments about wording to make sure that the way we are actually applying it meets what the ordinance specifically says. Also, we'd like to get input with regard to the bonusing and the way they're structured. That could be a number of different areas, including what would deserve a bonus, how the bonuses should be

awarded and more specific and objective ways to measure it and then the expectations, tying it down to more detail at Preliminary Plan on the specific bonusing.

Mr. Coleman: I wasn't here then, but I think the fountain at California Pizza Kitchen –

Mr. Klein: It was not awarded as a bonus. That was in exchange for something they didn't do. They were supposed to create a large planter, and they didn't. They added planting pots to take the place of the planter. Instead of having them rip up the plaza area and the sidewalk, they were allowed to provide an extra amenity.

Comm. Strauss: Since you're going through this reevaluation, have you looked at what other communities are doing? Are there categories we've missed or a way to better assess your concern of the subjectivity?

Mr. Klein: We have not.

Mr. Coleman: Some communities have given density bonuses based on some things like LEED criteria. If a developer can show that the building meets LEED goals for silver, it would get X bonus; gold would get Y bonus. If it met some categories but not all, it might get another bonus. A lot of those are vetted and quantifiable. They can be calculated.

Comm. Williams: Didn't we have bonuses available for things such as energy conservation in the LDO?

Mr. Klein: We do. That is in environmental design.

Mr. Coleman: But it is not defined. There is no way to quantify it.

Comm. Williams: Maybe that is why I've never seen one in my tenure.

Mr. Klein: Most of these haven't been used, other than Park Place because they're confusing for the developer, and I think the developers are worried about what they will have to put in to get out what they're looking for. The ones that are clearer seem to be the ones being used, such as structured parking. Not that we're unhappy with structured parking; we are, but it would be nice to make it clear for everybody so more of them are taken advantage of to the benefit of both the city and the developer.

Comm. Pateidl: I have a question of Mike. I got the impression that you look at .25 as a beginning point or a standard. What's got me questioning all of this is we have all these different categories where 10 can be added. How much do we really need to give to a developer to be competitive with the other communities around us, and do we need all of those different categories so we can become more definitive and add clarity to what we're doing? I can see confusion over cost of an amenity to cost of construction. You talk about a place where you can get jerked around; that's it. Nobody will feel good at the end of the day.

Comm. Levitan: Have we looked at Overland Park?

Mr. Klein: Not at this point. We went through the 135th Street Community Plan, and the next step is to prepare for that and try to get bonuses nailed down.

Comm. Jackson: To get people to do what we decide we want on 135th Street, which is the only place these can be used at this point, is there a way we can make those specific things happen by what we give additional density for? I don't know what your plan has said we want, but how do we drive that through this?

Mr. Klein: I think the 135th Street Community Plan has actually tried to address multi-modal pedestrian connections. Part of the way to achieve some of that mixed use is to actually have higher densities to make it successful. It's a web where you tug on one strand and it pulls other strands. I think what we need to evaluate is each of these categories and see if we agree on if it's what we want to promote. The titles sound great, and I think some of the wording is laudable as far as what it is trying to achieve, but maybe LEED is becoming much more of a standard now than what it used to be back when this LDO was written, so now we may actually have metrics available to be able to verify what we're looking for.

Comm. Jackson: A lot of the open space is just sitting off by itself, like the water fountain behind the Ascend building. I don't think anybody uses it. On 135th Street, there are a couple just sitting out there.

Mr. Coleman: The problem is defining the amenity and what makes it usable. Since I've been here, some developers have said they're putting in a bench, which makes it an amenity.

Comm. Pateid: At 135th and Mission Road outside the bank, they've gone to great expense and put some things out there that not even a dog will sit on. It's just not right. Regardless of what we do as far as a definition of these things, one thing that strikes me is you talk about coming in with a Preliminary Plan and we grant bonuses, and then they come in with Final Plans and it's not there. For the ease of the members of the Planning Commission now or 25 years from now and same for City Council, can we consider having an addendum section that deals specifically with the bonuses and how they will be applied? That way, it is identified to where when they come in with the Final Plan, it's not hard to go back and say, "This is what was there." Are we doing that now?

Mr. Klein: We have done that in the past with bonus criteria. Park Place was a different animal because it had the super majority vote and F.A.R. granted was above and beyond anything the bonuses would have earned them. To a certain extent, the Governing Body and Planning Commission said, "Yes, we really like this project and think it is superior enough that it should be awarded this F.A.R." As a side note with the MX-D, we calculate F.A.R. a little differently than we do everything else. Since that has a residential component to it, there is automatically a discount of 25% of the floor area of the residential, so it could be 100,000 square feet of residential square footage on the site in addition to the retail and the office, but the F.A.R. would include 75,000 square feet, and it can go up to .55 based on Governing Body and what they approve. You could actually discount it and only include 45% of that floor area. The reason for that is it was considered that the residential was a desired component that we weren't getting and that it wouldn't necessarily have the same impact on the parking. Most of the parking would be used at night when a lot of the other uses weren't being taken advantage of.

