

Planning Commission Question and Answer Report

Tuesday, September 28, 2021

B-7

Commissioner Azhar:

Can you please help me in figuring out how to understand the total savings in taxation that the applicant will receive if we approve the case from the following? Is my understanding correct that what the following information means is that if the applicant currently pays \$10,000 combined in taxes, they will only be required to pay \$8,500 or am I wrong? Also, can you please explain what the applicant provides in return for the abatement? Are they performing conservation work or other acts to preserve the subject in lieu? Does city staff have an estimation of the combined fiscal impact of Historic Zoning in the City of Austin for all taxing jurisdictions?

Staff:

The total amount the property owner can expect in tax relief is \$8,500 per year. Looking at this property in Travis Central Appraisal District records, the owners most recently owed \$18,115.59 in taxes after accounting for the homestead exemption on the property. Presuming similar valuation and taxing rates for next year, they would pay just under \$10,000 in total taxes following application of the historic exemption in conjunction with the homestead exemption.

For the City of Austin's part, the exemption amount is based on Tax Code [§ 11-1-22](#) and was last revised in 2012. The amount of the tax abatement is capped for homestead properties such as this one. It is not capped for commercial or other non-homestead properties but rather is based on a percentage of the assessed value of the building and land.

This partial tax exemption is the sole financial benefit that historic landmark owners receive in exchange for preservation of their property. To be eligible, the owner must preserve and maintain the property in good condition, as verified through annual inspections by Historic Preservation Office staff. The owner is also forfeiting the ability to develop the property as they wish and must apply for and comply with the terms of Certificates of Appropriateness for modifications to the property, which are granted or denied based on historic preservation standards.

Staff does not have an estimate of the total fiscal impact of historic zoning across all taxing jurisdictions. This is information that we could work with TCAD to determine, if helpful.

B-10:

Commissioner Azhar / Staff:

- Can PARD staff share what number of affordable units will be lost if the alignment proposed on page 20 of the backup (slide 14 of presentation) is adopted? Is this the alignment staff is intending to pursue?

The alignment shown on page 20 of the backup is what PARD staff consider to be code-compliant parkland. PARD would prefer a consolidated 0.98 acre park, but would accept two separate parks under PDOP 14.3.7 so long as neither park was less than 0.25 acres. PARD is amenable to any design solution that produces 0.98 acres of parkland, maximizes units and meets the parkland dedication standards as applied to all other site development permits. PARD believes that there are other designs yet to be explored by the applicant that would not affect the number of affordable units as stated by the applicant.

The applicant claims that the proposed layout on Slide 14 would impact 4 affordable units, however no reduction in parking was reflected in the applicant's redesigned proposal at the time it was shared with PARD. PARD believes there are still design options that would minimize these supposed losses.

PARD has continued to work with the applicants to maximize the number of dwelling units, including affordable dwelling units. PARD has regularly been able to redesign infill projects with applicants to accommodate the required parkland without the loss of any dwelling units initially proposed by the applicant. For example, PARD has proposed that the applicant may remove the exterior first floor units adjacent to the proposed park and cantilever the remaining units over the park in order to preserve units. PARD recommends the applicant work with their architect and engineer to find a building configuration that preserves units and instead impacts the parking and private common open space (one of 4 private courtyards on the site) to achieve the required parkland. Please see the attached exhibit for a comparable case owing parkland dedication that was able to successfully redesign their building to maximize the code-compliant parkland while preserving all proposed units at the feasibility stage.

- Am I correct in my understanding of the slide on page 19 of the backup that unless a development is a SMART housing project, PARD does not consider the impact of its recommendations on the number of affordable units produced through a project? That is, in the case of a non-SMART housing project with affordable units through another program, PARD staff does not consider the impact of its recommendation on affordability

Only SMART Housing provides exemptions to City requirements, including an exemption of SMART certified units to the parkland dedication requirement. Other affordability programs that add entitlements would need to also apply for SMART Housing to qualify, e.g. VMU, TOD, etc. While there is no code provision that requires parkland dedication to expressly minimize the loss of dwelling units (affordable or otherwise), PARD review staff work closely with applicants through design iterations to minimize any loss in units in every infill case.

In most instances, there has not been a loss to dwelling units as a result of parkland dedication requirements, maintaining the proposed affordability of projects. PARD recommends all applicants utilize the free Parkland Early Determination service to determine the parkland

requirements for a site even before submitting for a formal development review. This allows the applicant to work through design concepts early and at the feasibility stage to ensure the project is code-compliant upon submittal. This applicant refused to participate in the Parkland Early Determination process.

- On page 19 of the backup, PARD staff recommends that the “Applicant could increase density and affordable housing in neighborhood with Affordability Unlocked program.” Was this determination made in consultation with affordable housing staff considering that the Affordability Unlocked program was designed as a subsidized housing program?

PARD staff consulted with HPD staff that Affordability Unlocked could be an option to further increase the development’s overall dwelling unit yield by further reducing the parking requirements and eliminating the compatibility setback requirements.

This site is entitled to 60’ height per its zoning, however the single family properties on the north and south of the site limit the building height to 40’ in the center and 30’ on the northern and southern edges. This applicant would be entitled to 1-3 additional floors if there were not compatibility requirements on this site. Of all the code requirements impacting affordable units on this site, the compatibility setback has the greatest impact, by far.

The issue before Planning Commission is whether the applicant must satisfy the parkland dedication requirements for this site by the payment of fees in-lieu or by the combination of parkland dedication and payment of remaining fees in-lieu. The criteria for whether or not payment of fee in-lieu to satisfy parkland dedication is justified is found in 25-1-605(B) In determining whether to require dedication of land under Section 25-1-602 (Dedication of Parkland) or allow payment of a fee in-lieu of dedication under this section, the director shall consider whether the subdivision or site plan:

- (1) is located within the Deficient Park Area Map;
- (2) is adjacent to existing parkland;
- (3) has sufficient acreage to meet the standards for dedicated parkland under the Parkland Dedication Operating Procedures;
- (4) is needed to address a critical need for parkland or to remedy a deficiency identified by the Deficient Park Area Map; or
- (5) would provide increased connectivity with existing or planned parks or recreational amenities.

- In order to ensure that we are considering the impact all affordable units and housing programs in the future, would the city need to make a change to the code only or to the parkland dedication operating procedures and internal administrative guidelines as well? Do Council and/or the Planning Commission review the operating procedures? Does Council and/or the Planning Commission have the ability to recommend changes to the operating procedures?

PARD would be willing to work with the Commissioner and HPD on considering improvements to the SMART Housing exemption program to be inclusive of a variety of affordable

housing tools so as to better align with affordability goals while still providing parkland with new developments.

Parkland dedication is to provide park access and a high quality of life for new housing in Austin, especially for residents in denser, multifamily developments. Parkland dedication has not had a measurable negative impact to affordability since its last update in 2016. In the past three years, PARD has reviewed over six hundred cases with residential parkland dedication requirements; of those, PARD required that land be dedicated roughly 15 percent of the time. In the instances where land is required, PARD works closely with applicants to ensure that housing yields, especially those with an affordability component, are respected, while ensuring that the dedicated parkland meets the codes' standards.

The Land Development Code regulates the way land is developed in a city in order to provide essential services such as fire access, utility lines, parks and water quality as well as account for the quality of life of the citizens. Code requirements such as compatibility setbacks, fire lanes, sidewalks, ADA requirements, height/FAR limits and right of way all invariably impact the developable units on a site to maintain safety and quality of life; otherwise, safety and quality of life for new and existing residents would worsen with new development.

Please note that City Council and Planning Commission reviewed and approved the parkland dedication ordinance, including the operating procedures, in 2016. PARD is eager to work with Council and Planning Commission on any amendments they would like to recommend for the parkland dedication ordinance and/or affordability code requirements or programs. Parks and Recreation Board, Planning Commission, and City Council would need to recommend and vote on amendments to the parkland dedication ordinance and operating procedures.

Please note that the issue before Planning Commission is whether the applicant must satisfy the parkland dedication requirements for this site by the payment of fees in-lieu or by the combination of parkland dedication and payment of remaining fees in-lieu. If paying exclusively fees in-lieu instead of dedicating parkland onsite, such a decision would impact the future residents of these affordable units and housing programs by providing less parkland that would be immediately accessible for their use.