Chair Rohlf: With respect to Park Place, for all the bonuses that they received, should they have received them? Have they done their part in producing? I know we've had to revisit some things, and some things have changed, but do you feel that they deserved what they received?

Mr. Klein: Because they received more floor area than what was allowed by the bonuses, it became more subjective. The city saw some things that we don't typically see within the City of Leawood. Park Place is very unique. Other developments don't have the height of the buildings, the density, the large park between the two residential buildings or an ice rink or park. We don't have the opportunity to have a lot of activities and things like that. Plus, I think the city was looking at Park Place as adding to what was to become the downtown area as far as City Hall, Town Center, the Justice Center and Park Place to tie it together. It was viewed differently. Park Place did do a lot of other things that weren't necessarily in here. For instance, they integrated storm water detention and the wet basins, but they also did a lot of improvements to the creek, which was eroding in to the Edgewood Subdivision. Park Place actually paid to armor the creek to stop the erosion. I know that was a lot of discussion. That wasn't necessarily stated in here as a bonus, but I'm sure

in Planning Commission and City Council's mind, them doing that extra offsite was more than what we would ask a typical development to do.

Mr. Ley: They also built the trail behind City Hall.

Comm. Strauss: With the 135th Street plan, are we hoping to get .84 for F.A.R. in locations or more like the .45?

Mr. Klein: Across the area, it would be nice if we got some of the ones that are close to .84 or maybe even a little higher, but it would be a variation probably.

Mr. Coleman: It would depend on the developer.

Comm. Strauss: I was trying to think about the city's goals and what we would like to see.

Comm. Williams: That's an excellent question. What is the vision the city has for 135th Street?

Mr. Klein: This is really where it all starts. You have to decide what you're looking for and then decide about the bonuses.

Comm. Levitan: Then it correlates from the developers' perspective. Sometimes you need to get to that .84 to make the economics work. There is a cost to the amenities, and Park Place needs every bit of that .84.

Mr. Coleman: It's a balancing act.

Comm. Strauss: It seems like Prairie Fire is probably pretty high, too.

Comm. Levitan: I don't know what that F.A.R. is because that plan is still kind of moving.

Mr. Coleman: I don't think it's as high as you'd think.

Comm. Levitan: They've got a big green space.

Comm. Jackson: Aren't there apartments back there? Of course, you get .25 off.

Mr. Coleman: I don't know how they calculate their square footage.

Comm. Levitan: We need to be sensitive; we need to make it achievable. You set the bar too high, and nobody is going to touch it and the ground will sit there.

Mr. Coleman: I think that's one of the advantages of having the part in there that Governing Body can increase it beyond that. We might want to have the lower bar higher, and then Governing Body can make it even higher if they saw the project would be a real benefit to the city.

Comm. Jackson: Part of that vision for 135th is more greenery, pedestrian walkways and bike paths. Those should be targets of the F.A.R.

Mr. Coleman: Those would be part of it. Some of it is a base level planning requirement where the streets, trails and walks need to connect. Then another layer starts to enhance that. It might be putting in a bike system. In fact, they talked about it around here with one at Park Place and another over at Town Center Crossing. The whole area will be redeveloped, so there is a lot of opportunity here to do some good things.

Hawthorne Plaza is in Overland Park, but it's being completely redone. It won't even look the same when it's redone at all.

Comm. Jackson: Are they reconfiguring the buildings?

Mr. Coleman: YaYa's is coming out. They're putting in a Container Store. The entire exterior of the center is being changed.

Comm. Levitan: They're doing a CID, right?

Mr. Coleman: I don't know. It's being completely renovated. Camelot Court probably will be renovated.

Comm. Pateidl: We've gone through the Final Plans for them, haven't we?

Mr. Coleman: No, but it's coming. There's a lot going on in just this area. There are opportunities to try to get everything to work together. I've talked with the Overland Park side, and they're all about connecting to Town Center.

Comm. Strauss: Even with these F.A.R. bonuses, Town Center could get bonuses with the redevelopment. I'm not talking about just new development.

Comm. Jackson: If they could all get together.

Mr. Klein: Right now, Town Center Plaza is about a .22 F.A.R. They actually have a decent amount of space on there that they could actually do. It seems like we're running into the evolution from additional floor area and the parking without building parking structures. Parking structures solve a lot of problems, but they're also expensive, which is why a lot of people don't want to build them. That seems to be the push and pull. I want to revisit Marc's point about the 10% increase. It's about the same.

Comm. Jackson: I could go for a little more bonus for parking structures because I think they help the city in a lot of ways and help the community. You don't have all that vast concrete that's just so ugly. It he's with the water runoff. Does that save the city money if the water system is more controlled?

Mr. Ley: We typically have a standard that we design the storm sewer to. Because we don't control that property, with a green space, in the future, it could be developed. We take that into account when we design the storm sewer system.

Mr. Coleman: There are other benefits. We are using less surface for parking, which allows more space for residential or commercial or open space.

Comm. Jackson: The water would be cleaner, too, because it's naturally filtering.

Comm. Strauss: I wonder if F.A.R. bonuses can be bought in any other cities.

Mr. Coleman: Some, you can.

Comm. Strauss: Then that money can go toward other community improvements.

Mr. Coleman: Some communities have provisions for things like that.

Comm. Strauss: It seems interesting.

Comm. Jackson: It is an interesting idea.

Comm. Strauss: They might just be meeting your vision and goals for that area, but you could really use it to improve some other area.

Comm. Jackson: If it could be set up so the added amenities like the bike paths or pedestrian walkways really connect to something, it would be good. I don't know how you'd write that.

Mr. Klein: I'm not sure if it would be helpful to go through this and address each one as it's discussed in the LDO. It's probably a good idea to look at the amount of bonuses for certain things. We don't see a lot of below ground parking. That almost seems like it's practically nothing. We love the parking structures, but then getting down into the architecture, and it looks like a parking garage located on the perimeter of the project. There are some other things that go with that.

Comm. Williams: Maybe instead of giving 15% to go below grade, give them 15% for a parking garage that doesn't look like a parking garage.

Mr. Klein: Then you're getting subjective. The first area to discuss is increased open space. Permanent natural open space must provide value to the community by preserving/providing habitat areas for native flora and fauna, storm water recharge, management potential and passive recreational potential for the public. Some of those are starting to be addressed in the BMP requirements as far as providing rain gardens and similar things that really weren't part of this at the time it went in. This also adds to the fact that it has to provide passive recreational potential for the public as well.

Comm. Williams: When you talk about that being natural, is it leaving what is there alone to be natural and adding these activities, or is natural being defined as grass, trees and/or vegetation in some shape or form?

Comm. Jackson: A rain garden certainly isn't natural.

Mr. Ley: Along 135th Street east of Roe, there are streams that would have to be maintained, so that would be natural.

Comm. Williams: But if you were to take away the natural stream and improve it by cleaning it up, helping it look not as rough, putting in trails to draw the public in, would that get them additional bonus points?

Mr. Klein: No. Say it doesn't have a stream area. Actually, there are a number of areas along 135th Street where they actually have a creek and a lot of trees that follow down along with it. When staff has talked to potential developers, we have relayed that we would like to see a lot of that preserved because it's difficult to replace large, mature trees. The storm drainage is important and can actually be used as an amenity that is very unique that you can't create by planting a forest.

Comm. Williams: Often times, that becomes valuable land to the developer and the tree isn't worth that much.

Mr. Klein: The thing we haven't talked about yet is transfer development. On the site, the developer would get to include it in F.A.R. calculations, but we don't want them to build on it, so more of the square footage would move to another area. That area would become more dense in exchange for the open area, which is an amenity for the development itself and actually make the development have something very unique that it can't find just anywhere.

Comm. Pateidl: From your perspective and experience on that first criterion of increased open space and different things that you've read, how argumentative has that been in terms of your negotiations with developers as they pursue a bonus based on it?

Mr. Klein: In the past, they really haven't wanted to preserve too much of the natural areas. I'm not sure if you remember Park Place used to be that bean field that had a drainage way going through it. There was a large, very mature tree there and the legend of the owl. One of the first things staff did was to say that we wanted to preserve it. We were thinking they would preserve the tree and keep the history of the site, something that a lot of people are interested in. What Park Place was looking for was more of a formal landscaped area. Right at the beginning, they said, "No way are we saving that tree, and we're filling that ditch." Usually, on the natural areas, we've received a lot of pushback. That being said, I'm meeting for projects along 135th Street, and we have indicated our desire to keep those areas. We haven't gotten quite as much pushback. I'm not sure if that's changing or not. We kind of went through that big long lull, so maybe development is just glad to be back and they're saying, "No problem; we'll make this as smooth as possible." Maybe that's the motivation.