Chair Shaw:

1. PARD commented that fee-in-lieu of would be used for adding amenities to the dedicated parkland. Is this in addition to the park development fees? What is the difference in these two fees in terms of what they can be used for?

The fee in-lieu of park development may always be used for the development park amenities on site, as reviewed and approved by PARD. The fee in-lieu of parkland may be used to acquire parkland within a service distance of the park, or, in cases where parkland is fully deeded and other internal criteria are met, remaining fee in-lieu of parkland may be used to augment the development fee, which is as it sounds, used for

the development of the park. This project could potentially meet the criteria for transferring the remaining fee in lieu balance into the park development fund if the land is dedicated by deed. If the applicant dedicates, fee simple, the full 0.98 acres of code-compliant parkland, the remaining fee in-lieu balance (\$389,684.72) combined with the development fee(\$213,909.92) is \$603,594.64

Balance Due:	<input type="text" value="85.87%"/>	percentage remaining Parkland fee remaining
Parkland dedication fee remaining :	<input type="text" value="\$389,684.72"/>	percentage remaining Parkland fee remaining X Total dwelling units minus affordable dwelling units multiplied by Fee in Lieu
Fiscal Surety for easement or future land dedication :	<input type="text" value="\$64,123.04"/>	
Fiscal Surety for Construction of Amenities:	<input type="text" value="\$603,594.64"/>	enter the dollar amount approved for amenities
Total Fiscal Surety (amenities and land):	<input type="text" value="\$667,717.68"/>	

There are additional \$662,000 Parkland Dedication Fees that have been identified in this area that may be used for parkland development. There are limited parcels available for purchase in the area that would provide recreational opportunity for the residents, the best use of the applicant’s remaining fees would be to reinvest them into the development of this dedicated park.

2. PARD’s justification for not crediting the “Transit Parks” as dedicated parkland is the parcels do not provide increased connectivity (per PDOP Supplemental Criteria for Evaluating Fee In-Lieu Requests 14.3.6) as the bike and pedestrian paths were already required by ATD in the TIA. Is this the only standard that the “Transit Parks” do not comply with or are there others?

The “transit parks” obviously do not function as parks – they are transportation requirements, as part of the TIA. While PARD may (and often does) accept land that fulfills multiple city requirements, that acceptance would be to provide additional recreational value; in this instance, the transit parks provide no additional recreation than what is already required. Furthermore, a substantial area of the transit parks is encumbered with a waterline easement, and located in a compatibility setback. The sum of these encumbrances and other requirements leaves the area with no additional recreational value, and therefore cannot receive any credit toward the parkland dedication requirement. Such a park would not provide recreational opportunities for people to gather, enjoy a picnic, throw a ball, learn to ride a bike that traditional park configurations provided. The transit park would function as an expanded sidewalk and only provide people the opportunity to travel from one end of the site to the other, it does not expand access to existing parks and it does not provide enhanced recreational opportunities.

3. Applicant has compared trail connector in the 1303 W. Koenig case to their “Transit Parks” and argue that these bike and pedestrian paths should similarly be counted as parkland. Can PARD explain the differences in the two projects and why the 1303 W. trail was counted as parkland?

The trail connector at 1303 W Koenig was an off-street connection adjacent to a creek that provided a safe, protected trail connection between a school and a park, which

PARD did accept for parkland dedication because it met PARD standards. The area on the 1303 W Koenig site that is most comparable to the 403 E Koenig project's "Transit Park" is the sidewalk fronting Koenig Lane; PARD did not accept the sidewalk toward parkland dedication for this site, as it did not meet PARD standards.



- 4) Please provide the following for 1) For Applicants Site Plan and 2) Applicant Request: Expanded Pocket Park Plan:
- Parcels that comply with Article 14 Parkland Dedication and Parkland Dedication Operating Procedures?