Comm. Jackson: I think it makes a lot of sense to give them something for that if they're willing to maintain some of those areas.

Mr. Klein: Let's face it; if we don't want everything to look exactly alike, the land itself, if it has unique features, it seems like it would be beneficial to everybody to keep the character and history of Leawood and have it offer an amenity for the development that sets it apart from someplace else.

Comm. Elkins: To Len's question, I'm not sure how we landed on that. In the example of the owl, Park Place takes out the tree and fills the ditch, but then they fill it with bluegrass. Is that "natural" or are we talking about the preexisting condition?

Mr. Klein: I was interpreting that it was the preexisting condition, and maybe formal areas are someplace else.

Comm. Williams: I think we've addressed it both ways in the limited opportunities we've had to review it.

Comm. Elkins: I think we need a definition for natural area because my personal feeling is I would see natural as agreeing with Len, and bluegrass putting green is not natural.

Mr. Coleman: That would be a green area.

Comm. Jackson: But especially not the fake turf they put on the skating rink?

Comm. Elkins: Exactly.

Mr. Coleman: They were having a hard time keeping the grass alive in the summer.

Mr. Klein: As far as light, do you have an existing natural area with a creek that flows through with natural vegetation around it, and does it actually add in to the BMP calculations?

Two separate conversations over each other

Mr. Coleman: We're probably going to have something added to the LDO that is a natural area because not only does the city own property along the streams, Tomahawk Creek and so on, but so do homes associations throughout the city. We don't have anything right now that addresses streams and natural

areas as far as maintenance goes. I've had to deal with feuding homeowners, some who want the area left natural and some who cite the LDO that "No grass can be taller than 12 inches," and if a dead stick fell down out of one of those trees, they need to go remove it. I want to get a natural area definition for land use so I don't have to hold people back from each other.

Mr. Klein: Best Management Practice relates to water quality. If there is water flow through natural vegetation, it filters out water and purifies it before it goes into the city's storm water system. It's a benefit to everybody do to that. It's now required, and it has made our job easier trying to get some of that.

Comm. Jackson: I would give a little extra bonus for no drive-throughs.

Mr. Klein: To continue, I have a subject I have a feeling we'll have to revisit at a later time because it has so many components. The next is superior site planning, which seems very subjective. Projects with landscape architects or plan demonstrating qualities of landscape conditions significantly superior to those required and/or existing in other developments in the city, provided that the quantity of landscaping is not reduced. This talks about the construction value again. Projects with architecturally significant fountains, sculpture, environment, art, site lighting conditions, extensive planning, reduction of heat islands, limited use of potable water for irrigation. Other aesthetic decorative features may be considered by the city as demonstrating significantly superior landscape conditions, justifying such a deviation. This is where we got into them offering something like benches with landscaping around a central area, and it would be something we typically see anyway. That is where the subjectivity always entered in. They thought it was hugely special, and we didn't.

Comm. Pateidl: I'd scratch that one entirely. It's too subjective, too inconclusive with respect to your measurement.

Comm. Elkins: I generally agree with Jim on that; although I think the idea of a bonus for substantial fountains, sculptures and art, which is subjective, is a worthy idea. I agree the first part is very subjective. Some of the examples given as being entitled to consideration I think merit some consideration. I'm trying to find the spot on the cultural significance.

Mr. Klein: That was on the MX-D cultural use as far as a bonus.

Comm. Elkins: With some of the art, if we get some significant pieces, I think we should encourage that. I'm just not sure how to get from here to there.

Comm. Williams: If you're giving a bonus for artwork and it's potentially up to 10% increase in the F.A.R., if the area the sculpture is sitting on is 100 square feet, you're looking at giving thousands of square feet and an increase in F.A.R. Maybe that's something that needs to be reevaluated. All of these involve an area that affects the F.A.R., so maybe look at that amenity in terms of square footage as related to F.A.R. They want to put in benches, then they have 3 square feet of bench, so they get 3 square feet of F.A.R.

Comm. Elkins: That's a great point.

Mr. Klein: That would be much easier to apply. Richard mentioned the fountain, and all of this doesn't have to do with bonusing but does give an example of expectations. They were supposed to build in a planter, and they put in potted plants. We went back and forth with wanting a fountain. We thought we were getting a really nice fountain, and it was basically a bowl filled with river rock with a sprinkler. That's the difficulty.

Mr. Coleman: If they get bonuses for the amenity, it needs to be well defined; it can't just be "a water feature."

Comm. Elkins: At the Preliminary Plan stage.

Mr. Coleman: Yes, at Preliminary Plan. You can see what Park Place did on their Preliminary Plan. It was really the Final Plan.