1) In the Applicant's Site Plan- the 0.43 acre pocket park on the east complies with Parkland Dedication Standards as provided in the Code and the Parkland Dedication Operating Procedures. The 0.17 acre pocket park on the west and the transit parks do not comply with the Parkland Dedication Standards

2) In the Applicant Request: Expanded Pocket Park Plan: the 0.58 acre pocket park on the east complies with Parkland Dedication Standards as provided in the Code and the Parkland Dedication Operating Procedures. The 0.17 acre pocket park on the west and the transit parks do not comply with the Parkland Dedication Standards

In both cases, the applicant could expand the 0.17 acre western pocket park to 0.25 acres to comply with the Parkland Dedication Standards. The 'Transit Parks' along Koenig lane do not comply with the Parkland Dedication Standards. The "transit parks" obviously do not function as parks – they are transportation requirements, as part of the TIA. While PARD may (and often does) accept land that fulfills multiple city requirements, that acceptance would be to provide additional recreational value; in this

instance, the transit parks provide no additional recreation than what is already required. Furthermore, a substantial area of the transit parks is encumbered with a waterline easement, and located in a compatibility setback. The sum of these encumbrances and other requirements leaves the area with no additional recreational value, and therefore cannot receive any credit toward the parkland dedication requirement. Such a park would not provide recreational opportunities for people to gather, enjoy a picnic, throw a ball, learn to ride a bike, etc that traditional park configurations provided.

A fair and consistent administration of the parkland dedication ordinance dictates that 15% of the gross site area must be dedicated as credited parkland acreage; neither of these configurations currently meet that requirement.

PARD offers a free service called the Parkland Early Determination which is intended to provide applicants information about the parkland requirements for a site during the feasibility period of the project prior to submitting for a site development permit. The applicant has the opportunity to work with PARD on design iterations to maximize the buildable area while complying with the parkland dedication standards even prior to a formal submittal, at the concept stage. The applicant for 403 W Koenig refused a Parkland Early Determination letter and submitted a site plan that is not code-compliant. Please see the attached exhibit for an example of a comparable case study that successfully worked with PARD to provide code-compliant parkland by redesigning their site at the feasibility/ Parkland Early Determination stage.

- Acreage of complaint parcels and non-compliant parcels.

The minimum acreage of a dedicated code-compliant park parcel is 0.25 acres per Parkland Dedication Operating Procedures 14.3.7 when splitting the required park acreage into two separate sites. The applicant need only provide an additional .08 acres or approximately 3,400 sq feet of acceptable parkland area to the west pocket park to bring it into compliance.

- Fee-in-lieu of and Parkland Development Fee required when applied to parcels that comply with standards.

If the applicant dedicated the full 0.98 acres of credited parkland required by code, the remaining fee in-lieu balance (\$389,684.72) combined with the development fee(\$213,909.92) is \$603,594.64 (under the 2020/2021 fee schedule). PARD requires the full 0.98 acres of credited parkland to meet the 15% gross site area requirement of parkland for this site. The project generates a need nearly 7 acres of parkland to adequately serve the nearly 740 new residents proposed with the project, and only 0.98 acres (or 1/7th) of that is required to be dedicated per the 15% Urban Core Cap. For 0.43 acres of code-compliant parkland proposed in the applicant's original site plan the remaining fee in lieu is \$425,671.68 (a delta of \$35,989.96 for 0.55 acres less dedicated land). The development fee does not change.

For the 0.58 acres of code-compliant proposed in the applicant's expanded pocket park plan, the remaining fee in-lieu is \$415,869.43 (a delta of \$26,184.71 for 0.40 acres less dedicated parkland). The development fee does not change.

PARD would be hard pressed to find 0.55 acres of land for \$35,989 to acquire in this neighborhood to make up for the parkland loss requested by the applicant.

- 5) Applicant has provided examples of dedicated parkland where PARD have accepted parkland less than 0.25 acres? What was the basis for allowing dedication of these parcels that did not comply with the quarter acre minimum requirements?

The applicant provided examples of parkland that was acquired by PARD instead of dedicated through development requirements. These parcels all provided an expansion of an existing park or greenbelt, or served as an auxiliary park facility in a non-park deficient area.

Mustang Button Park is part of the existing Reilly School Park and was carved out in order to provide extended service hours for young (0-5) park users while the school park is used by the school during the day.