Comm. Williams: We get many submittals at the Preliminary stage that are pretty well defined. That would be the place to what the amenities would be with more definition.

Mr. Coleman: How big? How tall? What are the dimensions? What are the gallons per minute?

Comm. Elkins: I know we've seen a lot of plans, too, that have a circle and "Water Feature."

Mr. Coleman: That won't work.

Mr. Klein: On to the next one: architectural significance and superior environmental design. This is what you were mentioning, Len, to get bonus for environmental design. Projects with architectural plan demonstrating qualities of buildings significantly superior to those required and are existing in other developments in the city may receive up to 10% increase in applicable F.A.R. based on the 1-1 ratio. Projects with architecturally significant and consistent materials massing environmental systems such as solar shading, natural ventilation, loges, covered outdoor areas that are part of the building's use or primary circulation system, refined details such as windows, door systems, incorporation of innovative waste water technologies to reduce municipal water use, inclusion of energy systems that are highly efficient or utilize a renewable energy system, the reduction of waste or use of recycled construction, demolition of lane-clearing waste, the use of materials with recycled contents that are manufactured locally or utilized rapidly renewable materials, promotion of high end air quality and efficient delivery of fresh air, incorporation of materials and systems that reduce VOC emissions, the maximizing of natural light through design of other demonstratively superior qualities may be considered by the city as demonstrating conditions that would allow such bonus. Ironically, this is the one we probably get in the most disagreements with. An office building will come in and say theirs is far superior to any other building in Leawood, and they are just adamant. Of course, it is just a sales pitch.

Comm. Williams: It is subjective.

Mr. Coleman: All these things are in LEED, except it's not defined.

Comm. Williams: On the same token, a lot of those are the building detail that we aren't involved in. If you get into energy systems, for example, or plumbing systems and whatnot, that's not a Planning Commission issue. It gets to be a building development issue.

Mr. Coleman: We're making it an issue for you.

Comm. Williams: That's fine; I don't have a problem with that. If we are going to be granting increases, then as we were talking about a moment ago, we need to see them up front. We need to see the detail. I guess I raise the question to developers, is that a level of detail they are willing or able to go to at Preliminary stage?

Comm. Levitan: No, I just think they're looking to see what footprint and density you can get, and then you start working on the inside.

Comm. Elkins: It's almost backwards, right? The amenity is something you add at the end of the process, and we're suggesting it should be at the beginning of the process. That would seem to be very counterintuitive.

Comm. Williams: What you're asking developers to go to is a lot of development on their part but also a lot of professional services from architects/engineers to make that happen before they even know if they can get these increases. That can be a substantial expense.

Comm. Levitan: The amenity doesn't bring an income; it's an afterthought.

Mr. Coleman: It depends on the amenity, though.

Comm. Williams: That is true.

Mr. Coleman: If they say they will use ground source heat pumps in the building, it is pretty quantifiable.

Comm. Pateidl: That's not an amenity, is it?

Comm. Elkins: It's included in the list for superior environmental design.

Mr. Coleman: That is a benefit not only to the city but to the developer as well in some respect because the energy consumption could decrease.

Comm. Levitan: It's a payback period.

Mr. Coleman: It's a payback period, but they're saying up front that their buildings are going to have that, and they'd be held to it when they come in at building permit time. It could be quantifiable and could be bonused.

Comm. Jackson: Don't they know they're going for LEED at Preliminary Plan time?

Mr. Coleman: They could; it depends.

Comm. Levitan: LEED gets sacrificed because it's expensive. A lot of people just think it's a nice plaque when payback periods get evaluated. Automatic light switches with sensors are really hard on the ballast, so maintenance costs will be higher over time because the sensors keep going on. LEED gets sacrificed. I've been a part of a couple different buildings that it got shelved pretty quickly.

Comm. Pateidl: As it relates to the environmental side, maybe you just answered this question, but in the LEED certification, there are all kinds of criteria in there and you can pick certain of those and say, "If you do this in accordance with the LEED criteria, you get X% of an F.A.R. bonus," and it doesn't have to be the platinum classification or whatever it might be, just bit by bit. Then you take the subjectivity out of it because LEED has the definition. If they don't do that, then I guess there has to be some kind of a penalty. If you're going to grant it at Preliminary stage, you'll fight about it when it gets to the end. Some penalty is worthwhile.

Comm. Williams: From a planning perspective, do we look at the LEED components that are related to the planning and site development only, or do we take into account the switching and interior components, which get to be more detailed as the project goes along.

Mr. Klein: When Paul Duffendack used to be on the Planning Commission, this is an issue he championed. I know some of the projects he would look at if they had certain shade devices such as awnings or canopies

to provide energy efficiency. He would want higher efficiency building materials. He also looked at integrated storm water as well before BMP. LEED gets into a lot more, and so that's a question for the Planning Commission and City Council: do we want to use the LEED standards? I think LEED is great as far as quantifying everything, but I keep hearing, "We're going to build LEED, but we're not going to be LEED certified because we have to pay the money to do it." If they aren't going to certify the building, how do we get the documentation that's what they're actually doing?

Comm. Pateidl: Couldn't the architect satisfy some of that?

Comm. Williams: Some of it is documentation and then verification that it did get built the way it was supposed to be built.

Mr. Klein: That would be the building department verifying that.

Comm. Elkins: Then, you're to Jim's point of the consequence for when the building inspectors find out that it wasn't built that way.

Mr. Coleman: In our system, the plans would be submitted for a building permit. They would be reviewed, and if they didn't meet the criteria that were approved, they wouldn't get a building permit. They would have to go back to Planning Commission and City Council to get approval for what they left out. We have that anyway.

Comm. Elkins: Every once in a while, that still slips through.

Mr. Coleman: Yes, we still have that, too.

Comm. Williams: Take it to the next level: they have the plans; it appears to be in compliance, and then during construction, stuff changes. It meets code, and typically, building inspectors won't look for the change that doesn't affect code-related items. They're not out there inspecting for LEED stuff at that point. What's the penalty if they don't meet those particular criteria?

Mr. Klein: The building becomes smaller. They were granted F.A.R. based on it.

Comm. Williams: It's already too late; they built it.

Comm. Elkins: The other challenge I had with Paragraph C may be my being thick tonight. We list out all these systems, but before we get there, we say they may receive up to a 10% increase in the applicable maximum F.A.R. based on a 1-1 ratio of construction value for allowable floor area to construction value of those qualities. When I first read that, I thought it was kind of neat because it goes to Len's point about the size of the amenities, but when you have that sentence in a paragraph that talks about systems, I don't know how you assign a floor area number to a heat pump system.

Mr. Klein: Let's take the heat pump system as an example because we ran into this all the time at Park Place. Your standard heating system costs \$X, but they're putting in a heat pump that's a premium heat pump and is going to do great, and it will cost \$X+\$5. Then we have the difference in money value. Then they're telling us, "For us to build an extra square foot within this development will cost \$X, so we're going to apply the \$X+\$5, and it will equate to 1-2 square feet." They would always try to lower the cost per square foot and increase the difference between the standard and what they were offering. To verify that was practically impossible.

Comm. Pateidl: That is why the LEED standards give you something that is quantifiable but unenforceable.

Comm. Williams: It is unenforceable unless the ordinance includes a penalty for noncompliance. About the only thing left after everything is built is cash.

Comm. Pateidl: Mike, do you ever run into that?

Mr. Coleman: It probably doesn't exist anywhere.

Comm. Pateidl: It also deals with the competitiveness of our community against another community. What if we're more concerned about site issues and providing bonuses for different things that might be done in the site that would not ordinarily be done? That, you will be able to see and quantify very quickly and before concrete is in the ground. If we concentrate there and place more emphasis there on that part, which is more of a direct impact to the city, on the building site itself, if it's not something we can truly manage or enforce, why do it? It's only going to get abused. Limit it to what you can control, and that's more related to the site than the other because it's not as progressed in the construction.

Comm. Jackson: Maybe you reward that in some other way, say reduced building fee in the end if they did do some of these energy efficient things the city wants to see.

Mr. Coleman: We could do that. That probably wouldn't be a significant amount of money, but we could do that.

Comm. Jackson: If they're going to do those things, they're going to see some savings up front, and that's why they'll do them.

Mr. Coleman: We could say that they could have a reduction, but it's probably not enough to incentivize.

Comm. Williams: The other thing to look at in terms of what could be bonuses is the ever-changing building codes. Right now, the 2012 Energy Conservation Code puts in a whole new set of requirements to boost energy efficiency on buildings. That's automatic. The city has adopted the building codes, so that has upped the ante on energy conservation. Are we going to grant them additional bonuses for meeting the code standard that's already been established, not only for us but for most of the municipalities around the city?

Mr. Klein: This is really in regard to just going over and above.

Comm. Williams: Yes, so 2012 has already upped the ante and probably already has covered some of what you might have in there. There might not be that many more things to consider.

Mr. Klein: This combines architectural significance and superior environmental design. Would it be worth it to separate out the environmental design with regard to the site, and then we could talk more about what we want to do with the architecture and building codes? That would focus on what Jim was talking about.