Wood Street Settlement Button Park was acquired as an expansion to the Shoal Creek Greenbelt and serves as a park node and access point along the trail to rest and enjoy active and passive recreation as part of the trail experience.

Theckla Button Park was acquired to serve as an auxiliary park facility in an area already served by a dedicated Pocket Park. This auxiliary park facility can offer a diversity of recreation opportunities such as a community garden to complement and expand the existing facilities at the dedicated Woodrow Pocket Park.

The applicant is required to dedicate 0.98 acres of parkland with this site, PARD prefers a park alignment that consolidates that acreage into one parcel in order to provide the highest level of park service to the residents. PARD has compromised in order to maximize the buildable units on this site and utilized Parkland Dedication Operating Procedures (PDOP) 14.3.7 to split the park into two separate spaces. The PDOP specifically requires that 'no park site be less than a ¼ (quarter) acre'. There are no parkland dedication examples in which PARD has split a park into two separate spaces and accepted a space smaller than 0.25 (quarter) acre.

- 6) Applicant has provided examples of properties where PARD has approved lower quantities of dedicated parkland than what is required by code? Please explain the basis for PARD accepting less parkland than required for these examples?

In all of the cases listed in the applicant's presentation, PARD either required that parkland be dedicated, or the sites were not suitable for parkland dedication (did not meet criteria and standard). In instances where parkland was required, all those cases complied with the parkland dedication standards in the code and the Parkland Dedication Operating Procedures

The cases are responded to individually as follows:

- SP-2019-0352C.F1 Symphony Square, Code-compliant land accepted for park expansion and connectivity
- SP-2020-0331C Stonehollow Multifamily, Code-compliant land accepted for trail extension, connectivity
- SP-2016-0300C Marriott Hotel development, downtown, very limited site area – land did not meet did not meet criteria in 25-1-605 B

- SP-2017-0129C Huston on IH-35 between 11th and 12th streets, land did not meet criteria in 25-1-605 B
- SP-2016-0474C.SH RBJ Center, Code-compliant parkland dedicated with this case.
- SP-2017-0343C The Pearl, Code-compliant parkland dedicated in this case
- SP-2017-0210C Saint Elmo Public Market 4323 South Congress – served by existing parkland, did not meet criteria in 25-1-605 B
- C8-2019-0032.0A Three Hills, Code-compliant parkland dedicated in this case
- SP-2018-0159C The Travis, in the CBD, and parkland already on site, land did not meet criteria in 25-1-605 B
- SP-2019-0509C Fairfield at Metric, on Hwy 183/Research Blvd. Land did not meet criteria in 25-1-605 B
- SP-2019-0495C Presidium at Waterford, on Hwy 183/Research Blvd. Land did not meet criteria in 25-1-605 B

With respect to development requirements and projects that dedicate less than a 15% of the site area, PARD evaluates the site, and finds a need for an addition to an existing park, expanded access to a park, or addition to a greenbelt; rather than a neighborhood or pocket park. In many cases, the site itself is not critically park deficient, but instead serves to provide additional access into existing parkland. In these cases the parkland is still code-compliant because it meets the park service needs of the neighborhood. This site is in a critically deficient area and requires a Pocket or Neighborhood park to adequately meet the recreational needs of the existing residents as well as the nearly 740 new residents anticipated with this development. This project generates a need nearly 7 acres of parkland to adequately meet the park service requirements of its new residents, only 0.98 credited acres of that land is required to be dedicated on site due to the 15% Urban Core Cap.

ATD

- 1) PARD's justification for not crediting the "Transit Parks" as dedicated parkland is the parcels do not provide increased connectivity (per PDOP Supplemental Criteria for Evaluating Fee In-Lieu Requests 14.3.6) as the bike and pedestrian paths were already required by ATD in the TIA. Applicant argues that they pursued the easements with TX DOT and voluntarily included the Transit Parks. Applicant claims that they have the option to remove the paths as ATD actually does not require them for approval of the site plan. Can ATD please comment on whether this bike and pedestrian paths were required or voluntary?

Pending

2) Applicant is eligible to reduce parking required by 40%. However, this could result in development occupants parking in the neighborhood. Would ATD allow residential parking permits in this area to prevent parking in neighborhoods? What is the process for establishing these permits?

Pending