Comm. Williams: Jim, are you talking about site being separate from the exterior of the buildings?

Comm. Pateidl: I'm thinking about some of the things we're talking about. Some is very individual and limited in benefit to the community in general, such as LEED for a building; it's very specific to that developer versus if we do something on a site that's more beneficial for the entire populace. If we're going to look at bonuses on density, which in theory creates less space for the rest of the population, maybe the criteria we really ought to be looking at when we're talking about these bonuses is if we're going to give a bonus for something, let it be something that is good for the general public rather than for a focused project. To that end, I think what we might do is eliminate some of the areas of argument, some of the areas of

ambiguity and some of the areas of abuse and getting it down to a more controllable, directed effort to benefit the community. Isn't that what we're supposed to do?

Comm. Williams: I think the goal of many of the bonus criteria was to produce improvements or enhancements in the development that do affect the public and the public's use of perception of the buildings.

Comm. Pateidl: I think to a large extent, you're really right.

Comm. Williams: But you reward the developer for adding those to the project.

Comm. Pateidl: To your point, there has been a change in energy conservation requirements, so that's going to hit code. We might look at a whole bunch of those criteria that Mark has read throughout this evening that we'll find are not being covered by the code. We'll find a bunch of the other areas in there that are not being covered by BMP. To that end, maybe we're trying to do something that's not going to be of any consequence anyway, which gets me back to having fewer criteria, more quantitative analysis and penalties if it's not completed and maybe grant greater bonuses, depending on what the greater good is to the community. Instead of 10%, give 15-20% if it really is meaningful. There are so many things in here that look like they can be so easily abused and argued.

Comm. Williams: I would say they have been.

Comm. Pateidl: I can see us sitting in our meetings and having sessions that go on for hours arguing over a window.

Comm. Williams: We have. How many hours did we go around and around with Doug Patterson on the quality?

Comm. Levitan: I'd be curious to see how Overland Park and maybe even Lenexa have addressed this because obviously, Lenexa has the Lenexa City Center, and Overland Park has Prairie Fire.

Comm. Pateidl: I'd love to see that because I think that's the most dense piece of development that I've ever seen.

Mr. Coleman: Some of it will be different in different parts of Overland Park. Just look at Prairie Fire.

Comm. Levitan: Maybe look at how KC, MO addressed Zona Rosa, just in a very simplistic way.

Mr. Klein: When we were actually going through this process while the ordinance was being done, we actually visited Zona Rosa because they were the first mixed-use development in the area.

Comm. Levitan: I think the goal at the end of the day is to keep it as simplistic as we can because the harder and more convoluted it gets, the more people will run.

Mr. Klein: And the harder it is going to be to apply and verify.

Comm. Levitan: We're going to have a lot of natural grass.

Comm. Williams: From the 135th Street study, one of the comments made by the design team was the ambiguity in the LDO that causes the problem with developers and drives developers away. Simplify it and

clarify it as much as possible so the ambiguities go away and people know what they have for bonus opportunities and what they have to do to achieve those bonus opportunities.

Mr. Klein: I think you're right. The clearer and more up front you are with the developer as far as expectations, the better it is for everybody. To keep moving, the next topic is pedestrian amenities. This is projects with substantial pedestrian plazas and linkages, including walkway linkages to buildings and offsite public ways, street furniture and other features designed to encourage pedestrian circulation in usage may receive up to 10% increase in applicable F.A.R., not less than a 1-1 ration of value in added amenities to value of increased floor area. That works out fairly well for us until we get to that value added, and that's where everything starts breaking down as far as how to apply it objectively.

Comm. Pateidl: Get a better quantitative measure and maybe even offer a greater percentage of bonus because if we're really going to be looking at walkability, it's a critical piece of it. I would encourage everybody to think about Market Square, which has a grocery store, bank, liquor shop and the rest of it. I've lived and shopped there for twelve years, and I've never seen a person walk off that property with a bag in their hand. There's a park and a big housing development not a block and a half away. I also look at this for the 135th Street Corridor. 135th Street divides the north and the south. This morning, I was thinking about this. I stopped at a red light at Pawnee and 135th. The light turned green. I took off, and before I got to the other side of the street, it was turning red. You can't walk across that street in the turn of a light.

Comm. Levitan: There are street crossings there. You push the button and it'll hold it for you.

Comm. Pateidl: I'll tell you what; you better run. The point is there's a traffic pattern on 135th Street that requires that because you don't want it backing up, and you want it moving. It's only going to get more; it's not going to get less. My concern is patrons on the south side of 135th Street won't go to the walkable drugstore on 133rd Street. They can't get there unless we do overpasses and all that kind of stuff. As we look at criteria, objectives and the balance of it and look 20 years down the road, which is what it's going to take to develop that ground, we better be very flexible in how we approach some of this. I love the walkability. I love the basics and theory behind what we've discussed in the plan. I'm anxious to read it to see what's really in it. I think we have a microcosm. You can decide for yourself how it's going to work or the difficulties we're going to have and how we, as a city, are going to address those difficulties as we go forward so we don't inhibit the development of that property or the completion of the area.

Comm. Jackson: What you're saying is if we're going to give bonuses, make them be along the walkways or the bike paths and don't allow them to be sporadic because you really want to make that bike path nice; you want to make the walkways nice. It will help the businesses in the long run. People will use them more often. You don't want another Town Center out there. If they do more landscaping around the walkways than the city requires, people will actually use them to go from one place to another.

Mr. Klein: This doesn't mention bicycle, which could come down to bike racks and opportunities to connect up to bike trails and things like that as well, which would serve both pedestrians and cyclists.

Comm. Jackson: You've got that waterway there. You could have a bike path/walkway along the waterway. Can you have the retail right out front there so if people are walking by, they can stop at the ice cream shop or whatever? Does the ordinance allow for that?

Mr. Klein: The ordinance pretty much limits you from your perimeter as far as the public right-of-way. However, with the amenities and waterways, building code probably has restrictions as far as how close you can build, and you have to be so far above potential flooding and things, but I think you could probably integrate it fairly well. Orient the buildings a certain way, provide connections to it and use it as a real amenity.

Comm. Jackson: That would be a nice thing to put along there.

Mr. Klein: I know we talked about architecture of the building, but maybe building orientation and relationship of the buildings next to each other is something you think should be looked at: how they orient to pedestrian paths, to courtyards, to each other.

Comm. Jackson: They have other pieces next to them, so you don't have what we complain about with Park Place where it's walled off. How do you connect it with the next piece of land?

Comm. Elkins: I have not seen the final 135th Street study, but I know the design team spent a lot of time looking at different parking schemes. Once we look at that plan, are we going to want to incent one type of parking scheme over another, and if so, how do we incent that? Where would we include that? Would it be F.A.R. bonuses, or is there any other way we could incent that?

Mr. Klein: That's an excellent question because you're right. For instance, teaser parking, we wanted to really avoid the large parking lots that are out front. Maybe that can be encouraged through the LDO.

Comm. Williams: Does a particular parking scheme lend itself better to a certain type of development than another? Certainly, if you have the smaller development that has community-oriented shops and restaurants, one type of parking could lend itself very well for that versus the larger store-type, higher traffic business.

Mr. Coleman: You have two good examples right across the street: Town Center that is all surface parking and Park Place that's almost all structured parking. Those are the two models you're most likely to see.

Comm. Elkins: Well, there's this third idea of this teaser parking. It sounds like they are trying to address Jim's issue with 135th Street to make it a less drive-by street and more of a street to actually pull off and stop somewhere. Again, I don't know what's in the ultimate plan.

Mr. Coleman: That's kind of what Park Place has because they have the apartment spaces in front of the stores. You could have that, and you could also have a big area of parking behind that's not structured.

Comm. Elkins: If we ultimately decided we wanted to set certain types of parking, this is probably the place to do it. I think that's not something we've talked about in here in the existing articles.

Mr. Klein: Just to wrap this up, it might be advantageous once you read through the 135th Street Community Plan. I'm sure that will spark some ideas as well, looking at what it's trying to promote and what it suggests as far as different bonusing. The last two are Integrated Storm Water Detention: "Projects containing aerated wet basin storm water management ponds designed for integral architecture and site design element that complements pedestrian uses on the site may receive up to 10% increase in applicable maximum F.A.R. on a 5-1 ratio of allowable floor area to wet basins." That's another way to actually adjust how much bonus is granted based on that ratio.

Comm. Pateidl: Provided it's not required by BMP.

Mr. Klein: Right, because BMP would be the standard. The last one is related to parking structures. Below ground gets 15% increase, and above gets a 10% increase.

Chair Rohlf: Where are the nonconforming structures?

Mr. Klein: We were going to talk a little bit about that, but this ended up taking a lot of time.

Comm. Strauss: Something I think we need to think about for the next meeting is the reward. If we're not getting what we want, is the 10% the right amount? They don't all have to be 10%; they can vary. If we want more underground parking, maybe it should be 25%. Adjusting the numbers to get what the city wants will help.

Comm. Jackson: Decide what we want to see first and foremost and really bonus that one.

Mr. Klein: I agree.

MEETING ADJOURNED